

# Wintergreen Police Department

## Policy Manual

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### **CHIEF'S PREFACE**

The Wintergreen Police Department's General Order Manual represents the best practices of modern police procedures. These policies serve to establish and communicate expectations, provide guidelines for daily operations, and validate the principles and values which guide individual and collective performance.

Recognizing the need for uniformity, effectiveness, and efficiency, all Wintergreen Police Department members are required to be familiar with the written policies and procedures contained in this Manual. This Manual represents our intent to identify roles, responsibilities, underlining principles and philosophies on how we should conduct ourselves as we go about our daily tasks and duties.

This Manual is extremely important to the success of the Wintergreen Police Department. We are entrusted by the Community to provide the highest quality public safety service and this Manual defines the way we do that. The contents of this Manual reflect how members of our Department should conduct themselves and how they should exercise their police powers.

This Manual includes the Law Enforcement Code of Ethics, and the Wintergreen Police Department's Mission Statement.

Dennis N. Russell  
Chief of Police

# Wintergreen Police Department

## Policy Manual

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

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

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

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

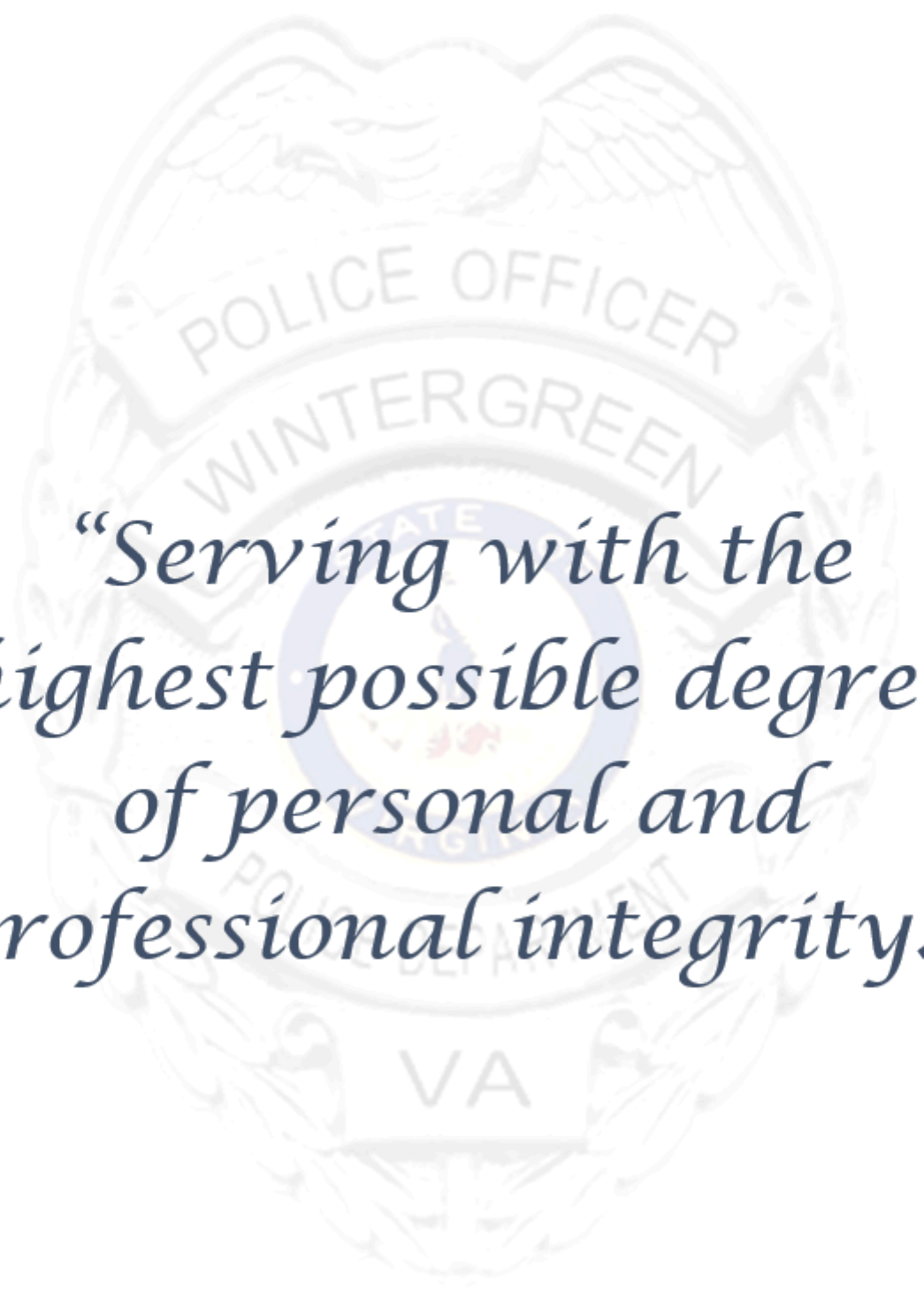
I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally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

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

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

**MISSION STATEMENT**

WINTERGREEN POLICE DEPARTMENT  
MISSION STATEMENT



*“Serving with the  
highest possible degree  
of personal and  
professional integrity.”*

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



## Law Enforcement Authority

### 100.1 PURPOSE AND SCOPE

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

### 100.2 POLICY

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

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

### 100.3 LAW ENFORCEMENT OFFICER POWERS

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

This includes authority for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace, and the enforcement of state and local laws, regulations, and ordinances (Va. Code § 15.2-1609; Va. Code § 15.2-1700; Va. Code § 15.2-1704; Va. Code § 52-8).

#### 100.3.1 ARREST AUTHORITY WITHIN THE JURISDICTION OF THE WINTERGREEN POLICE DEPARTMENT

The arrest authority of officers within the jurisdiction of the Wintergreen Police Department includes (Va. Code § 19.2-81):

- (a) In compliance with an arrest warrant (Va. Code § 19.2-76).
- (b) When any crime has been committed in the officer's presence.
- (c) When there is probable cause to believe that the offender has committed a felony.
- (d) When there is probable cause to believe that the offender has committed:
  1. A violation pertaining to the operation of a motor vehicle, watercraft, or motorboat while intoxicated and the arrest occurs within three hours of the offense.
  2. A violation pertaining to the operation of a motor vehicle, watercraft, or motorboat while intoxicated and where an accident has occurred.
  3. Misdemeanor shoplifting.
  4. Misdemeanor carrying a weapon on school property.
  5. Misdemeanor brandishing a firearm.
  6. Misdemeanor destruction of a property located on premises used for business or commercial purposes.
  7. Misdemeanor assault and battery.

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8. A violation of a protective order.
  9. A crime in another state which is punishable by imprisonment for a term exceeding one year (Va. Code § 19.2-100).
- (e) When there is reasonable suspicion to believe that the individual has violated a criminal immigration law of the United States (Va. Code § 19.2-81.6).
- (f) Violations involving quarantine or isolation orders related to communicable diseases (Va. Code § 15.2-1704; Va. Code § 32.1-48.014).

#### **100.3.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE WINTERGREEN POLICE DEPARTMENT**

The arrest authority of officers outside the jurisdiction of the Wintergreen Police Department includes:

- (a) When there is probable cause to arrest a person who has escaped or who has fled to avoid arrest and the officer has been in continuous close pursuit from within the jurisdiction of the Wintergreen Police Department (Va. Code § 19.2-77).
- (b) When another agency has requested temporary assistance during an emergency declared by the chief law enforcement officer of that agency (Va. Code § 15.2-1730).

Whenever an officer makes an arrest outside the department's jurisdiction, the officer should, as soon as practicable, either take the arrested person before a judicial officer in the locality where the arrest was made or transfer custody of the person to the proper law enforcement authority with jurisdiction in the locality (Va. Code § 19.2-76).

#### **100.3.3 GRANTING AUTHORITY TO OTHERS**

Officers may require the assistance of any person to arrest another for any breach of the peace or to capture another who has escaped from custody (Va. Code § 18.2-463).

#### **100.3.4 PROHIBITION OF QUOTAS**

This department does not establish arrest or summons quotas. The number of arrests made or summons issued by any member shall not be used as the sole criterion for evaluating member overall performance (Va. Code § 2.2-5516; Va. Code § 15.2-1609.11; Va. Code § 15.2-1710.1).

#### **100.4 INTERSTATE LAW ENFORCEMENT AUTHORITY**

Law enforcement authority may be extended to other states:

- (a) As applicable under interstate compacts, memorandums of understanding, or mutual aid agreements in compliance with the laws of each state.
- (b) When an officer enters the following states while in pursuit of a person who the officer has probable cause to believe has committed a felony:
  1. The District of Columbia (D.C. Code § 23-901)
  2. Maryland (Md. Code CP § 2-305)
  3. Tennessee (T.C.A. § 40-7-203)

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4. West Virginia (W. Va. Code § 62-11-1)
  - (c) When an officer enters North Carolina while in pursuit of a person who the pursuing officer has probable cause to believe has committed a criminal offense (N.C.G.S. § 15A-403).

Whenever an officer makes an arrest in the District of Columbia, Maryland, Tennessee, West Virginia, or North Carolina the officer shall take the offender to a magistrate or judge in the county where the arrest occurred as soon as practicable (D.C. Code § 23-902; Md. Code CP § 2-306; T.C.A. § 40-7-204; W. Va. Code § 62-11-2; N.C.G.S. § 15A-403).

#### **100.5 CONSTITUTIONAL REQUIREMENTS**

All members shall observe and comply with every person's clearly established rights under the United States and Virginia constitutions.

#### **100.6 CANON OF ETHICS**

All sworn officers will receive and abide by a code or canon of ethics. The following has been adopted by the Agency.

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

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

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

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

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

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

## Chief Executive Officer

### 101.1 PURPOSE AND SCOPE

All law enforcement Chief Executive Officers employed within the Commonwealth of Virginia are required to meet specific requirements for appointment. This policy provides guidelines for the appointment of the Chief Executive Officer of the Wintergreen Police Department, who is required to exercise the powers and duties of the office as prescribed by law (Va. Code § 15.2-1701; Va. Code § 15.2-1609).

### 101.2 POLICY

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

### 101.3 CHIEF OF POLICE REQUIREMENTS

The Chief of Police of this department, as a condition of continued employment, shall:

- (a) Be certified by the Virginia Department of Criminal Justice Services (Va. Code § 9.1-100 et seq.; Va. Code § 15.2-1706).
- (b) Meet all of the requirements as specified in Va. Code § 15.2-1705.

## Oath of Office

### 102.1 PURPOSE AND SCOPE

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

### 102.2 POLICY

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

### 102.3 OATH OF OFFICE

All department members, upon assuming sworn status, shall take and subscribe before a magistrate, a notary, a commissioner in chancery, a commissioner appointed by the Governor, a judge or clerk or deputy clerk of court, a commissioner or clerk or deputy clerk of the State Corporation Commission, or clerks of governing bodies of local governments, to the following oaths or affirmations applicable to the member's position (Va. Code § 49-4; Va. Code § 49-1).

The form of the oath shall be as follows:

"I, (employee name), do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent upon me as (the/a/an title or position) according to the best of my ability, (so help me God)."

If a member is opposed to taking an oath, the member shall be permitted to substitute the word "affirm" for the word "swear," and the words "so help me God" shall be omitted.

### 102.4 MAINTENANCE OF RECORDS

The oath of office shall be filed as prescribed by law (Va. Code § 49-8).

# Policy Manual

## 103.1 PURPOSE AND SCOPE

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

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

## 103.2 POLICY

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

### 103.2.1 DISCLAIMER

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

## 103.3 AUTHORITY

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

## 103.4 DEFINITIONS

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

**Adult** - Any person 18 years of age or older (Va. Code § 1-203).

**Private Police** - The Private Police of Wintergreen.

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**Non-sworn** - Employees and volunteers who are not sworn law enforcement officers.

**Department/WPD** - The Wintergreen Police Department.

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

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

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

**Member** - Any person who is appointed to or employed by the Wintergreen Police Department, including:

- Full- or part-time employees
- Sworn officers
- Reserve, auxiliary officers
- Non-sworn employees
- Volunteers

**Officer** - Those employees, regardless of rank, who are sworn law enforcement employees of the Wintergreen Police Department (Va. Code § 9.1-101).

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

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

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

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

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

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

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

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



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

An electronic version of the Policy Manual will be made available to all members on the department network for viewing and printing. No changes shall be made to the manual without authorization from the Chief of Police or the authorized designee.

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

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

The Chief of Police will ensure that the Policy Manual is periodically reviewed and updated as necessary.

### **103.7 REVISIONS TO POLICIES**

All revisions to the Policy Manual will be provided to each member on or before the date the policy becomes effective. Each member will be required to acknowledge that he/she has reviewed the revisions and shall seek clarification from an appropriate supervisor as needed.

Members are responsible for keeping abreast of all Policy Manual revisions.

Each Bureau Commander will ensure that members under his/her command are aware of any Policy Manual revision.

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

## Code of Ethics

### 104.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that all members are aware of their individual responsibilities to maintain their integrity and that of their department at all times.

### 104.2 POLICY

The Law Enforcement Code of Ethics shall be received and abided by all officers of the Department.

### 104.3 LAW ENFORCEMENT CODE OF ETHICS

Sworn members shall abide by the following Code of Ethics:

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against abuse or disorder; and to respect the constitutional rights of all to liberty, equality, and justice.

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

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

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

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

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

#### 104.3.1 OBJECTION TO RELIGIOUS AFFIRMATION

Reference to religious affirmation in the Law Enforcement Code of Ethics may be omitted where objected to by the officer.

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

## Organizational Structure and Responsibility

### 200.1 PURPOSE AND SCOPE

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

### 200.2 POLICY

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

### 200.3 BUREAUS

The Chief of Police is responsible for administering and managing the Wintergreen Police Department. There are three bureaus in the Department:

- Field Operations Bureau
- Field Operations Bureau
- Investigations Bureau

#### 200.3.1 FIELD OPERATIONS BUREAU

The Field Operations Bureau is commanded by a Bureau Commander, whose primary responsibility is to provide general management, direction and control for the Field Operations Bureau. The Field Operations Bureau consists of the Communication Center and administrative services.

#### 200.3.2 FIELD OPERATIONS BUREAU

The Field Operations Bureau is commanded by a Bureau Commander, whose primary responsibility is to provide general management, direction and control for the Field Operations Bureau. The Field Operations Bureau consists of uniformed patrol and special operations.

#### 200.3.3 INVESTIGATIONS BUREAU

The Investigations Bureau is commanded by a Bureau Commander, whose primary responsibility is to provide general management, direction and control for the Investigations Bureau. The Investigations Bureau consists of the crime analysis and forensic services.

### 200.4 COMMAND PROTOCOL

#### 200.4.1 SUCCESSION OF COMMAND

The Chief of Police exercises command over all members of the Wintergreen Police Department. During planned absences, the Chief of Police will designate a Bureau Commander to serve as the acting Chief of Police or perform the executive command function.

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

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#### *Organizational Structure and Responsibility*

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- (a) Field Operations Bureau Commander
- (b) Investigations Bureau Commander
- (c) Field Operations Bureau Commander

#### 200.4.2 UNITY OF COMMAND

The principles of unity of command ensure efficient supervision and control within the Department. Generally, each member shall be accountable to one supervisor at any time for a given assignment or responsibility. Each organizational component of the department is under the direct command of one supervisor. Supervisors are accountable for employees under their immediate supervision. Except where specifically delegated authority may exist by policy or special assignment (e.g., Canine, Bicycle Patrol), any supervisor may temporarily direct any subordinate if an operational necessity exists. Members should proceed directly up the chain of command for resolution should they believe that they received conflicting or unlawful orders.

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

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

#### **200.6 OPERATIONAL AUDITS**

Bureau Commanders are responsible for ensuring that line inspections and staff evaluations are conducted for reviewing and evaluating the operations of programs under their command. The focus of the inspections should include adherence to the Department's goals and mission statement, policies and procedures, and performance targets, as well as adequacy of resources and staffing or other subject matter as directed by the Chief of Police or the authorized designee.

- (a) Line inspections should be conducted at least monthly by personnel who supervise the program being inspected and include:
  - 1. Announced or unannounced inspections of facilities, equipment, uniforms, procedures, and performance capabilities.
  - 2. An assessment of compliance with the program's goals, mission, policies and procedures, and target performance levels.
  - 3. A written report noting any serious or recurring deficiencies.
  - 4. A written plan to correct any identified deficiencies.
- (b) Staff evaluations should be conducted at least every three years at the direction of the Chief of Police by personnel who do not directly supervise the program being inspected and include:
  - 1. Announced formal evaluations of facilities, equipment, uniforms, procedures, and performance capabilities.
  - 2. An assessment of compliance with the program's goals, mission, policies and procedures, and target performance levels.

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3. A written report of the program's performance level, including notation of any serious or recurring deficiencies.
4. A written plan to correct any identified deficiencies.

Summary reports of staff evaluations and line inspections shall be forwarded through the chain of command to the Chief of Police or the authorized designee.

#### **200.7 DEPARTMENT GOALS AND OBJECTIVES**

The Chief of Police or the authorized designee should establish goals and objectives for the Wintergreen Police Department. The plan should specify a time period and should include, but is not limited to:

- Long-term goals and operational objectives.
- Anticipated workload and staffing needs.
- Capital improvement, equipment and supply needs.
- Provisions for implementation, progress assessment and revision as needed.

Goals and objectives should be reviewed annually by the Chief of Police or the authorized designee and updated as required.

Bureau Commanders are responsible for the planning and research function. This function is essential to effective agency management and includes careful research of operational alternatives and the planning of future programs. Bureau Commanders should ensure that goals and objectives for their assigned Bureaus are established, assessed for progress, reviewed and updated annually, and distributed to all affected members.

## Executive Orders

### 201.1 PURPOSE AND SCOPE

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

### 201.2 POLICY

Executive Orders will be used to modify policies of the Wintergreen Police Department when an immediate need to adapt a policy or procedure exists, in order to best meet the mission of the Department. Applicable law, Private Police policy and rules should be considered before an Executive Order is issued.

### 201.3 PROTOCOL

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

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

### 201.4 RESPONSIBILITIES

#### 201.4.1 COMMAND STAFF

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

#### 201.4.2 CHIEF OF POLICE

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

### 201.5 ACCEPTANCE OF DIRECTIVES

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

## Emergency Operations Plan

### 202.1 PURPOSE AND SCOPE

This policy clarifies the role of the Wintergreen Police Department and responsibilities of its members pertaining to large scale emergencies and the Commonwealth of Virginia Emergency Operations Plan.

### 202.2 POLICY

The Wintergreen Police Department will prepare for large-scale emergencies within and outside its jurisdiction through planning and mutual cooperation with other agencies (Va. Code § 44-146.19).

This plan provides guidance for the Wintergreen Police Department's emergency operations within and outside its borders as may be required.

#### 202.2.1 WINTERGREEN COLLABORATION

In the event of an emergency situation the Wintergreen Police Department will collaborate with neighboring law enforcement, criminal justice, and social services agencies both public and private.

### 202.3 DEPARTMENT RESPONSIBILITIES

The Department shall execute and enforce the orders, rules and regulations issued pursuant to the Emergency Operations Plan (Va. Code § 44-146.26).

### 202.4 ACTIVATING THE EMERGENCY OPERATIONS PLAN

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

Upon activation of the plan, the Chief of Police or the authorized designee should contact the Virginia Department of Emergency Management (VDEM) to assist with mutual aid response from local, state and federal law enforcement agencies.

#### 202.4.1 RECALL OF PERSONNEL

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

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

### 202.5 LOCATION OF THE EMERGENCY OPERATIONS PLAN

Copies of the Emergency Operations Plan are available in the Communication Center. All Bureau Commanders should familiarize themselves with the Emergency Operations Plan. Bureau Commander's should ensure that department members are familiar with the roles they will play when the plan is implemented.



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### **202.6 EMERGENCY OPERATIONS PLAN ASSESSMENT**

The Chief of Police or the authorized designee should complete an assessment of the Emergency Operations Plan periodically and ensure that the plan conforms to any revisions made by the National Incident Management System (NIMS) and VDEM. The Chief of Police or the authorized designee should appropriately address any needed revisions (Va. Code § 44-146.18).

### **202.7 TRAINING**

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

The Department should participate in any statewide emergency response drills as requested by the Governor of Virginia (Va. Code § 44-146.17:2).

## Training

### 203.1 PURPOSE AND SCOPE

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

### 203.2 POLICY

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

### 203.3 OBJECTIVES

The objectives of the training program are to:

- (a) Ensure that training is based on a curriculum that includes the most frequent assignments and tasks of law enforcement activities and that appropriate evaluation techniques are used to measure competency of required skills, knowledge and abilities.
- (b) Enhance the level of law enforcement service to the public.
- (c) Increase the technical expertise and overall effectiveness of department members.
- (d) Provide for continued professional development of department members.
- (e) Ensure compliance with DCJS rules and regulations concerning law enforcement training.

### 203.4 TRAINING PLAN

The training plan should include the anticipated costs associated with each type of training, including attendee salaries and backfill costs. The plan should include a systematic and detailed method for recording and logging of all training for all members.

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

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

#### 203.4.1 GOVERNMENT-MANDATED TRAINING

The following lists, while not all inclusive, identify training that is required under state and federal laws and regulations. Additional required training may be identified in individual policies.

- (a) Federally mandated training:

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1. National Incident Management System (NIMS) training
- (b) State-mandated training for officers requires completion of (Va. Code § 9.1-102):
  1. No less than 480 hours of academy training, within one year of their appointment, in the following areas (6 VAC 20-20-21; 6 VAC 20-20-40):
    - (a) Professionalism
    - (b) Legal
    - (c) Communication
    - (d) Patrol
    - (e) Investigations
    - (f) Defensive tactics and use of force
    - (g) Weapons
    - (h) Driver training
  2. No less than 100 hours of field training within one year of their appointment (6 VAC 20-20-21; 6 VAC 20-20-40).
  3. No less than 40 hours of in-service training biennially. Training shall consist of (6 VAC 20-30-30):
    - (a) Two hours of cultural diversity training.
    - (b) Four hours of legal training, which shall include training on new laws and revisions to existing laws that affect the department's responsibilities.
    - (c) 34 hours of career development/elective training.
  4. Annual in-service training must be completed by December 31 of the calendar year (6 VAC 20-30-40).
  5. Annual DCJS-approved firearms training and qualification (6 VAC 20-30-80).

#### 203.4.2 POSITIONS REQUIRING SPECIALIZED TRAINING

Officers assigned to the following positions shall receive specialized training before performing the assignment, and in-service training as required for the position:

- (a) State Police member (see the State Police Policy)
- (b) Investigator
- (c) Motorcycle officer
- (d) Bicycle Patrol officer (see the Bicycle Patrol Policy)
- (e) Canine handler (see the Canines Policy)
- (f) Traffic Crash Reconstructionist
- (g) Field Training Officer (see the Field Training Policy)
- (h) Community Relations/Training Officer (see the Community Relations Policy)

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- (i) School Resource Officer and/or Drug Abuse Resistance Education (D.A.R.E.) officer
- (j) Court officer

#### **203.4.3 SPECIALIZED TRAINING REQUIREMENTS**

[Insert your agency's requirements for specialized training consistent with standard TRN.02.01 requirements – see Guide Sheet for additional guidance.]

#### **203.5 TRAINING COMMITTEE**

The Training Supervisor may establish a Training Committee, on a temporary or as-needed basis, which will assist with identifying training needs.

The Training Committee should be composed of at least three members, with the senior ranking member of the committee acting as the chairperson. Committee members should be selected based on their abilities at post-incident evaluation and at assessing related training needs. The Training Supervisor may remove or replace members of the committee at his/her discretion.

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

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

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

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

#### **203.6 TRAINING ATTENDANCE**

- (a) All members assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences should be limited to:
  - 1. Court appearances.
  - 2. Previously approved vacation or time off.
  - 3. Illness or medical leave.
  - 4. Physical limitations preventing the member's participation.

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5. Emergency situations or department necessity.
- (b) Any member who is unable to attend training as scheduled shall notify his/her supervisor as soon as practicable but no later than one hour prior to the start of training and shall:
1. Document his/her absence in a memorandum to his/her supervisor.
  2. Make arrangements through his/her supervisor or the Training Supervisor to attend the required training on an alternate date.

#### **203.7 DAILY TRAINING BULLETINS**

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

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

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

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

#### **203.8 TRAINING RECORDS**

The Training Supervisor is responsible for the creation, filing and storage of all training records to include the type of training, dates/hours attended, instructor/location and members attending. Training records shall be retained in accordance with the established records retention schedule.

#### **203.9 TRAINING SUPERVISOR**

The Chief of Police shall designate a Training Supervisor who is responsible for developing, reviewing, updating, and maintaining the department training plan so that required training is completed. The Training Supervisor should review the training plan annually.

##### **203.9.1 TRAINING SUPERVISOR RESPONSIBILITIES**

The Training Supervisor shall provide the DCJS with verification that members have met minimum standards set forth in Va. Code § 15.2-1705 (Va. Code § 15.2-1706).

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### **203.10 NEWLY ENACTED OR REVISED LAW(S) (TRN.02.02)**

Whenever newly enacted or revised law(s) relating to the agency's responsibilities are passed sworn members will receive training or at a minimum provided a copy of the newly enacted or revised law(s).

### **203.11 NON-SWORN ORIENTATION**

The Training Supervisor or the authorized designee should provide all newly-appointed non-sworn members with information regarding the following:

- (a) The Department's role, purpose, goals, policies, and procedures
- (b) Working conditions and regulations
- (c) Responsibilities and rights of members

## Electronic Mail

### **204.1 PURPOSE AND SCOPE**

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

### **204.2 POLICY**

Wintergreen Police Department members shall use email in a professional manner in accordance with this policy and current law (e.g., The Virginia Freedom of Information Act).

### **204.3 PRIVACY EXPECTATION**

Members forfeit any expectation of privacy with regard to emails accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

### **204.4 RESTRICTIONS ON USE OF EMAIL**

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

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

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

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

### **204.5 EMAIL RECORD MANAGEMENT**

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

The Custodian of Records shall ensure that email messages are retained and recoverable as outlined in the Records Maintenance and Release Policy.

## Administrative Communications

### 205.1 PURPOSE AND SCOPE

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

### 205.2 POLICY

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

### 205.3 MEMORANDUMS

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

### 205.4 CORRESPONDENCE

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

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

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

### 205.5 OTHER COMMUNICATIONS

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



## Supervision Staffing Levels

### **206.1 PURPOSE AND SCOPE**

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

### **206.2 POLICY**

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

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

Minimum staffing levels should be established by the Bureau Commanders for each Bureau and work group. The supervision staffing levels should support proper supervision, span of control, compliance with any Private Police rule or policy, and activity levels to meet the needs of members and the goals of the Department.

## **Chapter 3 - General Operations**

## Use of Force

### 300.1 PURPOSE AND SCOPE

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

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

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Deadly force** - Any force that is likely or intended to cause serious bodily injury or death (Va. Code § 19.2-83.3).

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

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

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

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

### 300.2 POLICY

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

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

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

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##### **300.2.1 DUTY TO INTERVENE AND REPORT**

Any officer present and observing another law enforcement officer or a member using or attempting to use force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intervene to prevent the use of unreasonable force (Va. Code § 19.2-83.6).

Any officer who intervenes or observes another law enforcement officer or a member use or attempt to use force that is potentially beyond that which is objectively reasonable under the circumstances shall report these observations to a supervisor as soon as feasible (Va. Code § 19.2-83.6).

##### **300.2.2 PERSPECTIVE**

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

##### **300.2.3 WRITTEN STATEMENT REGARDING INTERVENTION**

Any officer who observes another officer use or attempt to use force that is clearly beyond that which is objectively reasonable under the circumstances shall prepare a detailed written statement consistent with the department's procedures, and the supervisor should include that statement in the supervisor's report.

##### **300.2.4 ADMINISTRATIVE REVIEW OF INTERVENTION**

An administrative review of the intervention shall be conducted by a supervisor not directly involved in the incident and reviewed by the Chief of Police or the authorized designee to determine compliance with established policy.

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

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

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

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

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly

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unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

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

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

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

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

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##### **300.3.2 PAIN COMPLIANCE TECHNIQUES**

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

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

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

##### **300.3.3 ALTERNATIVE TACTICS - DE-ESCALATION**

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

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

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

##### **300.3.5 RESPIRATORY RESTRAINTS**

A respiratory restraint, also known as a chokehold, includes the use of any body part or object to attempt to control or disable a person by applying pressure against the neck, including the trachea, with the purpose, intent, or effect of controlling or restricting the person's movement or breathing (Va. Code § 19.2-83.4). The use of a respiratory restraint is limited to circumstances where deadly force is authorized and if applied, is subject to the same guidelines and requirements as a carotid control hold (Va. Code § 19.2-83.4).

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

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

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

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- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the officer or another person. An imminent danger may also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the officer believes the individual intends to do so.

An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

#### **300.4.1 MOVING VEHICLES**

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

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

An officer should only discharge a firearm at a moving vehicle or its occupants in circumstances where deadly force is authorized (Va. Code § 19.2-83.4).

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

#### **300.4.2 STATE LIMITATIONS TO DEADLY FORCE APPLICATIONS**

Prior to using deadly force, the officer should exhaust all other reasonable options under the circumstances and, if feasible, provide a warning that deadly force may be used (Va. Code § 19.2-83.5).

In circumstances where deadly force is authorized, the necessity to protect others does not extend to the subject of the use of deadly force (Va. Code § 19.2-83.5).

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

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should

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articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

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

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

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the conducted energy device or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

#### **300.6 MEDICAL CONSIDERATIONS**

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

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

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



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

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

See the Medical Aid and Response Policy for additional guidelines.

#### **300.7 SUPERVISOR RESPONSIBILITIES**

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

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

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- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

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

#### 300.7.1 CHIEF OF POLICE RESPONSIBILITY

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

#### **300.8 TRAINING**

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

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

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.

#### 300.8.1 TRAINING ON DUTY TO INTERVENE

Officers will receive documented initial training and annual refresher training on duty to intervene.

#### **300.9 USE OF FORCE ANALYSIS**

At least annually, the Field Operations Bureau Commander should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects, or case numbers, and should include:

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

## Use of Force Review Boards

### 301.1 PURPOSE AND SCOPE

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

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

### 301.2 POLICY

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

### 301.3 REMOVAL FROM LINE DUTY ASSIGNMENT

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

### 301.4 REVIEW BOARD

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

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

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

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

#### 301.4.1 COMPOSITION OF THE BOARD

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

- Representatives of each Bureau
- Department instructor for the type of weapon, device or technique used

The Chief of Police will serve as chairperson.

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##### 301.4.2 RESPONSIBILITIES OF THE BOARD

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

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

The board does not have the authority to recommend discipline.

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

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

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

Any questioning of the involved member conducted by the board will be in accordance with Wintergreen Police Department disciplinary procedures, the Personnel Complaints Policy and any applicable state or federal law.

The board shall make one of the following recommended findings:

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

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

The Chief of Police shall review the recommendation, make a final determination as to whether the member's actions were within policy and procedure, and determine whether any additional actions, investigations or reviews are appropriate. Those findings will be forwarded to the involved member's Bureau Commander for review and appropriate action. If the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated.

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

## Handcuffing and Restraints

### 302.1 PURPOSE AND SCOPE

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

### 302.2 POLICY

The Wintergreen Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force. Types of restraint devices authorized are: handcuffs, flex cuffs, leg irons or chains, transport belts, waist or belly chains.

### 302.3 USE OF RESTRAINTS

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

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

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

#### 302.3.1 RESTRAINT OF DETAINEES

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

Officers should, when available, transport persons in department vehicles with a safety barrier (unless there are provisions to transport in unmarked vehicles). The person will be secured with a safety belt in the rear seat opposite the driver, unless there are reasonable exceptions for auxiliary restraints or medical necessity. In vehicles where a safety barrier does not exist, the person will be secured with a safety belt and placed in the front passenger seat.

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##### **302.3.2 RESTRAINT OF PREGNANT PERSONS**

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

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

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

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

##### **302.3.4 NOTIFICATIONS**

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

##### **302.3.5 LONG DISTANCE TRANSPORTS**

When an officer is assigned to make a long-range transportation of a person, (e.g. an extradition), the officer shall whenever possible utilize leg restraints and waist chains or a transport belt. Only one of the person's hands will be released during rest stops and meal breaks. The officer should block any potential escape route while the person has a released hand.

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

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

Although recommended for most arrest and transport situations, handcuffing is discretionary and not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that in order to avoid risk every person should be handcuffed regardless of the circumstances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a person.

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

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

When applying leg restraints, the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a safety belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (f) When transported by emergency medical services, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).

#### **302.8 REQUIRED DOCUMENTATION**

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

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

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

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



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

#### **302.9 TRAINING**

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

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

## Control Devices

### 303.1 PURPOSE AND SCOPE

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

### 303.2 POLICY

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

### 303.3 ISSUING, CARRYING, AND USING CONTROL DEVICES

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

Only those members who have successfully completed department-approved training and have demonstrated proficiency in the use of any control device are authorized to carry and use the device.

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

### 303.4 RESPONSIBILITIES

#### 303.4.1 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police may authorize the use of a control device by selected department members who may not currently be issued or carrying the control device or those in specialized assignments who have successfully completed the required training.

#### 303.4.2 FIELD OPERATIONS BUREAU COMMANDER RESPONSIBILITIES

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

Every control device will be periodically inspected by the Field Operations Bureau Commander or the designated instructor for a particular control device. The inspection shall be documented.

#### 303.4.3 USER RESPONSIBILITIES

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

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

#### **303.5 BATON GUIDELINES**

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

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

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

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

##### **303.6.1 OC SPRAY**

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

##### **303.6.2 TREATMENT FOR OC EXPOSURE**

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

#### **303.7 POST-APPLICATION NOTICE**

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

#### **303.8 TRAINING FOR CONTROL DEVICES**

The Training Supervisor shall ensure that those members who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified at a minimum every two years.

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

Before being authorized to carry control devices, members will be issued copies of and be instructed in applicable use of force policies, including the Control Devices Policy. Each member shall acknowledge that they have been provided access to and have had the opportunity to review and understand the applicable policies.

#### **303.9 REPORTING USE OF CONTROL DEVICES**

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

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## Conducted Energy Device

### 304.1 PURPOSE AND SCOPE

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

### 304.2 POLICY

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

### 304.3 ISSUANCE AND CARRYING CEDS

Only members who have successfully completed department-approved training and have demonstrated proficiency may be issued and may carry the CED.

The Firearms Instructors should keep a log of issued CED devices and the serial numbers of cartridges/magazines issued to members.

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

Officers shall only use the CED and cartridges/magazines that have been issued by the Department. Cartridges/magazines should not be used after the manufacturer's expiration date.

Uniformed officers who have been issued the CED shall wear the device in an approved holster.

Officers who carry the CED while in uniform shall carry it in a holster on the side opposite the duty weapon.

- (a) All CEDs shall be clearly distinguishable to differentiate them from the duty weapon and any other device.
- (b) For single-shot devices, whenever practicable, officers should carry an additional cartridge on their person when carrying the CED.
- (c) Officers should not hold a firearm and the CED at the same time.

Non-uniformed officers may secure the CED in a concealed, secure location in the driver's compartment of their vehicles.

#### 304.3.1 USER RESPONSIBILITIES

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

CEDs that are damaged or inoperative, or cartridges/magazines that are expired or damaged, shall be returned to the Firearms Instructors for disposition. Officers shall submit documentation stating the reason for the return and how the CED or cartridge/magazine was damaged or became inoperative, if known.

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

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

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

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

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

#### **304.5 USE OF THE CED**

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

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

##### **304.5.1 APPLICATION OF THE CED**

The CED may be used when the circumstances reasonably perceived by the officer at the time indicate that such application reasonably appears necessary to control a person who:

- (a) Is violent or is physically resisting.
- (b) Has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, themselves, or others.

Mere flight from a pursuing officer, without additional circumstances or factors, is not good cause for the use of the CED to apprehend an individual.

The CED shall not be used to psychologically torment, to elicit statements, or to punish any individual.

##### **304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS**

The use of the CED on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject, or others, and the officer reasonably believes that the need to control the individual outweighs the potential risk of using the device. This includes:

- (a) Individuals who are known to be pregnant.

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- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals known to have been recently sprayed with a flammable chemical agent or who are otherwise known to be in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- (f) Individuals whose position or activity is likely to result in collateral injury (e.g., falls from height, located in water, operating vehicles).

Any CED capable of being applied in the drive-stun mode (i.e., direct contact without probes as a primary form of pain compliance) should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

#### 304.5.3 TARGETING CONSIDERATIONS

Recognizing that the dynamics of a situation and movement of the subject may affect target placement of probes, when practicable, officers should attempt to target the back, lower center mass, and upper legs of the subject, and avoid intentionally targeting the head, neck, area of the heart, or genitals. If circumstances result in one or more probes inadvertently striking an area outside of the preferred target zones, the individual should be closely monitored until examined by paramedics or other medical personnel.

#### 304.5.4 MULTIPLE APPLICATIONS OF THE CED

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

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

Given that on certain devices (e.g., TASER 10™) each trigger pull deploys a single probe, the officer must pull the trigger twice to deploy two probes to create the possibility of neuro-muscular incapacitation.

#### 304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers should take appropriate actions to control and restrain the individual as soon as reasonably practicable to minimize the need for longer or multiple exposures to the CED. As soon as practicable, officers shall notify a supervisor any time the CED has been discharged. If needed for evidentiary purposes, the expended cartridge, along with any probes and wire, should

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be submitted into evidence (including confetti tags, when equipped on the device). The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

#### 304.5.6 DANGEROUS ANIMALS

The CED may be deployed against an animal if the animal reasonably appears to pose an imminent threat to human safety.

#### 304.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department CEDs while off-duty.

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

### 304.6 DOCUMENTATION

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

#### 304.6.1 CED REPORT FORM

As applicable based on the device type, items that shall be included in the CED report form are:

- (a) The brand, model, and serial number of the CED and any cartridge/magazine.
- (b) Date, time, and location of the incident.
- (c) Whether any warning, display, laser, or arc deterred a subject and gained compliance.
- (d) The number of probes deployed, CED activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the CED was used.
- (f) The type of mode used (e.g., probe deployment, drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any officers sustained any injuries.

The Training Supervisor should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Training Supervisor should also conduct audits of CED



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device data downloaded to an approved location and reconcile CED report forms with recorded activations. CED information and statistics, with identifying information removed, should periodically be made available to the public.

#### 304.6.2 REPORTS

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

- (a) Identification of all personnel firing CEDs
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication, or other medical problems

#### 304.7 MEDICAL TREATMENT

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

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

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

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

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

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#### **304.8 SUPERVISOR RESPONSIBILITIES**

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

A supervisor should review each incident where a person has been exposed to a CED. The device's internal logs should be downloaded by a supervisor or Firearms Instructors and saved with the related arrest/crime report. The supervisor should arrange for photographs of probe sites to be taken and witnesses to be interviewed.

#### **304.9 TRAINING**

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

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

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

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

The Training Supervisor is responsible for ensuring that all members who carry CEDs have received initial and annual proficiency training. Periodic audits should be used for verification.

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

The Training Supervisor should include the following training:

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

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

## Officer-Involved Shootings and Deaths

### 305.1 PURPOSE AND SCOPE

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

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

### 305.2 POLICY

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

### 305.3 TYPES OF INVESTIGATIONS

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

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

### 305.4 CONTROL OF INVESTIGATIONS

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

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

#### 305.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Wintergreen Police Department would control the investigation if the suspect's crime occurred in Wintergreen.

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

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

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the employing agency's protocol. When an officer from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

Requests made of this department to investigate a shooting or death involving an outside agency's officer shall be referred to the Chief of Police or the authorized designee for approval.

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

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

#### **305.5 INVESTIGATION PROCESS**

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

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

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

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

##### **305.5.2 SUPERVISOR RESPONSIBILITIES**

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

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
  1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any WPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
  1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident

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- scene, identity of known or potential witnesses and any other pertinent information.
2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Bureau Commander and the Communication Center. If feasible, sensitive information should be communicated over secure networks.
  - (d) Take command of and secure the incident scene with additional WPD members until properly relieved by another supervisor or other assigned personnel or investigator.
  - (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
    1. Each involved WPD officer should be given an administrative order not to discuss the incident with other involved officers or WPD members pending further direction from a supervisor.
    2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

#### 305.5.3 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Chief of Police
- Investigations Bureau Commander
- Outside agency investigators (if appropriate)
- Field Operations Bureau Commander
- Chaplain
- Medical Examiner (if necessary)

#### 305.5.4 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal representation will be accommodated.
  1. Involved WPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
  2. Requests from involved non-WPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications (Va. Code § 8.01-420.7).

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- (c) A licensed psychotherapist shall be provided by the Department to each involved WPD officer. A licensed psychotherapist may also be provided to any other affected WPD members, upon request.
  - 1. Interviews with a licensed psychotherapist will be considered privileged (Va. Code § 8.01-399; Va. Code § 8.01-400.2).
  - 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, the involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
  - 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (d) Communications between the involved officer and a peer support member is addressed in the Wellness Program Policy.

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

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

#### **305.6 CRIMINAL INVESTIGATION**

The Commonwealth Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting involving injury or death.

If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the Commonwealth Attorney's Office to avoid duplicating efforts in related criminal investigations.

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

- (a) WPD supervisors and Field Operations Bureau personnel should not participate directly in any voluntary interview of WPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, he/she shall not consult or meet with an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration

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should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.

- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

#### 305.6.1 REPORTS BY INVOLVED WPD OFFICERS

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

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

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

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

#### 305.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

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

- (a) Identification of all persons present at the scene and in the immediate area.
  1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
  2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to his/her departure should be made whenever feasible.



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- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.
  - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

#### **305.6.3 INVESTIGATIVE PERSONNEL**

Once notified of an officer-involved shooting or death, it shall be the responsibility of the Field Operations Bureau Commander to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with investigators from the Commonwealth Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the Commonwealth Attorney's Office.

All related department reports, except administrative and/or privileged reports, will be forwarded to the Field Operations Bureau Commander for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the Field Operations Bureau Commander.

#### **305.7 ADMINISTRATIVE INVESTIGATION**

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

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

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
  - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.

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- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
  2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative collectively or in groups prior to being interviewed.
  3. Administrative interviews should be recorded by the investigator. The officer may also record the interview.
  4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
  5. The Field Operations Bureau Commander shall compile all relevant information and reports necessary for the Chief of Police to determine compliance with applicable policies.
  6. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

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

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

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

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

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

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV, body-worn video, or other video or audio recordings with the approval of assigned investigators or a supervisor.

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

#### **305.10 DEBRIEFING**

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

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

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

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or a valid court order (Va. Code § 19.2-271.4).

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

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

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

#### **305.11 MEDIA RELATIONS**

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

No involved WPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Bureau Commander.

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

#### **305.12 REPORTING**

If the death of an individual occurs in the Wintergreen Police Department jurisdiction and qualifies to be reported to the Virginia Violent Death Reporting System, the Field Operations Bureau

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Commander will ensure that the Chief of Police is provided with enough information to meet the reporting requirements.

The Chief of Police should also ensure that information related to any officer-involved shooting resulting in death or serious bodily injury is forwarded to the Virginia Department of State Police as soon as practicable (Va. Code § 52-28.2).

## Firearms

### 306.1 PURPOSE AND SCOPE

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

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

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

### 306.2 POLICY

The Wintergreen Police Department will equip its members with firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons. The Department will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

### 306.3 AUTHORIZED FIREARMS, AMMUNITION, AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Firearms Instructors. Except in an emergency, only members receiving training and demonstrating proficiency in the use of department-authorized firearms shall be approved to carry such weapons.

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

#### 306.3.1 HANDGUNS

The authorized department-issued handgun is the Glock Model 17, 19, 26, 43X & 45 9mm. The following additional handguns are approved for on-duty use:

MAKE: Glock	MODEL(S): 26, 19, 43X& 45	CALIBER: 9mm
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#### 306.3.2 SHOTGUNS

The authorized department-issued shotgun is the Remington 870 12 gauge. The following additional shotguns are approved for on-duty use:

MAKE	MODEL	CALIBER
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When not deployed, the shotgun shall be properly secured in a locking weapons rack in the patrol vehicle with the magazine loaded, the action closed on an empty chamber, the trigger pulled to release the hammer and the safety in the safe position.

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##### 306.3.3 PATROL RIFLES

The authorized department-issued patrol rifle is the S&W Model M&P .223. The following additional patrol rifles are approved for on-duty use:

MAKE: Ruger	MODEL: American	CALIBER: 300 B/O
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Members may deploy the patrol rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

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

When not deployed, the patrol rifle shall be properly secured in a locking weapons rack, when available, in the patrol vehicle with the chamber empty, magazine loaded and inserted into the magazine well, the bolt forward with the dust cover closed, the trigger pulled to release the hammer and the selector lever in the fire position (selector lever cannot be in the safe position with the hammer released).

##### 306.3.4 AUTHORIZED SECONDARY HANDGUN

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

- (a) The handgun shall be in good working order and on the department list of approved firearms.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the Department.
- (d) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (e) The handgun shall be inspected by the Firearms Instructors prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.

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- (f) Ammunition shall be the same as department issue. If the caliber of the handgun is other than department issue, the Chief of Police or the authorized designee shall approve the ammunition.
- (g) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.
- (h) Members shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Firearms Instructors, who will maintain a list of the information.

#### 306.3.5 AUTHORIZED OFF-DUTY FIREARMS

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

- (a) A personally owned firearm shall be used, carried and inspected in accordance with the Personally Owned Duty Firearms requirements in this policy.
  - 1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (c) It will be the responsibility of the member to submit the firearm to the Firearms Instructors for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Firearms Instructors.
- (d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Firearms Instructors that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (e) The member will successfully qualify with the firearm prior to it being carried.
- (f) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Firearms Instructors, who will maintain a list of the information.
- (g) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (h) Members shall only carry department-authorized ammunition.
- (i) When armed, officers shall carry their badges and Wintergreen Police Department identification cards under circumstances requiring possession of such identification.

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### 306.3.6 AMMUNITION

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

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

### 306.4 EQUIPMENT

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

#### 306.4.1 REPAIRS OR MODIFICATIONS

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

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

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

#### 306.4.2 HOLSTERS

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

#### 306.4.3 TACTICAL LIGHTS

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

#### 306.4.4 OPTICS OR LASER SIGHTS

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



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

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

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

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

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

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

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##### 306.5.2 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Members should be aware that negligent storage of a firearm could result in civil and criminal liability (Va. Code § 18.2-56.2).

##### 306.5.3 ALCOHOL AND DRUGS

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

#### **306.6 FIREARMS TRAINING AND QUALIFICATIONS**

All members who carry a firearm while on-duty are required to successfully complete training annually with their duty firearms. In addition, all newly hired Officers will be issued a copy of and trained in Agency orders before being authorized to carry a firearm.

In addition to annual training, all members will qualify annually with their duty firearms on the required range course and complete the Virginia Department of Criminal Justice Services (DCJS)-required range course and complete approved in-service training which shall include review of the following (6 VAC 20-30-80):

- (a) Nomenclature and care of handgun
- (b) Safety (e.g., on the firearms range, on-duty and off-duty)
- (c) Legal responsibilities and liabilities of firearms
- (d) Handgun (e.g., handling, firing principles)
- (e) Dry firing (e.g., application of basic shooting principles)
- (f) Prequalification shooting (150 rounds, minimum)
- (g) Virginia Modified Double Action Course for Semi-Automatic Pistols and Revolvers (70 percent minimum qualification required)
- (h) Qualification (70 percent minimum required) on one of the following record courses:
  - 1. Modified Tactical Revolver Course
  - 2. Modified Practical Pistol Course
  - 3. Virginia Modified Combat Course I
  - 4. Virginia Modified Combat Course II
  - 5. Virginia Modified Double Action Course for Semi-Automatic Pistols and Revolvers
- (i) Familiarization with the police shotgun
  - (a) 10 rounds required, shoulder and hip position

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- (j) Special weapons as required by this department

Firearms training and qualification shall be conducted by certified firearms instructor (6 VAC 20-80-20).

The Chief of Police shall file any mandated reports with the Director of the DCJS using the DCJS-approved forms (6 VAC 20-30-100). Firearms training and qualification shall be conducted by certified firearms instructor (6 VAC 20-80-20).

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

#### **306.6.1 NON-CERTIFICATION OR NON-QUALIFICATION**

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

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

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

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

#### **306.6.2 REQUIREMENTS PRIOR TO CARRYING**

Before being authorized to carry any firearm, members will be issued a copy of and be instructed on this policy and the Use of Force Policy. Each member shall acknowledge that the member has been provided access to and has had the opportunity to review and understand these policies. The issuance of and instruction on the policies shall be documented.

#### **306.7 FIREARM DISCHARGE**

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

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In all other cases, written reports shall be made as follows:

- (a) If on-duty at the time of the incident, the member shall file a written report with his/her Bureau Commander or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- (b) If off-duty at the time of the incident, the member shall file a written report or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

#### **306.7.1 DESTRUCTION OF ANIMALS**

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

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

#### **306.7.2 INJURED ANIMALS**

When available, an animal control officer or humane investigator should be summoned to manage injured animals (Va. Code § 3.2-6559).

A member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical.

#### **306.7.3 WARNING AND OTHER SHOTS**

Warning shots are prohibited.

#### **306.8 FIREARMS INSTRUCTORS DUTIES**

The range will be under the exclusive control of the Firearms Instructors. All members attending will follow the directions of the Firearms Instructors. The Firearms Instructors will maintain a roster of all members attending the range and will submit the roster to the Field Operations Bureau Commander after each range date. Failure of any member to sign in and out with the Firearms Instructors may result in non-participation or non-qualification.

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

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

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service. The member will be responsible for all repairs to his/her personally owned firearm; it will not be returned to service until it has been inspected and approved by the Firearms Instructors.

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

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

#### **306.9 FLYING WHILE ARMED**

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

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

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

## Vehicle Pursuits

### 307.1 PURPOSE AND SCOPE

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

#### 307.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

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

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

### 307.2 POLICY

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

### 307.3 OFFICER RESPONSIBILITIES

Vehicle pursuits shall only be conducted using authorized police department emergency vehicles that are equipped with emergency lighting and sirens as required by law (Va. Code § 46.2-1022; Va. Code § 46.2-1061).

Officers shall drive with due regard for the safety of all persons and property. However, officers may, when in pursuit of a suspect and provided there is no unreasonable risk to persons and property (Va. Code § 46.2-920):

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- (a) Proceed past a red or stop signal or stop sign but only after slowing down as may be necessary for safe operation.
- (b) Exceed the speed limit.
- (c) Disregard regulations governing direction of movement or turning in specified directions.
- (d) Park or stop where it is otherwise prohibited.
- (e) Pass or overtake another vehicle at an intersection.

#### 307.3.1 WHEN TO INITIATE A PURSUIT

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

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

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



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

#### 307.3.2 WHEN TO TERMINATE A PURSUIT

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

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

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

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

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

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### **307.4 PURSUIT VEHICLES**

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

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

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

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

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

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

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

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

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

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Until relieved by a supervisor or a secondary pursuing officer, the officer in the primary pursuit vehicle shall be responsible for broadcasting the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary pursuing officer should, as soon as practicable, relinquish the responsibility of broadcasting the progress of the pursuit to an officer in a secondary pursuit vehicle or to air support joining the pursuit to minimize distractions and allow the primary pursuing officer to concentrate foremost on safe pursuit tactics.

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

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

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

#### **307.5 PURSUIT DRIVING**

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

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

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2. Maintain visual contact with the pursued vehicle by paralleling the vehicle while driving on the correct side of the roadway.
  3. Request other officers to observe exits available to the suspect.
- (d) Notify the Virginia State Police or other law enforcement agency if it appears that the pursuit may enter its jurisdiction.
- (e) Officers involved in a pursuit should not attempt to pass other pursuing vehicles unless the situation indicates otherwise or they are requested to do so by the pursuing officer and with a clear understanding of the maneuver process between the involved officers.

#### 307.5.1 PURSUIT TRAILING

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

#### 307.5.2 AIR SUPPORT ASSISTANCE

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

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

#### 307.5.3 OFFICERS NOT INVOLVED IN THE PURSUIT

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

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

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

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

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

A supervisor will be responsible for:

- (a) Immediately notifying involved officers and the dispatcher of supervisory presence and ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit. This is to ensure that the pursuit is conducted within established department guidelines.
- (b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercising management and control of the pursuit even if not engaged in it.
- (d) Ensuring that no more than the required law enforcement vehicles are involved in the pursuit under the guidelines set forth in this policy.
- (e) Directing that the pursuit be terminated if, in his/her judgment, it is not justified to continue the pursuit under the guidelines of this policy.
- (f) Ensuring that assistance from air support, canines or additional resources is requested, if available and appropriate.
- (g) Ensuring that the proper radio channel is being used.
- (h) Ensuring that the Chief of Police is notified of the pursuit, as soon as practicable.
- (i) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this department.
- (j) Controlling and managing Wintergreen Police Department officers when a pursuit enters another jurisdiction.
- (k) Preparing a post-pursuit review and documentation of the pursuit as required.

### **307.7 THE COMMUNICATION CENTER**

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

#### **307.7.1 RESPONSIBILITIES**

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

- (a) Clearing the radio channel of non-emergency traffic.
- (b) Coordinating pursuit communications of the involved officers.
- (c) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (d) Ensuring that a field supervisor is notified of the pursuit.

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- (e) Notifying and coordinating with other involved or affected agencies as practicable.
- (f) Notifying the Bureau Commander as soon as practicable.
- (g) Assigning an incident number and logging all pursuit activities.

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

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

#### **307.9 INTERJURISDICTIONAL CONSIDERATIONS**

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

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

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

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

The roles and responsibilities of officers at the termination point of a pursuit initiated by this department shall be coordinated with appropriate consideration of the needs of the agency assuming the pursuit.

Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific. Because of communication limitations between local law enforcement agencies, a request for another agency's assistance will mean that its personnel will assume responsibility for the pursuit. For the same reasons, when a pursuit leaves another jurisdiction and a request for assistance is made to this department, the other agency should relinquish control.

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

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

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supervisor approval, immediately join the pursuit until sufficient vehicles from the initiating agency join the pursuit or until additional information is provided allowing withdrawal from the pursuit.

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

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

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

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

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

#### **307.10 PURSUIT INTERVENTION**

Pursuit intervention is an attempt to stop the suspect's ability to continue to flee.

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

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

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

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

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##### 307.10.3 INTERVENTION STANDARDS

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

- (a) Blocking or vehicle intercept should only be considered in cases involving felony suspects or impaired drivers who pose a threat to the public's safety, and when officers reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. Because of the potential risks involved, this intervention tactic should only be employed by properly trained officers and after giving consideration to the following:
  - 1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risk of injury or death to occupants of the suspect vehicle, officers or others.
  - 2. All other reasonable intervention tactics have failed or reasonably appear ineffective.
  - 3. Employing the blocking or vehicle intercept maneuver does not unreasonably increase the risk of danger to those involved or the public.
  - 4. The suspect vehicle is stopped or traveling at a low speed.
  - 5. Only law enforcement vehicles should be used in this tactic.
- (b) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the officer's disposal have been exhausted or would not be effective, and immediate control is necessary. Ramming should be reserved for situations where there does not appear to be another reasonable alternative method. If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized. When ramming is used as a means to stop a fleeing vehicle, the following factors should be present:
  - 1. The suspect is an actual or suspected felon, who reasonably appears to represent a serious threat to the public if not apprehended.
  - 2. The suspect is driving with willful or wanton disregard for the safety of other persons or is driving in a reckless and life-endangering manner or using the vehicle as a weapon.
- (c) Boxing-in a suspect vehicle should only be attempted upon approval by a supervisor. The use of such a tactic must be carefully coordinated with all involved vehicles, taking into consideration the circumstances and conditions apparent at the time, as well as the potential risk of injury to officers, the public and occupants of the pursued vehicle. Officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.
- (d) Roadblocks are prohibited.



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

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

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

#### **307.12 REPORTING REQUIREMENTS**

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

- (a) The primary pursuing officer shall complete appropriate crime/arrest reports.
- (b) The primary pursuing officer or supervisor shall complete the appropriate pursuit report.
- (c) After first obtaining the available information, the involved, or if unavailable, on-duty field supervisor shall promptly complete a supervisor's log or interoffice memorandum, briefly summarizing the pursuit to the Chief of Police or the authorized designee. This log or memorandum should include, at a minimum:
  - 1. Date and time of the pursuit.
  - 2. Initial reason and circumstances surrounding the pursuit.
  - 3. Length of pursuit in distance and time, including the starting and termination points.
  - 4. Involved vehicles and officers.
  - 5. Alleged offenses.
  - 6. Whether a suspect was apprehended, as well as the means and methods used.
    - (a) Any use of force shall be reported and documented in compliance with the Use of Force Policy.
  - 7. Arrestee information, if applicable.
  - 8. Any injuries and/or medical treatment.
  - 9. Any property or equipment damage.
  - 10. Name of supervisor at the scene or who handled the incident.
  - 11. A preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.
- (d) After receiving copies of reports, logs and other pertinent information, the Chief of Police or the authorized designee shall conduct or assign the completion of a post-pursuit review, as appropriate.

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- (e) If needed, the Chief of Police should direct a documented review and analysis of department vehicle pursuits to minimally include policy suitability, policy compliance and training needs.

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

In addition to initial and supplementary training on pursuits, all officers will participate, no less than annually, in regular and periodic training addressing this policy and the importance of vehicle safety and protecting the public. Training will include recognition of the need to balance the known offense and the need for immediate capture against the risks to officers and others.

## Foot Pursuits

### 308.1 PURPOSE AND SCOPE

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

### 308.2 POLICY

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

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

### 308.3 DECISION TO PURSUE

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

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

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

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

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

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

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

#### **308.4 GENERAL GUIDELINES**

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

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

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

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

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

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

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

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

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

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

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

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

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

##### **308.5.3 SUPERVISOR RESPONSIBILITIES**

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need to be physically present to exercise control over the foot pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

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

Upon apprehension of the suspect, the supervisor shall promptly proceed to the termination point to direct the post-foot pursuit activity.

##### **308.5.4 THE COMMUNICATION CENTER RESPONSIBILITIES**

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

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

##### **308.6 REPORTING REQUIREMENTS**

The initiating officer shall complete appropriate crime/arrest reports documenting, at a minimum:

- (a) Date and time of the foot pursuit.
- (b) Initial reason and circumstances surrounding the foot pursuit.
- (c) Course and approximate distance of the foot pursuit.
- (d) Alleged offenses.
- (e) Involved vehicles and officers.
- (f) Whether a suspect was apprehended as well as the means and methods used.

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1. Any use of force shall be reported and documented in compliance with the Use of Force Policy.
  - (g) Arrestee information, if applicable.
  - (h) Any injuries and/or medical treatment.
  - (i) Any property or equipment damage.
  - (j) Name of the supervisor at the scene or who handled the incident.

Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

- The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.

In any case in which a suspect is not apprehended and there is insufficient information to support further investigation, a supervisor may authorize that the initiating officer need not complete a formal report.

## Officer Response to Calls

### 309.1 PURPOSE AND SCOPE

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

### 309.2 POLICY

It is the policy of this department to appropriately respond to emergency and non-emergency calls for service or requests for assistance, whether these are dispatched or self-initiated.

### 309.3 RESPONSE TO CALLS

Officers responding to non-emergency calls shall proceed accordingly, unless they are sent or redirected to a higher priority call, and shall obey all traffic laws.

#### 309.3.1 EMERGENCY CALLS

Officers responding to an emergency call shall proceed immediately as appropriate and shall continuously operate the emergency vehicle lighting and siren as required by law (Va. Code § 46.2-920).

Officers should only respond to a call as an emergency response when so dispatched or when circumstances reasonably indicate an emergency response is required. This includes, but is not limited to:

- (a) When in pursuit or apprehending a violator or suspected violator.
- (b) When responding to a reported emergency involving possible personal injury, death or significant property damage.
- (c) When immediate assistance is requested by an officer or other law enforcement agency.

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

### 309.4 REQUESTING EMERGENCY ASSISTANCE

When requesting emergency assistance, the involved department member should reasonably believe there is an imminent threat to the safety of him/herself or another person, or that assistance is needed to prevent imminent serious harm to the public.

If circumstances permit, the requesting member should provide the following information:

- Identifying call sign
- Location of the emergency situation
- Suspect information, including weapons
- Reason for the request and type of emergency



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- The number of officers or resources required
- Hazards and any known or potential dangers for responding officers

In any event where a situation has stabilized and emergency response is not required, the requesting member shall immediately notify the dispatcher.

#### **309.5 SAFETY CONSIDERATIONS**

Responding with emergency lights and siren does not relieve the operator of an emergency vehicle of the duty to continue to drive with due regard for the safety of all persons and property, and does not protect the operator from the consequences of reckless disregard for the safety of others. However the officer may, when responding to a call with an emergency response, and provided there is no endangerment or unnecessary risk to persons and property (Va. Code § 46.2-920):

- Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
- Exceed the speed limit.
- Disregard regulations governing direction of movement or turning in specified directions.
- Park or stop where it is otherwise prohibited.
- Pass or overtake another vehicle at an intersection.

##### **309.5.1 NUMBER OF OFFICERS ASSIGNED**

The number of officers assigned to respond to an emergency call or request for assistance should be limited to that which is reasonably necessary.

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

#### **309.6 EMERGENCY EQUIPMENT**

Vehicles not equipped with emergency lights and siren are prohibited from initiating or joining in an emergency response. Officers in such vehicles may provide support to pursuing vehicles as long as the vehicles are operated in compliance with all traffic laws. Those officers should terminate their involvement in any emergency response immediately upon arrival of a sufficient number of emergency law enforcement vehicles (Va. Code § 46.2-920).

If the emergency equipment on the vehicle should fail to operate, the officer must terminate the emergency response and continue accordingly. The officer shall notify the dispatcher of the equipment failure so that another officer may be assigned to the emergency response.

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### **309.7 OFFICER RESPONSIBILITIES**

The decision to initiate or continue an emergency response is at the discretion of the officer. If, in the officer's judgment, the weather, traffic and road conditions do not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of emergency lights and siren at the legal speed limit. In such an event, the officer should immediately notify the dispatcher. An officer shall also discontinue an emergency response when directed by a supervisor or as otherwise appropriate.

Upon receiving authorization or determining that an emergency response is appropriate, whenever practicable, an officer shall immediately give the location from which he/she is responding.

The first officer arriving at the emergency call should determine whether to increase or reduce the level of the response of additional officers and shall notify the dispatcher of his/her determination. Any subsequent change in the appropriate response level should be communicated to the dispatcher by the officer in charge of the scene unless a supervisor assumes this responsibility.

### **309.8 THE COMMUNICATION CENTER**

When information reasonably indicates that the public is threatened with serious injury or death, or an officer requests emergency assistance and immediate law enforcement response is needed, the dispatcher shall assign an emergency response and ensure acknowledgement and response of handling and assisting officers.

#### **309.8.1 RESPONSIBILITIES**

Upon notification or assignment of an emergency response, the dispatcher is responsible for:

- (a) Confirming the location from which the officer is responding or requesting assistance.
- (b) Attempting to assign the closest available assisting officers to the location of the emergency call.
- (c) Continuing to obtain and broadcast information as necessary concerning the response and monitoring the situation until it is stabilized or terminated.
- (d) Notifying and coordinating allied emergency services (e.g., fire, emergency medical services).
- (e) Controlling all radio communications during the emergency.

### **309.9 SUPERVISOR RESPONSIBILITIES**

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

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

The supervisor shall monitor the response until it has been stabilized or terminated and assert control by directing officers into or out of the response, if necessary. If, in the supervisor's

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judgment, the circumstances require additional officers to be assigned an emergency response, the supervisor may do so.

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

When making the decision to authorize an emergency response, the supervisor should consider:

- The type of call or crime involved.
- The type and circumstances of the request.
- The necessity of a timely response.
- Weather, traffic and road conditions.
- The location of the responding officers and the location of the incident.

## Domestic or Family Violence

### 310.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic or family violence through vigorous enforcement and to address domestic or family violence as serious crimes against society. The policy specifically addresses legal mandates and the commitment of the Wintergreen Police Department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic or family violence (Va. Code § 9.1-1300).

#### 310.1.1 DEFINITIONS

Definitions related to this policy include:

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

**Domestic violence** - A pattern of physically, sexually, and/or emotionally abusive behaviors used by one person to assert power or maintain control over another in the context of an intimate partner or family relationship. For the purposes of this policy, the term includes family abuse, which is any act involving violence, force, or threat that results in bodily injury or that places another person in reasonable fear of death, sexual assault, or bodily injury, and that is committed by a person against (Va. Code § 16.1-228):

- (a) The person's spouse or former spouse, regardless of whether the person resides in the same home.
- (b) The person's parents, stepparents, grandparents, grandchildren, children, stepchildren, sibling, or half-sibling regardless of whether the person reside in the same home.
- (c) The person's relative by marriage (i.e., in-laws), if residing in the same home.
- (d) A person with whom the person has a child in common, whether or not they have been married or resided together at any time.
- (e) Another person or child with whom the person lives or has lived within the previous 12 months.

### 310.2 POLICY

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

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#### **310.3 OFFICER SAFETY**

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

#### **310.4 INVESTIGATIONS**

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

- (a) Calls of reported, threatened, imminent, or ongoing domestic or family violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Investigations in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.
- (j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:

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1. Whether the suspect lives on the premises with the victim.
  2. Claims by the suspect that the victim provoked or perpetuated the violence.
  3. The potential financial or child custody consequences of arrest.
  4. The physical or emotional state of either party.
  5. Use of drugs or alcohol by either party.
  6. Denial that the violence occurred where evidence indicates otherwise.
  7. A request by the victim not to arrest the suspect.
  8. Location of the incident (public/private).
  9. Speculation that the complainant may not follow through with the prosecution.
  10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
  11. The social status, community status, or professional position of the victim or suspect.
- (k) If the incident involves a law enforcement officer as the alleged suspect or predominant physical aggressor, officers should notify the on-duty supervisor (Va. Code § 9.1-1300).
1. If the involved law enforcement officer is a member of an outside agency, the on-duty supervisor should notify the respective agency.
  2. If the involved law enforcement officer is a member of this department, the on-duty supervisor should notify the Chief of Police to expedite presentment of the case to the Commonwealth's attorney.

#### 310.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

#### 310.4.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

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

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- (b) Document the resolution in a report.

#### **310.5 VICTIM ASSISTANCE**

Because victims may be traumatized or confused, officers should be aware that a victim's behavior and actions may be affected.

- (a) Victims shall be provided with the department domestic or family violence information handout, even if the incident may not rise to the level of a crime (Va. Code § 19.2-81.3; Va. Code § 19.2-11.01).
- (b) Victims shall also be alerted to any available victim advocates, shelters, legal assistance agencies, and community resources.
- (c) When an involved person requests law enforcement assistance while removing essential items of personal property, officers should stand by for a reasonable amount of time.
- (d) If the victim has sustained injury or complains of pain, officers shall seek medical assistance for the victim as soon as practicable.
- (e) Officers should ask the victim whether the victim has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for their safety or if the officer determines that a need exists (Va. Code § 19.2-81.3).
- (f) Officers should make reasonable efforts to ensure that any children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (g) If appropriate, officers shall seek or assist the victim in obtaining an emergency order (Va. Code § 19.2-152.8).
- (h) When a victim makes the request, an officer shall transport or arrange for the transportation of the person to a hospital or to appear before a magistrate (Va. Code § 19.2-81.3).

#### **310.6 DISPATCH ASSISTANCE**

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

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

#### **310.7 FOREIGN COURT ORDERS**

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

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USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state (Va. Code § 16.1-279.1).

An officer may rely upon a copy of a foreign order or other suitable evidence which has been provided to him/her by any source and may also rely upon the statement of any person protected by the order that the order remains in effect (Va. Code § 16.1-279.1).

#### **310.8 VERIFICATION OF COURT ORDERS**

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

- (a) Ask the subject of the order about his/her notice or receipt of the order, knowledge of its terms and efforts to respond to the order.
- (b) Check available records or databases that may show the status or conditions of the order.
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

#### **310.9 STANDARDS FOR ARRESTS**

Officers investigating reported domestic or family violence (Va. Code § 19.2-81.3):

- (a) Shall arrest the predominant aggressor when there is probable cause to believe that the person:
  1. Committed an offense of assault and battery against a family or household member (Va. Code § 18.2-57.2).
  2. Violated a protective order pursuant to Va. Code § 16.1-253.2.
  3. Violated a protective order pursuant to Va. Code § 18.2-60.4 by committing an act of physical aggression.
    - However, an arrest need not be made if a supervisor has approved a course of action other than arrest.
- (b) Shall consider the following when determining whether a person is a predominant physical aggressor:
  1. The identity of the first aggressor
  2. The protection of the health and safety of family and household members



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3. Prior complaints of domestic or family violence by the suspect involving family or household members
  4. In incidents involving a violation of a protective order, any prior acts of violence, force, or threat (as defined by Va. Code § 19.2-152.7:1) against the protected person or the protected person's family or household members
  5. The severity of the injuries inflicted on persons involved in the incident
  6. Whether any injuries were inflicted in self-defense
  7. Witness statements
  8. Any other observations
- (c) Should make an arrest in any other incident involving domestic or family violence when there is probable cause to believe that an offense of assault and battery against a family member or a violation of a protective order has occurred, regardless of whether the offense was committed within the presence of the officer. Any decision not to arrest shall be approved by a supervisor.
- (d) Should make an arrest if circumstances indicate that the person has been previously accused of domestic or family violence.
1. Information about calls for family abuse, domestic violence, and/or stalking entered into department records should be used to improve handling of these types of calls and track repeat offenders.

#### **310.9.1 REQUESTS FOR EMERGENCY PROTECTIVE ORDERS**

When an officer makes an arrest for an offense of assault and battery committed against a family or household member, the officer shall petition the court for an emergency protective order at the time that the suspect is brought before the magistrate. A request for an emergency protective order is not required if the person arrested is a minor (Va. Code § 19.2-81.3).

Regardless of whether an arrest is made, an officer may petition the court for an emergency protective order in any other circumstances where the officer has probable cause to believe that a danger of domestic or family violence exists.

#### **310.10 REPORTS AND RECORDS**

When investigating an incident of domestic or family violence, whether or not an arrest is made, an officer shall complete a written report. The report shall include the following (Va. Code § 19.2-81.3):

- (a) Whether any arrests were made, if so, the number of arrests made.
- (b) The probable cause to believe that an incident of domestic or family violence has occurred.
- (c) The location where the incident of domestic or family violence occurred.
- (d) The special circumstances that dictated a course of action other than arrest.

Upon request, officers shall make a summary of the report available to the victim or persons protected by an order.

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#### **310.11 SERVICE OF COURT ORDERS**

Upon receipt of an order from the issuing court, officers serving the order shall (Va. Code § 19.2-152.8; Va. Code § 19.2-152.9; Va. Code § 19.2-152.10; Va. Code § 16.1-279.1; Va. Code § 19.2-387.1):

- (a) Verify the identifying information and make modification as necessary in the Virginia Criminal Information Network (VCIN).
- (b) Serve the respondent with the order.
- (c) Enter the date and time of service and other appropriate information into VCIN.
- (d) File any required proof of service forms with the issuing court.

#### **310.12 ORDERS REQUIRED TO BE ENTERED INTO VCIN**

The Chief of Police shall ensure protective orders are entered into VCIN (Va. Code § 19.2-152.8; Va. Code § 19.2-152.9; Va. Code § 19.2-152.10; Va. Code § 16.1-279.1; Va. Code § 19.2-387.1).

#### **310.13 REPEAT OFFENDERS**

##### Dealing with Repeat Offenders

- (a) When investigating domestic disturbances, officers are reminded to be aware that there may be a history of domestic abuse by either party involved. While a prior history of domestic abuse alone does not constitute probable cause for an arrest, it could be used in addition to the other factors found. Officers should inquire of all parties involved as to whether there is a history of abuse, either locally or in other jurisdictions against family or household members. If probable cause to arrest exists, the officer shall arrest and gather evidence including taking photographs consistent with policy and procedure.

## Search and Seizure

### 311.1 PURPOSE AND SCOPE

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

### 311.2 POLICY

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

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

### 311.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions to the rule that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to:

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

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

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

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#### **311.4 SEARCH PROTOCOL**

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

- (a) Members of this department will strive to conduct searches with dignity and courtesy.
- (b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- (e) Whenever practicable, a search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.
- (f) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:
  1. Another officer or a supervisor should witness the search.
  2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

#### **311.5 DOCUMENTATION**

Officers are responsible for documenting any search and ensuring that any required reports are sufficient including, at minimum, documentation of:

- Reason for the search.
- Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys).
- What, if any, injuries or damage occurred.
- All steps taken to secure property.
- The results of the search including a description of any property or contraband seized.
- If the person searched is the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer.

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

## Child Abuse

### 312.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Wintergreen Police Department members are required to notify Virginia Department of Social Service (VDSS) or their local department of social services' Child Protective Services (CPS) of suspected child abuse.

#### 312.1.1 DEFINITIONS

Definitions related to this policy include:

**Child** - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

**Child abuse** - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency.

### 312.2 POLICY

The Wintergreen Police Department will investigate all reported incidents of alleged criminal child abuse and ensure CPS is notified as required by law.

### 312.3 MANDATORY NOTIFICATION

Members of the Wintergreen Police Department shall notify CPS when the member has reason to suspect that a child may be a victim of abuse or neglect (Va. Code § 63.2-1509).

For purposes of notification, abuse and neglect include but are not limited to the following (Va. Code § 63.2-100; 22 VAC 40-705-30):

- (a) An intentional act or omission by the caretaker of a child that causes, threatens, or permits a physical or mental injury to the child
- (b) The creation by the caretaker of a child of a substantial risk of death, disfigurement, or impairment of bodily or mental functions
- (c) The failure by the caretaker of a child to provide adequate food, clothing, shelter, supervision, or medical care
- (d) The commission, or the allowance by the caretaker of a child or that caretaker's intimate partner, of any sexual exploitation of or sexual act upon the child
- (e) The commission by any person of sex trafficking or other severe forms of trafficking against a child

#### 312.3.1 NOTIFICATION PROCEDURE

Notification should occur immediately, but no later than 24 hours after becoming aware of the abuse or neglect, by directly contacting the local CPS office or by calling the child abuse and neglect hotline. The report should include the following information, if known (Va. Code § 63.2-1509):

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- (a) The name, address and telephone number of both the child and parent or other person responsible for the child's care.
- (b) The child's date of birth, age, sex and race.
- (c) The names and ages of the other persons who reside with the child and their relationship to the child.
- (d) Whether or not there is a family member who can protect the child.
- (e) The name, address and telephone number of the suspected abuser and his/her relationship to the child.
- (f) The nature and extent of the abuse or neglect, including any knowledge of prior maltreatment of the child or his/her siblings.
- (g) Any special language needs of the family.
- (h) Any child or adult developmental issues.
- (i) Whether the child has a disability and the ways in which the disability affects the child's functioning and care.
- (j) The name and contact information for the investigating member.
- (k) Any other pertinent information.

#### **312.4 QUALIFIED INVESTIGATORS**

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

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

#### **312.5 INVESTIGATIONS AND REPORTING**

In all reported or suspected cases of child abuse, officers shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.

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- (b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.
- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of an unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

#### **312.6 PROTECTIVE CUSTODY**

Before taking any child into protective custody, the officer should make reasonable attempts to contact CPS. Generally, removal of a child from his/her family, guardian or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove a child from his/her parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the officer should take reasonable steps to deliver the child to another qualified parent or legal guardian unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the officer shall ensure that the child is delivered to CPS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

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Children may only be removed from a parent or guardian pursuant to a court order. However, children may be removed for up to 72 hours without a court order or consent from a parent or guardian when (Va. Code § 63.2-1517):

- (a) It appears that there is an imminent danger to the child's life or health.
- (b) A court order is not immediately obtainable.
- (c) The court has set up procedures for placing such children.
- (d) The parent or guardian is notified as soon as practicable following the removal.
- (e) A report is made to the CPS.
- (f) The court is notified as soon as possible and a petition for an emergency removal order is filed before the expiration of the 72-hour period.

#### 312.6.1 SAFE HAVEN LAW

A person may safely deliver a child who is 30 days old or younger to a hospital that provides 24-hour emergency services or to an attended emergency medical service agency that employs emergency medical services personnel (Va. Code § 8.01-226.5:2; Va. Code § 16.1-228; Va. Code § 18.2-371; Va. Code § 18.2-371.1; Va. Code § 40.1-103; Va. Code § 63.2-100).

### **312.7 INTERVIEWS**

#### 312.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

#### 312.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

An officer should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

- (a) Exigent circumstances exist, such as:
  - 1. A reasonable belief that medical issues of the child need to be addressed immediately.
  - 2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
  - 3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.
- (b) A court order or warrant has been issued.



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#### 312.7.3 INTERVIEW OF VICTIM OR VICTIM'S SIBLINGS

An officer may interview any child suspected of being abused or neglected or to any of his/her siblings without the consent of and outside the presence of the parent, guardian or legal custodian of the child (Va. Code § 63.2-1518).

#### 312.8 MEDICAL EXAMINATIONS

If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The officer should also arrange for the child's transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if Commonwealth law does not provide for officers to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination (Va. Code § 63.2-1524).

#### 312.9 DRUG-ENDANGERED CHILDREN

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

##### 312.9.1 SUPERVISOR RESPONSIBILITIES

The Investigations supervisor should:

- (a) Work with professionals from the appropriate agencies, including CPS, other law enforcement agencies, medical service providers and local prosecutors to develop community-specific procedures for responding to situations where there are children endangered by their exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the Investigations supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives at the scene.
- (c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the child.

##### 312.9.2 OFFICER RESPONSIBILITIES

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

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

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### **312.10 STATE MANDATES AND OTHER RELEVANT LAWS**

The Commonwealth of Virginia requires or permits the following:

#### **312.10.1 RELEASE OF REPORTS**

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Va. Code § 63.2-1509).

#### **312.10.2 CHILD FATALITY REVIEW TEAM**

The Department shall cooperate fully with state and local child fatality review teams in accordance with Va. Code § 32.1-283.1 and Va. Code § 32.1-283.2.

### **312.11 TRAINING**

The Department should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.
- (b) Conducting forensic interviews.
- (c) Availability of therapy services for children and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to child abuse investigations.
- (f) Availability of victim advocate or guardian ad litem support.
- (g) Recognizing abuse that requires mandatory notification to another agency.

## Adult Abuse

### 313.1 PURPOSE AND SCOPE

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

#### 313.1.1 DEFINITIONS

Definitions related to this policy include:

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

### 313.2 POLICY

The Wintergreen Police Department will investigate all reported incidents of alleged adult abuse and ensure proper reporting and notification as required by law (Va. Code § 63.2-1606).

### 313.3 MANDATORY NOTIFICATION

Members of the Wintergreen Police Department shall notify Adult Protective Services (APS) when a member has reason to believe that a qualifying adult has been the victim of abuse, neglect or exploitation (Va. Code § 63.2-1606; 22 VAC 30-100-15).

For purpose of notification, a qualifying adult is a person 60 years of age or older, or any person 18 years of age or older who is impaired by reason of mental illness, intellectual disability, physical illness or disability, or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate or carry out responsible decisions concerning his/her well-being. Abuse means the willful infliction of pain, injury or mental anguish, or unreasonable confinement. Exploitation means the illegal, unauthorized, improper or fraudulent use of a qualifying adult or his/her funds, property, benefits, resources or other assets for profit, benefit or advantage (Va. Code § 63.2-100; Va. Code § 63.2-1603; 22 VAC 30-100-10).

#### 313.3.1 NOTIFICATION PROCEDURE

Notification should occur as follows (Va. Code § 63.2-1606):

- (a) Notification shall be made as soon as practicable.
- (b) Notification should include specific information as to the adult's location and contact information.
- (c) The notification should describe the circumstances of the alleged abuse, neglect or exploitation.

### 313.4 QUALIFIED INVESTIGATORS

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

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- (a) Conduct interviews in appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to adult abuse investigations.
- (c) Present all cases of alleged adult abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and facility administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians and support for the victim and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable.
- (g) When so assigned, assist an adult fatality review team with their investigation of a related death (Va. Code § 32.1-283.5; Va. Code § 32.1-283.6).

#### **313.5 INVESTIGATIONS AND REPORTING**

All reported or suspected cases of adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of adult abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected adult abuse victim is contacted.
- (b) Any relevant statements the victim may have made and to whom he/she made the statements.
- (c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.
- (e) Whether the victim was transported for medical treatment or a medical examination.
- (f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.
- (g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.
- (h) Previous addresses of the victim and suspect.
- (i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential adult abuse and investigated similarly.

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### **313.6 PROTECTIVE CUSTODY**

Before taking an adult abuse victim into protective custody when facts indicate the adult may not be able to care for him/herself, the officer should make reasonable attempts to contact APS. Generally, removal of an adult abuse victim from his/her family, guardian or other responsible adult should be left to the welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove an adult abuse victim from his/her family or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the victim. Prior to taking an adult abuse victim into protective custody, the officer should take reasonable steps to deliver the adult to another qualified legal guardian, unless it reasonably appears that the release would endanger the victim or result in abduction. If this is not a reasonable option, the officer shall ensure that the adult is delivered to APS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking an adult abuse victim into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking the adult into protective custody.

Officers may request physicians and APS members consider applying for a protective order under Va. Code § 37.2-1103 or Va. Code § 63.2-1609.

When adult abuse victims are under state control, have a state-appointed guardian or there are other legal holdings for guardianship, it may be necessary or reasonable to seek a court order on behalf of the adult victim to either remove the adult from a dangerous environment (protective custody) or restrain a person from contact with the adult.

### **313.7 INTERVIEWS**

#### **313.7.1 PRELIMINARY INTERVIEWS**

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

#### **313.7.2 DETAINING VICTIMS FOR INTERVIEWS**

An officer should not detain an adult involuntarily who is suspected of being a victim of abuse solely for the purpose of an interview or physical exam without his/her consent or the consent of a guardian unless one of the following applies:

- (a) Exigent circumstances exist, such as:
  1. A reasonable belief that medical issues of the adult need to be addressed immediately.

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

#### **313.8 MEDICAL EXAMINATIONS**

When an adult abuse investigation requires a medical examination, the investigating officer should obtain consent for such examination from the victim, guardian, agency or entity having legal custody of the adult. The officer should also arrange for the adult's transportation to the appropriate medical facility.

In cases where the alleged offender is a family member, guardian, agency or entity having legal custody and is refusing to give consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

#### **313.9 DRUG-ENDANGERED VICTIMS**

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

##### **313.9.1 SUPERVISOR RESPONSIBILITIES**

The Investigations supervisor should:

- (a) Work with professionals from the appropriate agencies, including APS, other law enforcement agencies, medical service providers and local prosecutors to develop community-specific procedures for responding to situations where there are adult abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the Investigations supervisor that he/she has responded to a drug lab or other narcotics crime scene where an adult abuse victim is present or where evidence indicates that an adult abuse victim lives at the scene.
- (c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the adult.

##### **313.9.2 OFFICER RESPONSIBILITIES**

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

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

#### **313.10 STATE MANDATES AND OTHER RELEVANT LAWS**

Virginia requires or permits the following:

##### 313.10.1 OFFICE OF THE CHIEF OF POLICE RESPONSIBILITIES

The Office of the Chief of Police is responsible for:

- (a) Providing a copy of the adult abuse report to APS as required by law.
- (b) Retaining the original adult abuse report with the initial case file.

##### 313.10.2 RELEASE OF REPORTS

Information related to incidents of adult abuse or suspected adult abuse shall be confidential and may only be disclosed pursuant to commonwealth law and the Records Maintenance and Release Policy (Va. Code § 63.2-1605; 22 VAC 30-100-50).

##### 313.10.3 POINT OF CONTACT

The Investigations supervisor shall establish a point of contact to receive referrals of suspected adult abuse and shall provide the point-of-contact information to the appropriate local office of the Department of Social Services (Va. Code § 63.2-1605).

The point of contact should work with the Investigations supervisor to facilitate the receipt, entry, and processing of protective orders involving a qualifying adult, and any subsequent return or communication with the issuing court, as required by Va. Code 63.2-1609.

#### **313.11 TRAINING**

The Department should provide training on best practices in adult abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.
- (b) Conducting interviews.
- (c) Availability of therapy services for adults and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to adult abuse investigations.
- (f) Availability of victim advocates or other support.

## Discriminatory Harassment

### 314.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

### 314.2 POLICY

The Wintergreen Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights and privileges it is designed to protect.

The nondiscrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

### 314.3 DEFINITIONS

Definitions related to this policy include:

#### 314.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law (Va. Code § 2.2-3900).

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes; stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or department equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.



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##### 314.3.2 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because the person has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated.

##### 314.3.3 SEXUAL HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member because of that person's sex.

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly as a term or condition of employment, position, or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

##### 314.3.4 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission guidelines.
- (b) Bona fide requests or demands by a supervisor that a member improve the members' work quality or output, that the member report to the job site on time, that the member comply with Private Police or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

#### **314.4 RESPONSIBILITIES**

This policy applies to all department members, who shall follow the intent of these guidelines in a manner that reflects department policy, professional standards and the best interest of the Department and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and make the report to a higher ranking supervisor or manager. Complaints may also be filed with the Chief of Police or the Executive Director.

Any member who believes, in good faith, that he/she has been discriminated against, harassed or subjected to retaliation, or who has observed harassment, discrimination or retaliation, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

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Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with a resolution as stated below.

##### **314.4.1 QUESTIONS OR CLARIFICATION**

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, the Chief of Police, or the Executive Director for further information, direction, or clarification.

##### **314.4.2 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors and managers shall include but are not limited to:

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
- (c) Ensuring that their subordinates understand their responsibilities under this policy.
- (d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notifying the Chief of Police or the Executive Director in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

##### **314.4.3 SUPERVISOR'S ROLE**

Supervisors and managers shall be aware of the following:

- (a) Behavior of supervisors and managers should represent the values of the Department and professional standards.
- (b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline in a manner that is consistent with established procedures.

#### **314.5 INVESTIGATION OF COMPLAINTS**

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all

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complaints of discrimination, retaliation, or harassment shall be fully documented, and promptly and thoroughly investigated.

##### **314.5.1 SUPERVISOR RESOLUTION**

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

##### **314.5.2 FORMAL INVESTIGATION**

If the complaint cannot be satisfactorily resolved through the supervisory resolution process, a formal investigation will be conducted.

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint, or for offering testimony or evidence in an investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed, or retaliated against because of their protected status are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, or the Executive Director.

##### **314.5.3 ALTERNATIVE COMPLAINT PROCESS**

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Department. Members who believe that they have been harassed, discriminated against, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

#### **314.6 DOCUMENTATION OF COMPLAINTS**

All complaints or allegations shall be thoroughly documented on the appropriate forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

- (a) Approved by the Chief of Police, the Executive Director, depending on the ranks of the involved parties.
- (b) Maintained in accordance with the established records retention schedule.

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##### 314.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

##### **314.7 TRAINING**

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's term with the Department.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

## Missing Persons

### 315.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

#### 315.1.1 DEFINITIONS

Definitions related to this policy include:

**Missing child** - Any person meeting the following criteria (Va. Code § 52-32):

- (a) Under the age of 21 years
- (b) Whose temporary or permanent residence is in Virginia or is believed to be in Virginia
- (c) Whose whereabouts are unknown to any parent, guardian, legal custodian, or other person standing in loco parentis of the child
- (d) Who has been reported as missing to a law enforcement agency within the Commonwealth of Virginia

**Critically missing adult** - Any adult, including an adult who has a developmental or intellectual disability or mental illness, meeting the following criteria (Va. Code § 15.2-1718.2; Va. Code § 52-34.10):

- (a) Whose whereabouts are unknown
- (b) Whose disappearance indicates a credible threat to the health and safety of the adult as determined by a law enforcement agency and under such other appropriate circumstances

**Missing senior adult** - Any person meeting the following criteria (Va. Code § 52-34.4):

- (a) Over 60 years of age
- (b) Whose whereabouts are unknown
- (c) Who suffers a cognitive impairment to the extent that the person is unable to provide care to self without assistance from a caregiver, including a diagnosis of Alzheimer's disease or dementia, and whose disappearance poses a credible threat to the person's health and safety, as determined by a law enforcement agency
- (d) Whose disappearance meets other circumstances as deemed appropriate by the Virginia State Police

**Missing person with autism** - Any person meeting the following criteria (Va. Code § 52-34.13):

- (a) Whose whereabouts are unknown
- (b) Who has been diagnosed with autism spectrum disorder as defined in Va. Code § 38.2-3418.17
- (c) Whose disappearance indicates a credible threat to the health and safety of the person as determined by a law enforcement agency and under such other circumstances deemed appropriate by the Virginia State Police

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**At risk** - Includes persons who:

- (a) Are 13 years of age or younger.
- (b) Regardless of age, are believed or determined to be experiencing one or more of the following circumstances:
  1. Out of the zone of safety for their chronological age and developmental stage.
  2. Mentally or behaviorally disabled.
  3. Drug dependent, including prescribed medication and/or illegal substances, and the dependency is potentially life-threatening.
  4. Absent from home for more than 24 hours before being reported to law enforcement as missing.
  5. In a life-threatening situation.
  6. In the company of others who could endanger their welfare.
  7. Absent in a way that is inconsistent with established patterns of behavior and cannot be readily explained. Most children have an established and reasonably predictable routine.
  8. Involved in a situation that would cause a reasonable person to conclude the person should be considered at risk.
- (c) Qualify for a state AMBER Alert™ pursuant to Va. Code § 52-34.1 et seq.

**Missing person** - Any person who is reported missing to law enforcement when that person's location is unknown.

**Missing person networks** - Databases or computer networks that are available to law enforcement and are suitable for obtaining information related to missing person investigations. This includes the National Crime Information Center (NCIC), the Virginia Criminal Information Network (VCIN), and the Missing Children Information Clearinghouse (MCIC) (Va. Code § 15.2-1718).

#### **315.2 POLICY**

The Wintergreen Police Department does not consider any report of a missing person to be routine and assumes that the missing person is in need of immediate assistance until an investigation reveals otherwise. Priority shall be given to missing person cases over property-related cases. Members will initiate an investigation into all reports of missing persons, regardless of the length of time the person has been missing.

#### **315.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS**

The Investigations Commander shall ensure the following forms and kits are developed and available:

- Missing person report form

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- Missing person investigation checklist that provides investigation guidelines and resources that could be helpful in the early hours of a missing person investigation
- Missing person school notification form
- Medical records release form
- Biological sample collection kits

#### **315.4 ACCEPTANCE OF REPORTS**

Any member encountering an individual who wishes to report a missing person or runaway shall render assistance without delay. This can be accomplished by accepting the report via telephone or in-person and initiating the investigation. Those members who do not take such reports or who are unable to give immediate assistance shall promptly dispatch or alert a member who can take the report.

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

#### **315.5 INITIAL INVESTIGATION**

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

- (a) Respond to a dispatched call as soon as practicable.
- (b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.
- (c) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).
- (d) Broadcast an alert if the person is a missing senior adult, critically missing adult, missing person with autism, is under 21 years of age, or there is evidence that the missing person is at risk. The alert should be broadcast as soon as practicable but in no event more than two hours after determining the missing person is a missing senior adult, is a critically missing adult, is under 21 years of age, or may be at risk.
- (e) Ensure that entries are made into the appropriate missing person networks (Va. Code § 15.2-1718; Va. Code § 15.2-1718.1; Va. Code § 15.2-1718.2; 34 USC § 41308):
  1. Immediately, when the missing person is at risk
  2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.
- (f) Complete the appropriate report forms accurately and completely, including but not limited to missing person report, missing person with autism report, critically missing adult report, or missing senior adult report forms, and initiate a search as applicable under the facts.
- (g) Collect and/or review:
  - (a) A photograph and fingerprint card of the missing person, if available.

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- (b) A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).
- (c) Any documents that may assist in the investigation, such as court orders regarding custody.
- (d) Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).
- (h) When circumstances permit and if appropriate, attempt to determine the missing person's location through his/her telecommunications carrier (Va. Code § 19.2-70.2; Va. Code § 19.2-70.3).
- (i) Contact the appropriate agency if the report relates to a missing person report previously made to another agency and that agency is actively investigating the report. When this is not practicable, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.

#### **315.6 REPORT PROCEDURES AND ROUTING**

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

##### **315.6.1 SUPERVISOR RESPONSIBILITIES**

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

- (a) Reviewing and approving missing person reports upon receipt.
  - 1. The reports should be promptly sent to the Office of the Chief of Police.
- (b) Ensuring resources are deployed as appropriate.
- (c) Initiating a command post as needed.
- (d) Ensuring applicable notifications and public alerts are made and documented.
- (e) Ensuring that records have been entered into the appropriate missing person networks.
- (f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.
  - 1. If the case falls within the jurisdiction of another agency, the supervisor should facilitate transfer of the case to the agency of jurisdiction.

##### **315.6.2 OFFICE OF THE CHIEF OF POLICE RESPONSIBILITIES**

The responsibilities of the Office of the Chief of Police receiving member shall include but are not limited to:



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- (a) As soon as reasonable under the circumstances, notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's residence in cases where the missing person is a resident of another jurisdiction.
- (b) Notifying and forwarding a copy of the report to the agency of jurisdiction where the missing person was last seen.
- (c) Notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's intended or possible destination, if known.
- (d) Forwarding a copy of the report to the Investigations.
- (e) Coordinating with the NCIC Terminal Contractor for Virginia to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

#### **315.7 INVESTIGATIONS FOLLOW-UP**

In addition to completing or continuing any actions listed above, the investigator assigned to a missing person investigation:

- (a) Shall ensure that the missing person's school is notified within 24 hours or the next business day if the missing person is a missing child (Va. Code § 52-31.1).
  - 1. The notice shall be in writing and should also include a photograph.
  - 2. The investigator should meet with school officials as appropriate to stress the importance of including the notice in the child's student file, along with the investigator's contact information, if the school receives a call requesting the transfer of the missing child's files to another school.
  - 3. The investigator shall notify the appropriate school of the child's status and request tagging of the missing child's file and reporting to this department, and to any other requesting agency, of the child's status.
- (b) Should recontact the reporting party and/or other witnesses within 30 days of the initial report and within 30 days thereafter to keep them informed, as appropriate, and to determine if any additional information has become available.
- (c) Should consider contacting other agencies involved in the case to determine if any additional information is available.
- (d) Shall verify and update VCIN, MCIC, and NCIC and any other applicable missing person networks within 30 days of the original entry into the networks and every 30 days thereafter until the missing person is located (34 USC § 41308).
- (e) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.
- (f) Shall maintain a close liaison with state and local child welfare systems and the National Center for Missing and Exploited Children (NCMEC) if the missing person is under the age of 21 and shall promptly notify NCMEC when the person is missing from a foster care family home or childcare institution (34 USC § 41308).
- (g) Should make appropriate inquiry with the Medical Examiner.

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- (h) Should obtain and forward medical and dental records, photos, X-rays, and biological samples, as applicable.
- (i) Should attempt to obtain the most recent photograph for persons under 18 years of age if it has not been obtained previously and forward the photograph to VCIN or MCIC and enter the photograph into applicable missing person networks (34 USC § 41308).
- (j) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).
- (k) In the case of an at-risk missing person or a person who has been missing for an extended time, should consult with a supervisor regarding seeking federal assistance from the FBI and the U.S. Marshals Service (28 USC § 566).

#### **315.8 WHEN A MISSING PERSON IS FOUND**

When any person reported missing is found, the assigned investigator shall document the location of the missing person in the appropriate report, notify the relatives and/or reporting party, as appropriate, and other involved agencies, and refer the case for additional investigation if warranted. When a missing child is found, notification shall be promptly made to all involved agencies as provided in Va. Code § 52-34.

The Chief of Police shall ensure that, upon receipt of information that a missing person has been located, the following occurs:

- (a) Notification is made to VCIN, MCIC, and NCIC.
- (b) The missing child's school is notified.
- (c) Entries are made in the applicable missing person networks.
- (d) When a person is a missing child or at risk, the fact that the person has been found shall be reported immediately to MCIC and VCIN (Va. Code § 52-34).
- (e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation.

#### **315.8.1 UNIDENTIFIED PERSONS**

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

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

#### **315.9 CASE CLOSURE**

The Investigations Commander may authorize the closure of a missing person case after considering the following:

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

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- (b) If the missing person is a resident of Wintergreen or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.
- (c) If this department is not the lead agency, the case can be made inactive if all investigative leads have been exhausted, the lead agency has been notified and entries are made in the applicable missing person networks, as appropriate.
- (d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

#### **315.10 TRAINING**

Subject to available resources, the Training Supervisor should ensure that members of this department whose duties include missing person investigations and reports receive training that includes:

- (a) The initial investigation:
  - 1. Assessments and interviews
  - 2. Use of current resources, such as Portable Audio/Video Recorders
  - 3. Confirming missing status and custody status of minors
  - 4. Evaluating the need for a heightened response
  - 5. Identifying the zone of safety based on chronological age and developmental stage
- (b) Briefing of department members at the scene.
- (c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).
- (d) Verifying the accuracy of all descriptive information.
- (e) Initiating a neighborhood investigation.
- (f) Investigating any relevant recent family dynamics.
- (g) Addressing conflicting information.
- (h) Key investigative and coordination steps.
- (i) Managing a missing person case.
- (j) Additional resources and specialized services.
- (k) Update procedures for case information and descriptions.
- (l) Preserving scenes.
- (m) Internet and technology issues (e.g., Internet use, cell phone use).
- (n) Media relations.

## Public Alerts

### 316.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for alerting the public to important information and soliciting public aid when appropriate.

### 316.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

### 316.3 RESPONSIBILITIES

#### 316.3.1 MEMBER RESPONSIBILITIES

Members of the Wintergreen Police Department should notify their supervisor as soon as practicable upon learning of a situation where public notification, a warning or enlisting the help of the media and the public could assist in locating a missing person, apprehending a dangerous person or gathering information.

#### 316.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible for making the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the the appropriate Bureau Commander and the Chief of Police when any public alert is generated.

The supervisor in charge of the investigation to which the alert relates is responsible for:

- (a) Updating alerts.
- (b) Canceling alerts.
- (c) Ensuring all appropriate reports are completed.
- (d) Preparing an after-action evaluation of the investigation to be forwarded to the Bureau Commander.

### 316.4 AMBER ALERTS™

AMBER Alerts™ are used to provide a statewide system for the rapid dissemination of information regarding abducted children.

#### 316.4.1 CRITERIA

The following criteria are utilized to determine if an AMBER Alert should be requested (Va. Code § 52-34.3):

- (a) The victim of the abduction is a child less than 18 years of age or currently enrolled in a secondary school in the Commonwealth of Virginia.
- (b) An officer has a reasonable belief that an abduction has occurred.

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- (c) An officer believes that the victim is in imminent danger of serious bodily injury or death.
- (d) Sufficient information exists about the victim and the suspect for this department to request that the Virginia State Police (VSP) issue an AMBER Alert.
- (e) The child must be entered into the Virginia Criminal Information Network (VCIN) and the National Crime Information Center (NCIC) missing person files within two hours of the report.

#### 316.4.2 PROCEDURE

Members initiating an AMBER Alert shall (Va. Code § 52-34.3):

- (a) Notify all on-duty officers of the existence of a missing child report.
- (b) Ensure that the missing child is entered into the Virginia Criminal Information Network (VCIN) and the National Crime Information Center (NCIC) missing person files within two hours of the report.
- (c) Transmit the report to the VSP Administrative Headquarters to request activation of the AMBER Alert system using the approved form.
- (d) Confer with the VSP to determine whether the alert should be local, regional or statewide.
- (e) Immediately notify the VSP if the missing child is located.

#### **316.5 BLUE ALERTS™**

Blue Alerts™ are used to provide a statewide system for the rapid dissemination of information regarding a violent criminal who has seriously injured or killed a local, state or federal law enforcement officer. A Blue Alert can also be activated when a law enforcement officer is missing in the line of duty under circumstances that cause concern for his/her safety (Va. Code § 52-34.8).

#### 316.5.1 CRITERIA

The following criteria are utilized to determine if a Blue Alert should be requested (Va. Code § 52-34.8; Va. Code § 52-34.9):

- (a) A law enforcement officer has been killed or seriously injured while in the line of duty.
- (b) The suspect has not been apprehended and may be a serious threat to the public or other law enforcement personnel.
- (c) Sufficient information is available to disseminate to the public that could assist in locating the suspect.
- (d) If a law enforcement officer is missing in the line of duty, sufficient information is available to disseminate to the public that could assist in locating the law enforcement officer.

#### 316.5.2 PROCEDURE

Members initiating a Blue Alert shall (Va. Code § 52-34.9):

- (a) Verify that the criteria for activating the Blue Alert has been met.

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- (b) Notify the VSP and request activation of a Blue Alert.
- (c) Immediately notify the VSP if the suspect or the missing law enforcement officer is located.

#### **316.6 SENIOR ALERTS**

Senior Alerts are used to provide a statewide system for the rapid dissemination of information regarding a missing senior adult who is over 60 years of age and suffers a cognitive impairment to the extent that he/she is unable to provide care for him/herself without assistance from a caregiver, including a diagnosis of Alzheimer's disease or dementia, and whose disappearance poses a credible threat to his/her health and safety as determined by this department or the VSP (Va. Code § 52-34.4; Va. Code § 52-34.5).

##### **316.6.1 CRITERIA**

The following criteria are utilized to determine if a Senior Alert should be requested (Va. Code § 52-34.6):

- (a) An officer believes that a missing senior adult's whereabouts are unknown.
- (b) An officer believes that the missing senior adult is in danger of serious bodily harm at risk of injury or death.
- (c) The Wintergreen Police Department confirms that an investigation has taken place verifying the disappearance and eliminating alternative explanations for the missing senior adult's disappearance.
- (d) Sufficient information regarding the missing senior adult is available to disseminate to the public that could assist in locating the missing senior adult.

##### **316.6.2 PROCEDURE**

Members initiating a Senior Alert shall (Va. Code § 52-34.6):

- (a) Complete the Virginia Senior Alert forms and forward to the VSP.
- (b) Confer with the VSP to determine whether the alert should be local, regional or statewide.
- (c) Forward the most current photograph of the missing senior adult to the VSP.
- (d) Notify the VSP by telephone and confirm receipt of the forms. The VSP will contact any broadcast companies to activate the Senior Alert.
- (e) Enter the missing senior adult into the VCIN and NCIC missing person files as soon as practicable.
- (f) Immediately notify the VSP if the missing senior adult is located.

#### **316.7 CRITICALLY MISSING ADULT ALERTS**

Critically Missing Adult Alerts are used to provide a system for the rapid dissemination of information regarding missing adults believed to be in imminent danger (Va. Code § 52-34.10 et seq.).

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##### **316.7.1 CRITERIA**

The following criteria are utilized to determine if a Critically Missing Adult Alert should be requested (Va. Code § 52-34.10):

- (a) There is reason to believe the adult is in imminent danger of serious bodily harm or death.
- (b) An investigation has been conducted to verify these and any additional criteria established by the VSP.
- (c) There is sufficient information available to disseminate to the public that could assist in locating the missing adult, suspect, or the suspect's vehicle.

##### **316.7.2 PROCEDURE**

Members initiating a Critically Missing Adult Alert shall (Va. Code § 52-34.12):

- (a) Contact the Virginia State Police to determine whether a local, regional, or statewide alert is appropriate and provide any information that may assist in the safe recovery of the critically missing adult.
- (b) Complete the Virginia Critically Missing Adult Alert forms and forward to the VSP.
- (c) Enter the critically missing adult into the Virginia Criminal Information Network and the National Crime Information Center.
- (d) Follow the procedures established by the VSP for issuing the alert.

#### **316.8 MISSING PERSON WITH AUTISM ALERTS**

A Missing Person with Autism Alert is used to provide a system for the rapid dissemination of information regarding a missing person with autism whose disappearance poses a credible threat to the person's health and safety as determined by this department or the VSP (Va. Code § 52-34.13, et seq.).

##### **316.8.1 CRITERIA**

The following criteria are utilized to determine if a Missing Person with Autism Alert should be requested (Va. Code § 52-34.13, et seq.):

- (a) There is reason to believe that the whereabouts of a person are unknown.
- (b) The person has been diagnosed with autism spectrum disorder as defined in Va. Code § 38.2-3418.17.
- (c) There is a credible threat to the health and safety of the person as determined by the Department or other circumstances deemed appropriate by the VSP are satisfied.
- (d) An investigation has been conducted that verified the disappearance or eliminated alternative explanations.
- (e) There is sufficient information available to disseminate to the public that could assist in locating the missing person.

##### **316.8.2 PROCEDURE**

Any member initiating a Missing Person with Autism Alert shall (Va. Code § 52-34.15):

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- (a) Contact the VSP to determine whether a local, regional, or statewide alert is appropriate and provide any information that may assist in the safe recovery of the missing person with autism.
- (b) Complete all required forms.
- (c) Enter the missing person into the Virginia Criminal Information Network and the National Crime Information Center.
- (d) Follow the procedures established by the VSP for issuing the alert.



## Victim and Witness Assistance

### 317.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources, and that the agency meets all related legal mandates.

### 317.2 POLICY

The Wintergreen Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The members of the Wintergreen Police Department will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

### 317.3 CRIME VICTIM LIAISON

The Chief of Police may appoint a member of the Department to serve as the crime victim liaison. The crime victim liaison will be the point of contact for individuals requiring further assistance or information from the Wintergreen Police Department regarding benefits from crime victim resources. This person shall also be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

#### 317.3.1 CRIME VICTIM LIAISON DUTIES

The crime victim liaison or the authorized designee, in consultation with the Investigations Bureau Commander, should establish procedures for receiving requests for assistance in applying for U visa or T visa status and make those procedures publicly available for victims, witnesses, and their representatives (Va. Code § 9.1-1501). Those procedures should provide for responses to these requests to be made in compliance with applicable law and as set forth in the Immigration Violations Policy (Va. Code § 9.1-1501).

### 317.4 CRIME VICTIMS

Officers should provide all victims with the applicable victim information handouts.

Officers should never guarantee a victim's safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Officers should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written department material or available victim resources.

### 317.5 VICTIM INFORMATION

The Field Operations Bureau Commander shall ensure that victim information handouts are available and current. These should include preprinted information prepared by the Virginia Department of Criminal Justice Services (DCJS) and, as appropriate:

- (a) Shelters and other community resources for victims of sexual assault or domestic and family violence (Va. Code § 9.1-1301; Va. Code § 19.2-81.3).

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- (b) Assurance that crime victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109; Va. Code § 19.2-165.1; Va. Code § 19.2-11.11; Va. Code § 19.2-11.12).
- (c) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.
- (d) A clear explanation of relevant court orders and how they can be obtained.
  - 1. This should include information regarding the online I-CAN!<sup>TM</sup> Virginia system that provides assistance with the preparation of court forms required to be filed for a protective order.
- (e) Information regarding available compensation for qualifying victims of crime (Va. Code § 19.2-368.1 et seq.).
- (f) VINE<sup>®</sup> information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail (Va. Code § 53.1-133.02).
- (g) Notice regarding U visa and T visa application processes.
- (h) Resources available for victims of identity theft.
- (i) Notice that it is unlawful for an employer to penalize an employee for appearing in court pursuant to a summons or subpoena (Va. Code § 18.2-465.1).
- (j) A place for the officer's name, badge number, and any applicable case or incident number, along with a telephone number the victim may call to report additional information about the case or to receive information about the status of the case.
- (k) Notice that the Department will withhold, upon request, the address, telephone number, email address, and place of employment of the victim or a member of the victim's family (Va. Code § 19.2-11.2).
- (l) An explanation of the rights afforded to victims under the Crime Victim and Witness Rights Act (Va. Code § 19.2-11.01).
- (m) Information found in the Bill of Rights for victims (Va. Const. art. I, § 8-A).
- (n) Legal resources available to victims of sexual assault (Va. Code § 9.1-1301).
- (o) For victims of sexual assault, notice of their right to be kept informed about the submission, testing, and storage of biological evidence (Va. Code § 19.2-11.01; Va. Code § 19.2-11.11).

#### **317.6 WITNESSES**

Officers should never guarantee a witness' safety from future harm or that his/her identity will always remain confidential. Officers may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

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Officers should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable.

#### **317.7 WITNESS INFORMATION**

The Field Operations Bureau Commander shall ensure that witness information handouts are available and current. These should include preprinted information prepared by the DCJS and, as appropriate (Va. Code § 19.2-11.01):

- (a) Notice that the Department will withhold, upon request, the address, telephone number, email address, and place of employment of the witness or a member of the witness's family (Va. Code § 19.2-11.2).
- (b) An explanation of the rights afforded to witnesses under the Crime Victim and Witness Rights Act (Va. Code § 19.2-11.01).
- (c) Information regarding the Witness Protection Program (Va. Code § 52-35).
- (d) Contact information for local witness programs.
- (e) Information regarding medical services, compensation programs, counseling, legal services, or other applicable services.
- (f) Information advising witnesses what to do if they are threatened or otherwise intimidated by the suspect or anyone associated with the suspect.
- (g) The case number and subsequent steps in the processing of the case.
- (h) The telephone number that witnesses may call to report additional information about the case or to receive information about the status of the case.

#### **317.8 POST-INVESTIGATION VICTIM AND WITNESS ASSISTANCE**

The Department should ensure victim and witness assistance services are provided during any follow-up investigation, including but not limited to:

- (a) Complying with the provisions of state crime victims' compensation statutes.
- (b) Complying with all statutory provisions with respect to victims of sex offenses.
- (c) Explaining to victims and/or witnesses the procedures involved in their case and their role in those procedures unless detrimental to the prosecution of the case.
- (d) Conducting follow-up investigative steps such as scheduling line-ups, interviews, and other required appearances at the convenience of the victim/witness when feasible and providing transportation when required by law, or when the Department deems practicable when not required by law.
- (e) Returning victim and witness property when permitted by law or rules of evidence in accordance with the Property and Evidence Section Policy.

#### **317.9 DISTRIBUTION OF INFORMATION**

Members shall provide information referenced in this policy to victims and witnesses as appropriate during preliminary and follow-up investigations.

## Hate Crimes

### 318.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

#### 318.1.1 DEFINITIONS

Definitions related to this policy include:

**Hate crime** - A crime motivated by prejudice based on actual or perceived race, color, religion, national origin, ethnicity, gender, sexual orientation, gender identity or expression, or disability of the victim. This includes a crime committed for the purpose of restraining a person from exercising rights under the constitutions or laws of the United States and the Commonwealth (Va. Code § 52-8.5).

### 318.2 POLICY

The Wintergreen Police Department recognizes and places a high priority on the rights of all individuals guaranteed under the state and federal constitution and incorporated in state and federal law.

### 318.3 PREVENTION AND PREPARATION

While it is recognized that not all crime can be prevented, this department is committed to taking a proactive approach to preventing and preparing for likely hate crimes by:

- (a) Making an affirmative effort to establish contact with persons and groups within the community who are likely targets of hate crimes, and forming networks that address prevention and response.
- (b) Providing victim assistance and community follow-up or identifying available resources to do so.
- (c) Educating community and civic groups about hate crime laws.

### 318.4 INVESTIGATIONS

Whenever any member of this department receives a report of a suspected hate crime or other activity that reasonably appears to involve a potential hate crime, the following should occur:

- (a) Assigned officers should promptly contact the victim, witness or reporting party to investigate the matter further, as circumstances may dictate.
- (b) A supervisor should be notified of the circumstances as soon as practicable.
- (c) Once the in-progress aspect of any such situation has been stabilized (e.g., treatment of victims or arrest of suspects at the scene), the assigned officers should take reasonable steps to preserve evidence that establishes a possible hate crime.

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- (d) Based upon available information, officers should take appropriate action to mitigate further injury or damage to potential victims or the community.
- (e) Depending on the situation, the assigned officers or supervisor may request assistance from investigators or other resources.
- (f) The assigned officers should interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate crime.
- (g) The assigned officers should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as required by the Victim and Witness Assistance Policy.
- (h) The assigned officers should include all available evidence indicating the likelihood of a hate crime in the relevant reports. All related reports should be clearly marked "Hate Crime."
- (i) The assigned officers and supervisor should take reasonable steps to ensure that any such situation does not escalate further and should provide information to the victim regarding legal aid (Emergency Protective Order) through the courts or Commonwealth Attorney.

#### **318.4.1 INVESTIGATIONS RESPONSIBILITIES**

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

- (a) Coordinating further investigation with the Commonwealth Attorney and other appropriate law enforcement agencies.
- (b) Maintaining contact with the victim and other involved individuals, as needed.
- (c) Maintaining statistical data and tracking of suspected hate crimes, as indicated or required by state law (Va. Code § 52-8.5).

#### **318.5 TRAINING**

All members of this department should receive training on hate crime recognition and investigation (6 VAC 20-30-30).

## Standards of Conduct

### 319.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Wintergreen Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

### 319.2 POLICY

The continued employment or appointment of every member of this department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

### 319.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor, including any order relayed from a supervisor by a member of the same or lesser rank, absent a reasonable and bona fide justification.

#### 319.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict will not be held accountable for disobedience of the lawful order or directive that was initially issued.

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

#### **319.3.2 SUPERVISOR RESPONSIBILITIES**

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiescing to such a violation or exhibiting indifference to such a violation.
- (d) Exercising unequal or disparate authority toward any member for malicious or other improper purpose.

#### **319.4 GENERAL STANDARDS**

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and Virginia constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

#### **319.5 CAUSES FOR DISCIPLINE**

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service.

##### **319.5.1 LAWS, RULES AND ORDERS**

- (a) Violation of, or ordering or instructing a subordinate to violate, any policy, procedure, rule, order, directive or requirement, or failure to follow instructions contained in department policy manuals.
- (b) Disobedience of any legal directive or order issued by any department member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

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##### 319.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Wintergreen Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

##### 319.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

##### 319.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official, basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.



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##### 319.5.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without reasonable excuse.

##### 319.5.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

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

##### 319.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Department within 24 hours of any change in residence address or contact numbers.
- (f) Failure to notify the Human Resources of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

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##### 319.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any workrelated investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive, or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in investigations, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
  - 1. While on department premises.
  - 2. At any work site, while on duty or while in uniform, or while using any department equipment or system.
  - 3. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
  - (a) Unauthorized attendance while on-duty at official legislative or political sessions.
  - (b) Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty, or on department property except as expressly authorized by policy or the Chief of Police (VA Code Ann. § 15.2-1512.2).
- (h) Engaging in political activities during assigned working hours except as expressly authorized by Department policy or the Chief of Police.
- (i) Any act on- or off-duty that brings discredit to this department.

##### 319.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law

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- enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
  - (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
  - (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
  - (e) Engaging in horseplay that reasonably could result in injury or property damage.
  - (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.
  - (g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
  - (h) Criminal, dishonest or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
  - (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
  - (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
  - (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any department policy, including fraud in securing the appointment or hire.
  - (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.
  - (m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

#### 319.5.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver's license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (d) Unsafe firearm or other dangerous weapon handling including loading or unloading firearms in an unsafe manner, either on- or off-duty.
- (e) Carrying, while on the premises of the work site, any firearm or other lethal weapon that is not authorized by the member's appointing authority.

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- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic accident.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

#### 319.5.11 INTOXICANTS

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

## Information Technology Use

### 320.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of department information technology resources, including computers, electronic devices, hardware, software and systems.

#### 320.1.1 DEFINITIONS

Definitions related to this policy include:

**Computer system** - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented or licensed by the Wintergreen Police Department that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Department or department funding.

**Hardware** - Includes, but is not limited to, computers, computer terminals, network equipment, electronic devices, telephones (including cellular and satellite), pagers, modems or any other tangible computer device generally understood to comprise hardware.

**Software** - Includes, but is not limited to, all computer programs, systems and applications, including shareware. This does not include files created by the individual user.

**Temporary file, permanent file or file** - Any electronic document, information or data residing or located, in whole or in part, on the system including, but not limited to, spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs or videos.

### 320.2 POLICY

It is the policy of the Wintergreen Police Department that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the Department in a professional manner and in accordance with this policy.

### 320.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts or anything published, shared, transmitted or maintained through file-sharing software or any Internet site that is accessed, transmitted, received or reviewed on any department computer system.

The Department reserves the right to access, audit and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department, including the department email system, computer network and/or any information placed into storage on any department system or device. This includes records of all key strokes or Web-browsing history made at any department computer or over any department network. The fact that access to a database, service or website requires a username or password will not create an expectation of privacy if it is accessed through department computers, electronic devices or networks.

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#### **320.4 RESTRICTED USE**

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors..

Members shall not use another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor.

##### **320.4.1 SOFTWARE**

Members shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes, in accordance with the software company's copyright and license agreement.

To reduce the risk of a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any department computer. Members shall not install personal copies of any software on any department computer.

When related to criminal investigations, software program files may be downloaded only with the approval of the Chief of Police or the authorized designee.

No member shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the Department while on department premises, computer systems or electronic devices. Such unauthorized use of software exposes the Department and involved members to severe civil and criminal penalties.

Introduction of software by members should only occur as a part of the automated maintenance or update process of department approved or installed programs by the original manufacturer, producer or developer of the software. Any other introduction of software requires prior authorization from the Chief of Police and a full scan for malicious attachments.

##### **320.4.2 HARDWARE**

Access to technology resources provided by or through the Department shall be strictly limited to department-related activities. Data stored on or available through department computer systems shall only be accessed by authorized members who are engaged in an active investigation or assisting in an active investigation, or who otherwise have a legitimate law enforcement or department-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

##### **320.4.3 INTERNET USE**

Internet access provided by or through the Department shall be strictly limited to department-related activities. Internet sites containing information that is not appropriate or applicable to department use and which shall not be intentionally accessed include, but are not limited to, adult forums, pornography, gambling, chat rooms, and similar or related Internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

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Downloaded information from the Internet shall be limited to messages, mail and data files.

#### **320.4.4 OFF-DUTY USE**

Members shall only use technology resources provided by the Department while on-duty or in conjunction with specific on-call assignments unless specifically authorized by a supervisor. This includes the use of telephones, cell phones, texting, email or any other off-the-clock work-related activities. This also applies to personally owned computers that are used to access department resources.

Refer to the Personal Communication Devices Policy for guidelines regarding off-duty use of personally owned technology.

#### **320.5 PROTECTION OF SYSTEMS AND FILES**

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care and maintenance of the computer system.

Members shall ensure department computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present. Access passwords, logon information and other individual security data, protocols and procedures are confidential information and are not to be shared. Password length, format, structure and content shall meet the prescribed standards required by the computer system or as directed by a supervisor and shall be changed at intervals as directed by IT staff or a supervisor.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the Internet) to a supervisor.

#### **320.6 INSPECTION AND REVIEW**

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Department involving one of its members or a member's duties, an alleged or suspected violation of any department policy, a request for disclosure of data, or a need to perform or provide a service.

The IT staff may extract, download, or otherwise obtain any and all temporary or permanent files residing or located in or on the department computer system when requested by a supervisor or during the course of regular duties that require such information.

## Department Use of Social Media

### 321.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Department is consistent with the department mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by department members (see the Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this department (see the Investigation and Prosecution Policy).

#### 321.1.1 DEFINITIONS

Definitions related to this policy include:

**Social media** - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the department website or social networking services.

### 321.2 POLICY

The Wintergreen Police Department will use social media as a method of effectively informing the public about department services, issues, investigations, recruitment and other relevant events.

Department members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all people.

### 321.3 AUTHORIZED USERS

Only members authorized by the Chief of Police or the authorized designee may utilize social media on behalf of the Department. Authorized members shall use only department-approved equipment during the normal course of duties to post and monitor department-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief of Police may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a supervisor prior to posting.

Requests to post information over department social media by members who are not authorized to post should be made through the member's chain of command.

### 321.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the department mission and that conforms to all department policies regarding the release of information may be posted.

Examples of appropriate content include:



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- (a) Announcements.
- (b) Tips and information related to crime prevention.
- (c) Investigative requests for information.
- (d) Requests that ask the community to engage in projects that are relevant to the department mission.
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.
- (f) Traffic information.
- (g) Media releases.
- (h) Recruitment of personnel.

#### **321.4.1 INCIDENT-SPECIFIC USE**

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Chief of Police or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Commander.

#### **321.5 PROHIBITED CONTENT**

Content that is prohibited from posting includes, but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
- (c) Any information that could compromise an ongoing investigation.
- (d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Wintergreen Police Department or its members.
- (e) Any information that could compromise the safety and security of department operations, members of the Department, victims, suspects or the public.
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy or a supervisor.

Any member who becomes aware of content on this department's social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

#### **321.5.1 PUBLIC POSTING PROHIBITED**

Department social media sites shall be designed and maintained to prevent posting of content by the public.

The Department may provide a method for members of the public to contact department members directly.

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### **321.6 MONITORING CONTENT**

The Chief of Police will appoint a supervisor to review, at least annually, the use of department social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

### **321.7 TRAINING**

Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on department sites.

## Report Preparation

### 322.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to those members of the Department who complete investigations and reports as a part of their duties.

### 322.2 POLICY

It is the policy of the Wintergreen Police Department that members shall act with promptness and efficiency in the preparation and processing of all reports. Reports shall document sufficient information to refresh the member's memory and shall provide enough detail for follow-up investigation and successful prosecution.

### 322.3 EXPEDITIOUS REPORTING

Incomplete reports, unorganized reports or reports that are delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or to a special priority made necessary under exceptional circumstances.

### 322.4 REPORT PREPARATION

Reports should be sufficiently detailed for their purpose and free from errors prior to submission and approval. It is the responsibility of the member to complete and submit all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads or arrest reports where the suspect remains in custody should not be held.

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

#### 322.4.1 HANDWRITTEN OR TYPED REPORTS

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

Handwritten reports must be prepared legibly. If the report is not legible, the submitting member will be required by the reviewing supervisor to promptly make corrections and resubmit the report.

In general, the narrative portion of reports where an arrest is made or when there is a long narrative should be typed or dictated. Members who dictate reports shall use appropriate grammar, as the content is not the responsibility of the typist.

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

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### **322.5 REQUIRED REPORTING**

In all of the following situations, members shall complete reports using the appropriate department-approved forms and reporting methods, unless otherwise approved by a supervisor. The reporting requirements are not intended to be all-inclusive. A member may complete a report if he/she deems it necessary or as directed by a supervisor.

#### **322.5.1 CRIMINAL ACTIVITY**

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution or the jurisdiction of the offense cannot be determined.

Activity to be documented in a written report includes:

- (a) All arrests.
- (b) All felony crimes.
- (c) Non-felony criminal incidents involving threats or stalking behavior.
- (d) Situations covered by separate policy. These include:
  - 1. Use of Force Policy.
  - 2. Domestic or Family Violence Policy.
  - 3. Child Abuse Policy.
  - 4. Adult Abuse Policy.
  - 5. Hate Crimes Policy.
  - 6. Suspicious Activity Reporting Policy.
- (e) All misdemeanor crimes where the victim desires a report.
- (f) Criminal and non-criminal cases initiated by law enforcement employees.
- (g) When a summons is issued.

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

#### **322.5.2 NON-CRIMINAL ACTIVITY**

Non-criminal activity to be documented includes:

- (a) Any found property or found evidence.
- (b) All protective custody and welfare detentions.
- (c) Any time a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy).
- (d) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy.

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- (e) Suspicious incidents that may place the public or others at risk.
- (f) Any use of force by members of this department against any person (see the Use of Force Policy).
- (g) Any firearm discharge (see the Firearms Policy).
- (h) Any time a member points a firearm at any person.
- (i) Any traffic accidents above the minimum reporting level (see the Traffic Accidents Policy).
- (j) Whenever the member believes the circumstances should be documented or at the direction of a supervisor.

#### 322.5.3 MISCELLANEOUS INJURIES

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

- (a) The injury is a result of drug overdose.
- (b) There is an attempted suicide.
- (c) The injury is major or serious, and potentially fatal.
- (d) The circumstances surrounding the incident are suspicious in nature and it is desirable to document the event.

#### 322.5.4 DEATHS

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

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

#### 322.5.5 AGENCY PERSONNEL OR PROPERTY

Incidents involving personnel or property shall require a report when:

- (a) An injury occurs as the result of an act of a employee or on Wintergreen property.
- (b) There is damage to Agency property or equipment.

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### **322.7 REVIEW AND CORRECTIONS**

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should return the report stating the reasons for rejection.

The original report and the verbal correction should be returned to the reporting member for correction as soon as practicable. It shall be the responsibility of the originating member to ensure that any report returned for correction is processed in a timely manner. **OPR.02.03.a**

#### **322.7.1 CHANGES AND ALTERATIONS**

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

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

### **322.8 NOTICE TO SCHOOLS**

Anytime that an officer arrests an adult who he/she knows or later discovers is a student in any public school division, for any of the offenses covered by Va. Code § 19.2-83.1, the officer shall file a report with the division superintendent as soon as practicable.

### **322.8 OFFENSE JURISDICTION**

Whenever a citizen of the Agency's jurisdiction reports any incident where the jurisdiction of the incident can not be determined the Officer will document the incident in a report.

## Media Relations

### 323.1 PURPOSE AND SCOPE

This policy provides guidelines for the release of official department information to the media. It also addresses coordinating media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

### 323.2 POLICY

It is the policy of the Wintergreen Police Department to protect the privacy rights of individuals, while releasing non-confidential information to the media regarding topics of public concern. Information that has the potential to negatively affect investigations will not be released.

### 323.3 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police. In situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Bureau Commanders may prepare and release information to the media, arrange and assist at scheduled news conferences and be readily available on an on-call basis to respond to the media in accordance with this policy and applicable laws regarding confidentiality.

### 323.4 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of department members and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception, the Chief of Police will consider, at a minimum, whether the release of information or the presence of the media would unreasonably endanger any individual or prejudice the rights of any person or is otherwise prohibited by law.

### 323.5 MEDIA REQUESTS

Any media request for information or access to a law enforcement incident shall be referred to the Chief of Police or, if unavailable, to the first available supervisor. Prior to releasing any information to the media, members shall consider the following:

- (a) At no time shall any member of this department make any comment or release any official information to the media without prior approval from a supervisor or the Chief of Police.
- (b) In situations involving multiple agencies or government departments, every reasonable effort should be made to coordinate media releases with the authorized

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

- (c) Under no circumstance should any member of this department make any comment to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police. Under these circumstances the member should direct the media to the agency handling the incident.

#### **323.6 ACCESS**

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

Access by the media is subject to the following conditions (Va. Code § 15.2-1714):

- (a) The media representative shall produce valid media credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives should be prevented from interfering and may be removed for interfering with emergency operations and criminal investigations.
  - 1. Based upon available resources, reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the Chief of Police or other designated spokesperson.
- (c) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express written consent of the person in custody.
- (d) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved member.

##### **323.6.1 CRITICAL OPERATIONS**

A critical incident or tactical operation should be handled in the same manner as a crime scene, except the media should not be permitted within the inner perimeter of the incident, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a critical incident or tactical operation in order to accommodate the media. All comments to the media shall be coordinated through a supervisor or the Chief of Police.

##### **323.6.2 TEMPORARY FLIGHT RESTRICTIONS**

Whenever the presence of media or other aircraft pose a threat to public or member safety or significantly hamper incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Field Operations Bureau Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the



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appropriate control tower. If the control tower is not known, the Federal Aviation Administration (FAA) should be contacted (14 CFR 91.137).

#### **323.7 CONFIDENTIAL OR RESTRICTED INFORMATION**

It shall be the responsibility of the Chief of Police to ensure that confidential or restricted information is not inappropriately released to the media (see the Records Maintenance and Release and Personnel Records policies). When in doubt, authorized and available legal counsel should be consulted prior to releasing any information.

##### **323.7.1 EMPLOYEE INFORMATION**

The identities of officers involved in shootings or other critical incidents may only be released to the media upon the consent of the involved officer or upon a formal request filed.

Any requests for copies of related reports or additional information not contained in the information log (see the Information Log section in this policy), including the identity of officers involved in shootings or other critical incidents, shall be referred to the Chief of Police.

Requests should be reviewed and fulfilled by the Custodian of Records, or the authorized designee. Such requests will be processed in accordance with the provisions of the Records Maintenance and Release Policy and public records laws (e.g., Virginia Freedom of Information Act).

#### **323.8 RELEASE OF INFORMATION**

The Department may routinely release information to the media without receiving a specific request. This may include media releases regarding critical incidents, information of public concern, updates regarding significant incidents or requests for public assistance in solving crimes or identifying suspects. This information may also be released through the department website or other electronic data sources.

## Subpoenas and Court Appearances

### 324.1 PURPOSE AND SCOPE

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

### 324.2 POLICY

Wintergreen Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

### 324.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department or any of its members may do so.

#### 324.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf or at the request of any party other than the Commonwealth Attorney shall notify his/her immediate supervisor without delay regarding:

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

The supervisor will then notify the Chief of Police and the Commonwealth Attorney as may be indicated by the case. The Chief of Police should determine if additional legal support is necessary.

No member shall be retaliated against for testifying in any matter.

#### 324.3.2 CIVIL SUBPOENA

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

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

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##### **324.3.3 OFF-DUTY RELATED SUBPOENAS**

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

##### **324.4 FAILURE TO APPEAR**

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

##### **324.5 STANDBY**

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

If a member on standby changes his/her location during the day, the member shall notify the designated department member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

##### **324.6 COURTROOM PROTOCOL**

When appearing in court, members shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in the department uniform or business attire.
- (c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

##### **324.6.1 TESTIMONY**

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with the content in order to be prepared for court.

##### **324.7 OVERTIME APPEARANCES**

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current Department rule or policy.

## Outside Agency Assistance

### 325.1 PURPOSE AND SCOPE

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

### 325.2 POLICY

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

### 325.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the Field Operations Bureau Commander office for approval. In some instances, a Department rule or policy or other established agreement or protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this department, the Communication Center may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

Officers may respond to a request for emergency assistance; however, they shall notify a supervisor of their activity as soon as practicable.

Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by this department will not ordinarily be booked by this department. Only in exceptional circumstances, and subject to supervisor approval, will this department provide transportation of arrestees to other facilities on behalf of another agency.

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

#### 325.3.1 INITIATED ACTIVITY

Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Wintergreen Police Department is acting as a private citizen and without law enforcement powers. He/She is; however, on-duty and shall notify his/her supervisor or the Communication Center as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

#### 325.3.2 CONTRACT SERVICES

The Wintergreen Police Department may also provide contracted law enforcement services at the direction of the Chief of Police. The contract for law enforcement services shall contain:

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- (a) A detailed description of the specific services to be provided
- (b) The financial terms of the contract
- (c) A statement of the records to be maintained by the department
- (d) The duration of the contract
- (e) The process by which the contract may be modified or terminated
- (f) Insurance and liability coverage
- (g) A stipulation that supervision and control of members will remain with the Wintergreen Police Department
- (h) Arrangements for the use of department equipment and facilities

#### **325.4 REQUESTING OUTSIDE ASSISTANCE**

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

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

#### **325.5 REPORTING REQUIREMENTS**

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

## Major Incident Notification

### 326.1 PURPOSE AND SCOPE

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

### 326.2 POLICY

The Wintergreen Police Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

### 326.3 CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police, the affected Bureau Commander and the Executive Director. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Officer-involved shooting, whether on- or off-duty (see the Officer-Involved Shootings and Deaths Policy for special notification)
- Homicides, suspicious deaths or deaths related to law enforcement activity
- Crimes of unusual violence or circumstances that may include hostages, barricaded persons, home invasions, armed robbery or sexual assaults
- At-risk missing children, critically missing adults or missing senior adults
- In-custody deaths
- Aircraft, train, boat or other transportation accidents with major damage and/or injury or death
- Traffic accidents with fatalities or severe injuries
- Death of a prominent Wintergreen official
- Significant injury or death to a member of the Department, whether on- or off-duty
- Arrest of a member of the Department or prominent Wintergreen official
- Equipment failures, utility failures and incidents that may affect staffing or pose a threat to basic police services
- Prisoner escape
- Any other incident that has attracted or is likely to attract significant media attention

### 326.4 DISPATCHER RESPONSIBILITIES

The dispatcher is responsible for making the appropriate notifications. The dispatcher shall make reasonable attempts to obtain as much information on the incident as possible before notification, and shall attempt to make the notifications as soon as practicable. Notification should be made by using the call notification protocol posted in the Communication Center.

## Death Investigation

### 327.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers initially respond to and investigate the circumstances of a deceased person.

Some causes of death may not be readily apparent and some cases differ substantially from what they appear to be initially. The thoroughness of death investigations and use of appropriate resources and evidence gathering techniques is critical.

### 327.2 POLICY

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

### 327.3 INVESTIGATION CONSIDERATIONS

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

A supervisor shall be notified as soon as possible to assist and provide appropriate personnel and resources. The on-scene supervisor should determine whether follow-up investigation is required and notify the Investigations Bureau Commander as necessary. The Communications Center will make notification to command staff in accordance with the Major Incident Notification Policy.

#### 327.3.1 REPORTING

All incidents involving a death shall be documented on the appropriate form.

#### 327.3.2 MEDICAL EXAMINER REQUEST

Officers are not authorized to pronounce death unless they are also Medical Examiners, Deputy Medical Examiners or appointed Medical Examiner investigators. The Medical Examiner shall be called in all sudden or unexpected deaths or deaths due to other than natural causes. State law requires that the Medical Examiner be notified when any person dies (Va. Code § 32.1-283):

- (a) As a result trauma, injury, violence, poisoning, accident, suicide or homicide.
- (b) Suddenly when in apparent good health.
- (c) While unattended by a physician.
- (d) While in jail, prison, other correctional institution or in police custody.
- (e) While receiving services in a state hospital or training center operated by the Department of Behavioral Health and Developmental Services.
- (f) Suddenly as an apparent result of fire.
- (g) In any suspicious, unusual or unnatural manner.

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- (h) Due to sudden infant death syndrome.

#### 327.3.3 SEARCHING DEAD BODIES

- (a) The Medical Examiner, his/her assistant and authorized investigators are generally the only persons permitted to move, handle or search a dead body.
- (b) An officer may make a reasonable search of an individual who it is reasonable to believe is dead, or near death, for the purpose of identification or for information identifying the individual as an anatomical donor. If a donor document is located, the Medical Examiner or his/her assistant shall be promptly notified.
- (c) The Medical Examiner, with the permission of the Department, may take property, objects or articles found on the deceased or in the immediate vicinity of the deceased that may be necessary for conducting an investigation to determine the identity of the deceased or the cause or manner of death.
- (d) Should exigent circumstances indicate to an officer that any other search of a known dead body is warranted prior to the arrival of the Medical Examiner or his/her assistant, the investigating officer should first obtain verbal consent from the Medical Examiner or his/her assistant when practicable.
- (e) Whenever reasonably possible, a witness, preferably a relative to the deceased or a member of the household, should be requested to remain nearby the scene and available to the officer pending the arrival of the Medical Examiner or his/her assistant. The name and address of this person shall be included in the narrative of the death report.
- (f) Whenever personal effects are removed from the body of the deceased by the Medical Examiner or his/her assistant, a receipt shall be obtained. This receipt shall be attached to the death report.

#### 327.3.4 SUSPECTED HOMICIDE

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the officer shall take steps to protect the scene. The Investigations Commander shall be notified to determine the need for additional resources to respond to the scene.

If the on-scene supervisor, through consultation with the Investigations Commander, is unable to determine the manner of death, the investigation shall proceed as though it is a homicide.

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

#### 327.3.5 EMPLOYMENT-RELATED DEATHS OR INJURIES

Any member of this department who responds to and determines that a death, serious illness or serious injury has occurred as a result of an accident at or in connection with the victim's



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employment should ensure that the Virginia Occupational Safety and Health (VOSH) Program and, if applicable, the regional Occupational Safety and Health Administration (OSHA) offices are notified of all pertinent information. In addition any fatality or the in-patient hospitalization of three or more person as prescribed by the rules and regulations of the Virginia Safety and Health Codes Board, shall be reported within eight hours to the Virginia Department of Labor and Industry (Va. Code § 40.1-51.1).

#### **327.4 UNIDENTIFIED DEAD BODY**

If the identity of a dead body cannot be established, the handling officer will request from the Medical Examiner a unique identifying number for the body. The number shall be included in any report.

#### **327.5 DEATH NOTIFICATION**

When reasonably practicable, and if not handled by the Medical Examiner's Office, notification to the next-of-kin of the deceased person shall be made, in person, by the officer assigned to the incident. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification (Va. Code § 32.1-309.1).

If a deceased person has been identified as a missing person, this department shall attempt to locate family members and inform them of the death and location of the deceased missing person's remains. All efforts to locate and notify family members shall be recorded in appropriate reports.

## Private Person's Arrest

### 328.1 PURPOSE AND SCOPE

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

### 328.2 POLICY

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

### 328.3 ARRESTS BY PRIVATE PERSON

A private person may arrest another under the following circumstances:

- (a) Without a warrant when the person arrested has committed a breach of the peace in his/her presence.
- (b) Without a warrant when a felony has actually been committed and there is reasonable grounds for believing the person arrested has committed the crime.
- (c) Without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by imprisonment for a term exceeding one year (Va. Code § 19.2-100).

### 328.4 OFFICER RESPONSIBILITIES

An officer confronted with a person claiming to have made a private person's arrest should determine whether such an arrest is lawful.

If the officer determines that the private person's arrest is unlawful, the officer should:

- (a) Take no action to further detain or restrain the arrested individual, unless there is independent justification for continuing a detention.
- (b) Advise the parties that the arrest will not be accepted but the circumstances will be documented in a report.
- (c) Document the incident, including the basis for refusing to accept custody of the individual.

Whenever an officer determines that a private person's arrest is justified, the officer may take the individual into custody and proceed in the same manner as with any other arrest.

### 328.5 PRIVATE PERSON'S ARREST FORM

The arresting person should be asked to complete and sign a private person's arrest form. If the person fails or refuses to do so, the arrested individual should be released, unless the officer has a lawful reason, independent of the private person's arrest, to take the individual into custody and determines an arrest is appropriate.

## Limited English Proficiency Services

### 329.1 PURPOSE AND SCOPE

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

#### 329.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

**Interpret or interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

**Limited English proficiency (LEP) individual** - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still exhibit LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

**Qualified bilingual member** - A member of the Wintergreen Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

**Translate or translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

### 329.2 POLICY

It is the policy of the Wintergreen Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

### 329.3 LEP COORDINATOR

The Chief of Police shall delegate certain responsibilities to an LEP coordinator. The coordinator shall be appointed by, and directly responsible to, the Field Operations Bureau Commander or the authorized designee.

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

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- (a) Coordinating and implementing all aspects of the Wintergreen Police Department's LEP services to LEP individuals.
- (b) Developing procedures that will enable members to access LEP services, including telephonic interpreters, and ensuring the procedures are available to all members.
- (c) Ensuring that a list of all qualified bilingual members and authorized interpreters is maintained and available to each Bureau Commander and Administrator. The list should include information regarding:
  - 1. Languages spoken.
  - 2. Contact information.
  - 3. Availability.
- (d) Ensuring signage stating that interpreters are available free of charge to LEP individuals is posted in appropriate areas and in the most commonly spoken languages.
- (e) Reviewing existing and newly developed documents to determine which are vital documents and should be translated, and into which languages the documents should be translated.
- (f) Annually assessing demographic data and other resources, including contracted language services utilization data and data from community-based organizations, to determine if there are additional documents or languages that are appropriate for translation.
- (g) Identifying standards and assessments to be used by this department to qualify individuals as qualified bilingual members or authorized interpreters.
- (h) Periodically reviewing efforts of this department in providing meaningful access to LEP individuals, and, as appropriate, developing reports, developing new procedures or recommending modifications to this policy.
- (i) Receiving and responding to complaints regarding department LEP services.
- (j) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

#### **329.4 FOUR-FACTOR ANALYSIS**

Because there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of the following four factors, which are:

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- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of this department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

#### **329.5 TYPES OF LEP ASSISTANCE AVAILABLE**

Wintergreen Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

#### **329.6 WRITTEN FORMS AND GUIDELINES**

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

#### **329.7 AUDIO RECORDINGS**

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

#### **329.8 QUALIFIED BILINGUAL MEMBERS**

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

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

#### **329.9 AUTHORIZED INTERPRETERS**

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the LEP coordinator that demonstrates their skills and abilities in the following areas:

- (a) The competence and ability to communicate information accurately in both English and in the target language.
- (b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.
- (c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (d) Knowledge of the ethical issues involved when acting as a language conduit.

#### **329.9.1 SOURCES OF AUTHORIZED INTERPRETERS**

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this Department or personnel from other law enforcement agencies.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

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#### **329.9.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE**

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

#### **329.10 CONTACT AND REPORTING**

Although all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation that involves a situation in which interpretation services were provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

#### **329.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

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

##### **329.11.1 EMERGENCY CALLS TO 9-1-1**

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in the Communication Center, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

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Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

Although 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

#### **329.12 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

#### **329.13 INVESTIGATIVE FIELD INTERVIEWS**

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

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

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

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.



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#### **329.14 CUSTODIAL INTERROGATIONS**

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

To ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded as required by law. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

#### **329.15 BOOKINGS**

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, to protect the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

#### **329.16 COMPLAINTS**

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

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

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

#### **329.17 COMMUNITY OUTREACH**

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

#### **329.18 TRAINING**

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

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The Training Supervisor shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Training Supervisor shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with the established records retention schedule.

## Communications with Persons with Disabilities

### 330.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

#### 330.1.1 DEFINITIONS

Definitions related to this policy include:

**Auxiliary aids** - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; a qualified interpreter.

**Disability or impairment** - An individual who has or is regarded as being substantially limited in a major life activity, including hearing or sight. For hearing, this includes any person who is deaf or hard of hearing and includes those who experience hearing losses ranging from a mild hearing loss to a profound hearing loss. For sight, this includes any person who cannot see without assistance from other than ordinary eyeglasses or contacts and any person whose blindness has been certified by a duly licensed physician or optometrist (42 USC § 12101; Va. Code § 51.5-111; Va. Code § 51.5-60).

**Qualified interpreter** - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, transliterators, sign language interpreters and intermediary interpreters.

### 330.2 POLICY

It is the policy of the Wintergreen Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees, have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

### 330.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA coordinator (28 CFR 35.107). The coordinator shall be appointed by and directly responsible to the Chief of Police or the authorized designee.

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

- (a) Working with the Chief of Police regarding the Wintergreen Police Department's efforts to ensure equal access to services, programs and activities.

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- (b) Developing reports or new procedures or recommending modifications to this policy.
- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.
- (d) Ensuring that a list of qualified interpreter services is maintained and available to each Officer in the Communication Center. The list should include information regarding:
  - 1. Contact information.
  - 2. Availability.
- (e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- (f) Ensuring signage is posted in appropriate areas indicating that auxiliary aids are available free of charge to individuals with disabilities.
- (g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

#### **330.4 FACTORS TO CONSIDER**

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

- (a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate his/her understanding.
- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).
- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

#### **330.5 INITIAL AND IMMEDIATE CONSIDERATIONS**

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

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

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, is hard of hearing or has impaired speech must be handcuffed while in the custody of the Wintergreen Police Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

#### **330.6 TYPES OF ASSISTANCE AVAILABLE**

Wintergreen Police Department members shall never refuse an available service to an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall it require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to disabled individuals through a variety of services.

Disabled individuals may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

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### **330.7 AUDIO RECORDINGS AND ENLARGED PRINT**

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form (e.g., a personnel complaint form) or provide forms with enlarged print.

### **330.8 QUALIFIED INTERPRETERS**

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee) if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or the investigation. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

### **330.9 TTY AND RELAY SERVICES**

In situations where an individual without a disability would have access to a telephone (e.g., booking, attorney contacts), members must also provide those who are deaf, are hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

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##### **330.10 COMMUNITY VOLUNTEERS**

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Department to provide interpreter services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

##### **330.11 FAMILY AND FRIENDS**

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

##### **330.12 REPORTING**

Whenever any member of this department is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

##### **330.13 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

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When transporting a person with disabilities, the transporting officer shall request help when needed to complete the transport conveniently, comfortably, and safely for both the person and the officer. The officer may request the dispatcher to contact the rescue squad for assistance. The transporting officer shall take whatever special equipment or medicine is necessary for the person.

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

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

#### **330.13.1 FIELD RESOURCES**

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, is hard of hearing or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speech read by facing the individual and speaking slowly and clearly.
- (d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.
- (e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

#### **330.14 CUSTODIAL INTERROGATIONS**

In an effort to ensure that the rights of individuals who are deaf, are hard of hearing, or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that the individual understands the process and desires to proceed



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without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

To ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded as required by law. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

#### **330.15 ARRESTS AND BOOKINGS**

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, are hard of hearing, have impaired speech or vision, are blind or have other disabilities. In the interest of the arrestee's health and welfare, to protect the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

#### **330.16 COMPLAINTS**

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the ADA coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this department.

#### **330.17 COMMUNITY OUTREACH**

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

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### **330.18 TRAINING**

To ensure that all members who may have contact with disabled individuals are properly trained, the Department will provide periodic training that should include:

- (a) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (b) Procedures for accessing qualified interpreters and other available resources.
- (c) Working with in-person and telephone interpreters and related equipment.

The Training Supervisor shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including those who are deaf, are hard of hearing, have impaired speech or vision or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Training Supervisor shall maintain records of all training provided and will retain a copy in each member's training file in accordance with the established records retention schedule.

#### **330.18.1 CALL-TAKER TRAINING**

Emergency call-takers shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, are hard of hearing or have speech impairments. Such training and information should include:

- (a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.
- (b) ASL syntax and accepted abbreviations.
- (c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls and using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.
- (d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Training should be mandatory for all the Communication Center members who may have contact with individuals from the public who are deaf, are hard of hearing or have impaired speech. Refresher training should occur every six months.

## **Mandatory Employer Notification**

### **331.1 PURPOSE AND SCOPE**

The purpose of this policy is to describe the notification requirements and procedures to follow when a public school employee (teacher and non-teacher) has been arrested under certain circumstances.

### **331.2 POLICY**

The Wintergreen Police Department will meet the reporting mandates of Va. Code § 19.2-83.1 to minimize the risk to children and others.

### **331.3 MANDATORY NOTIFICATION**

In the event a school employee is arrested for a felony or a Class 1 misdemeanor, or an equivalent offense in another state, an officer shall file a report of such arrest with the designated school official of the employing school division by certified mail, return receipt requested, or by fax and email, as soon as practicable but no later than 48 hours following the arrest (Va. Code § 19.2-83.1).

## Chaplains

### 332.1 PURPOSE AND SCOPE

This policy establishes the guidelines for Wintergreen Police Department chaplains to provide counseling or emotional support to members of the Department, their families and members of the public.

### 332.2 POLICY

The Wintergreen Police Department shall ensure that department chaplains are properly appointed, trained and supervised to carry out their responsibilities without financial compensation.

### 332.3 ELIGIBILITY

Requirements for participation as a chaplain for the Department may include, but are not limited to:

- (a) Being above reproach, temperate, prudent, respectable, hospitable, able to teach, free from addiction to alcohol or other drugs, and free from excessive debt.
- (b) Managing his/her household, family and personal affairs well.
- (c) Having a good reputation in the community.
- (d) Successful completion of an appropriate-level background investigation.
- (e) A minimum of five years of successful counseling experience.
- (f) Possession of a valid driver's license.

The Chief of Police may allow exceptions to these eligibility requirements based on organizational needs and the qualifications of the individual.

### 332.4 RECRUITMENT, SELECTION AND APPOINTMENT

The Wintergreen Police Department shall endeavor to recruit and appoint only those applicants who meet the high ethical, moral and professional standards set forth by this department.

All applicants shall be required to meet and pass the same pre-employment procedures as department personnel before appointment.

#### 332.4.1 RECRUITMENT

Chaplains should be recruited on a continuous and ongoing basis consistent with department policy on equal opportunity and non-discriminatory employment. A primary qualification for participation in the application process should be an interest in and an ability to assist the Department in serving the public. Chaplain candidates are encouraged to participate in ride-alongs with department members before and during the selection process.

#### 332.4.2 SELECTION AND APPOINTMENT

Chaplain candidates shall successfully complete the following process prior to appointment as a chaplain:

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- (a) Submit the appropriate written application.
- (b) Include a recommendation from employers or volunteer programs.
- (c) Interview with the Chief of Police and the chaplain coordinator.
- (d) Successfully complete an appropriate-level background investigation.
- (e) Complete an appropriate probationary period as designated by the Chief of Police.

Chaplains are volunteers and serve at the discretion of the Chief of Police. Chaplains shall have no property interest in continued appointment. However, if a chaplain is removed for alleged misconduct, the chaplain will be afforded an opportunity solely to clear his/her name through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

#### **332.5 IDENTIFICATION AND UNIFORMS**

As representatives of the Department, chaplains are responsible for presenting a professional image to the community. Chaplains shall dress appropriately for the conditions and performance of their duties. Uniforms and necessary safety equipment will be provided for each chaplain. Identification symbols worn by chaplains shall be different and distinct from those worn by officers through the inclusion of "Chaplain" on the uniform. Chaplain uniforms shall not reflect any religious affiliation.

Chaplains will be issued Wintergreen Police Department identification cards, which must be carried at all times while on-duty. The identification cards will be the standard Wintergreen Police Department identification cards, with the exception that "Chaplain" will be indicated on the cards. Chaplains shall be required to return any issued uniforms or department property at the termination of service.

Chaplains shall conform to all uniform regulations and appearance standards of this department.

#### **332.6 DUTIES AND RESPONSIBILITIES**

Chaplains assist the Department, its members and the community as needed. Assignments of chaplains will usually be to augment the Field Operations Bureau, but chaplains may be assigned to other areas within the Department as needed. Chaplains should be placed only in assignments or programs that are consistent with their knowledge, skills and abilities and the needs of the Department.

All chaplains will be assigned to duties by the chaplain coordinator or the authorized designee.

Chaplains may not proselytize or attempt to recruit members of the Department or the public into a religious affiliation while representing themselves as chaplains with this department. If there is any question as to the receiving person's intent, chaplains should verify that the person is desirous of spiritual counseling or guidance before engaging in such discussion.

Chaplains may not accept gratuities for any service, or any subsequent actions or follow-up contacts that were provided while functioning as a chaplain for the Wintergreen Police Department.

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##### 332.6.1 COMPLIANCE

Chaplains are volunteer members of this department and, except as otherwise specified within this policy, are required to comply with the Volunteers Policy and other applicable policies.

##### 332.6.2 OPERATIONAL GUIDELINES

- (a) Chaplains shall be permitted to ride with officers during any shift and observe Wintergreen Police Department operations, provided the Field Operations Bureau Commander has been notified and has approved the activity.
- (b) Chaplains shall not be evaluators of members of the Department.
- (c) In responding to incidents, a chaplain shall never function as an officer.
- (d) When responding to in-progress calls for service, chaplains may be required to stand-by in a secure area until the situation has been deemed safe.
- (e) Chaplains shall serve only within the jurisdiction of the Wintergreen Police Department unless otherwise authorized by the Chief of Police or the authorized designee.
- (f) Each chaplain shall have access to current department member rosters, addresses, telephone numbers, duty assignments and other information that may assist in his/her duties. Such information will be considered confidential and each chaplain will exercise appropriate security measures to prevent unauthorized access to the data.

##### 332.6.3 ASSISTING DEPARTMENT MEMBERS

The responsibilities of a chaplain related to department members include, but are not limited to:

- (a) Assisting in making notification to families of members who have been seriously injured or killed and, after notification, responding to the hospital or home of the member.
- (b) Visiting sick or injured members in the hospital or at home.
- (c) Attending and participating, when requested, in funerals of active or retired members.
- (d) Serving as a resource for members who are dealing with the public during significant incidents (e.g., accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse).
- (e) Providing counseling and support for members and their families.
- (f) Being alert to the needs of members and their families.

##### 332.6.4 ASSISTING THE DEPARTMENT

The responsibilities of a chaplain related to this department include, but are not limited to:

- (a) Assisting members in defusing a conflict or incident, when requested.
- (b) Responding to any significant incident (e.g., natural and accidental deaths, suicides and attempted suicides, family disturbances) in which the Bureau Commander or supervisor believes the chaplain could assist in accomplishing the mission of the Department.

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- (c) Responding to all major disasters, such as natural disasters, bombings and similar critical incidents.
- (d) Being on-call and, if possible, on-duty during major demonstrations or any public function that requires the presence of a large number of department members.
- (e) Attending department and academy graduations, ceremonies and social events and offering invocations and benedictions, as requested.
- (f) Participating in in-service training classes.
- (g) Training others to enhance the effectiveness of the Department.

#### **332.6.5 ASSISTING THE COMMUNITY**

The duties of a chaplain related to the community include, but are not limited to:

- (a) Fostering familiarity with the role of law enforcement in the community.
- (b) Providing an additional link between the community, other chaplain coordinators and the Department.
- (c) Providing a liaison with various civic, business and religious organizations.
- (d) Assisting the community when they request representatives or leaders of various denominations.
- (e) Assisting the community in any other function, as needed or requested.
- (f) Making referrals in cases where specialized attention is needed or in cases that are beyond the chaplain's ability to assist.

#### **332.6.6 CHAPLAIN MEETINGS**

All chaplains are required to attend scheduled meetings. Any absences must be satisfactorily explained to the chaplain coordinator.

#### **332.7 PRIVILEGED COMMUNICATIONS**

No person who provides chaplain services to members of the Department may work or volunteer for the Wintergreen Police Department in any capacity other than that of chaplain.

Department chaplains shall be familiar with state evidentiary laws and rules pertaining to the limits of the clergy-penitent, psychotherapist-patient and other potentially applicable privileges and shall inform members when it appears reasonably likely that the member is discussing matters that are not subject to privileged communications. In such cases, the chaplain should consider referring the member to a non-department counseling resource.

No chaplain shall provide counsel to or receive confidential communications from any Wintergreen Police Department member concerning an incident personally witnessed by the chaplain or concerning an incident involving the chaplain.

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#### **332.8 TRAINING**

The Department will establish a minimum number of training hours and standards for department chaplains. The training, as approved by the Training Supervisor, may include:

- Stress management
- Death notifications
- Symptoms of post-traumatic stress
- Burnout for members of law enforcement and chaplains
- Legal liability and confidentiality
- Ethics
- Responding to crisis situations
- The law enforcement family
- Substance abuse
- Officer injury or death
- Sensitivity and diversity

#### **332.9 USE OF VEHICLE WARNING LIGHTS**

When authorized by the Chief of Police, and after successful completion of a course of training in the safe operation of a motor vehicle under emergency conditions, a chaplain may use vehicle warning lights as authorized by law (Va. Code § 46.2-1024).



## Public Safety Video Surveillance System

### 333.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of department public safety video surveillance, as well as the storage and release of the captured images.

This policy only applies to overt, marked public safety video surveillance systems operated by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department.

### 333.2 POLICY

The Wintergreen Police Department operates a public safety video surveillance system to complement its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public areas. Cameras may be placed in strategic locations throughout Wintergreen to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist Wintergreen officials in providing services to the community.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

### 333.3 OPERATIONAL GUIDELINES

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

#### 333.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected WPOA divisions and designated community groups when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high-value or high-threat areas. The public safety video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To target identified areas of gang and narcotics complaints or activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.

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- (e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- (f) To augment resources in a cost-effective manner.
- (g) To monitor pedestrian and vehicle traffic activity.

Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera. Images should be transmitted to monitors installed in the the Communication Center. When activity warranting further investigation is reported or detected at any camera location, the available information should be provided to responding officers in a timely manner. The Investigations Commander or trained the Communication Center personnel are authorized to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

The Chief of Police may authorize video feeds from the public safety video surveillance system to be forwarded to a specified location for monitoring by other than police personnel, such as allied government agencies, road or traffic crews, or fire or emergency operations personnel.

Unauthorized recording, viewing, reproduction, dissemination or retention of anything documented by public safety surveillance equipment is prohibited.

#### **333.3.2 INTEGRATION WITH OTHER TECHNOLOGY**

The Department may elect to integrate its public safety video surveillance system with other technology to enhance available information. Systems such as gunshot detection, incident mapping, crime analysis, license plate recognition, facial recognition and other video-based analytical systems may be considered based upon availability and the nature of department strategy.

The Department should evaluate the availability and propriety of networking or otherwise collaborating with appropriate private sector entities and should evaluate whether the use of certain camera systems, such as pan-tilt-zoom systems, video enhancement or other analytical technology, requires additional safeguards.

#### **333.4 VIDEO SUPERVISION**

Supervisors should monitor video surveillance access and usage to ensure members follow department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

##### **333.4.1 VIDEO LOG**

A log should be maintained at all locations where video surveillance monitors are located. The log should be used to document all persons not assigned to the monitoring locations who have been given access to view or monitor images provided by the video surveillance cameras. The logs should, at a minimum, record the:

- (a) Date and time access was given.
- (b) Name and agency of the person being given access to the images.

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- (c) Name of person authorizing access.
- (d) Identifiable portion of images viewed.

#### 333.4.2 PROHIBITED ACTIVITY

Public safety video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Public safety video surveillance equipment shall not be used in an unequal or discriminatory manner and shall not target individuals or groups based solely on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.

Video surveillance equipment shall not be used to harass, intimidate, or discriminate against any individual or group.

#### **333.5 STORAGE AND RETENTION OF MEDIA**

All downloaded media shall be stored in a secure area with access restricted to authorized persons. A recording needed as evidence shall be copied to a suitable medium and booked into evidence in accordance with established evidence procedures. All actions taken with respect to retention of media shall be appropriately documented.

The type of video surveillance technology employed and the manner in which recordings are used and stored will affect retention periods. The recordings should be stored for seven days (Va. Code § 42.1-76 et seq.).

#### 333.5.1 EVIDENTIARY INTEGRITY

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

#### **333.6 RELEASE OF VIDEO IMAGES**

All recorded video images gathered by the public safety video surveillance equipment are for the official use of the Wintergreen Police Department.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records.

Requests for recorded images from other law enforcement agencies shall be referred to the Field Operations Bureau Commander for release in accordance with a specific and legitimate law enforcement purpose.

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Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

#### **333.7 VIDEO SURVEILLANCE AUDIT**

The Chief of Police or the authorized designee will conduct an annual review of the public safety video surveillance system. The review should include an analysis of the cost, benefit and effectiveness of the system, including any public safety issues that were effectively addressed or any significant prosecutions that resulted, and any systemic operational or administrative issues that were identified, including those related to training, discipline or policy.

The results of each review shall be appropriately documented and maintained by the Chief of Police or the authorized designee and other applicable advisory bodies. Any recommendations for training or policy should be promptly addressed.

#### **333.8 TRAINING**

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

## Child and Dependent Adult Safety

### 334.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department.

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Adult Abuse policies.

### 334.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Wintergreen Police Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

### 334.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken:

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

Whenever reasonably possible, officers should consider reasonable alternatives to arresting a parent, guardian or caregiver in the presence of his/her child or dependent adult.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be nonproductive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

#### 334.3.1 AFTER AN ARREST

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

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Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
  - 1. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.
- (b) Unless there is evidence that it would not be in the dependent person's best interest (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
  - 1. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify Child Protective Services (CPS) or Adult Protective Services (APS), if appropriate.
- (e) Notify the Communication Center of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

#### 334.3.2 DURING THE BOOKING PROCESS

During the booking process, the arrestee should be allowed to make telephone calls to arrange for the care of any child or dependent adult in accordance with the Temporary Custody of Adults Policy.

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

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##### 334.3.3 REPORTING

- (a) For all arrests where children are present or living in the household, the reporting member will document the following information:
1. Name
  2. Sex
  3. Age
  4. Special needs (e.g., medical, mental health)
  5. How, where and with whom or which agency the child was placed
  6. Identities and contact information for other potential caregivers
  7. Notifications made to other adults (e.g., schools, relatives)
- (b) For all arrests where dependent adults are present or living in the household, the reporting member will document the following information:
1. Name
  2. Sex
  3. Age
  4. Whether the person reasonably appears able to care for him/herself
  5. Disposition or placement information if he/she is unable to care for him/herself

##### 334.3.4 SUPPORT AND COUNSELING REFERRAL

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

#### **334.4 DEPENDENT WELFARE SERVICES**

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

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

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

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## *Child and Dependent Adult Safety*

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### **334.5 TRAINING**

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



## Service Animals

### 335.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure that the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act (ADA).

#### 335.1.1 DEFINITIONS

Definitions related to this policy include:

**Service animal** - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104; Va. Code § 51.5-40.1).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

### 335.2 POLICY

It is the policy of the Wintergreen Police Department to provide services and access to persons with service animals in the same manner as those without service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

### 335.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. Service animals may have a harness, backpack or vest identifying them as service animals. Trained service dogs may assist individuals who are (Va. Code § 51.5-44):

- (a) Partially or totally blind and the trained service dog may wear a harness.
- (b) Deaf or hearing impaired and the trained service dog may wear a blaze orange leash.
- (c) Mobility-impaired or otherwise disabled.

However, many service animals do not have a distinctive symbol, harness or collar.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.

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- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

#### **335.4 MEMBER RESPONSIBILITIES**

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the Wintergreen Police Department affords to all members of the public (28 CFR 35.136).

##### **335.4.1 INQUIRY**

If it is apparent or if a member is aware that an animal is a service animal, the individual generally should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the member should ask the individual only the following questions (28 CFR 35.136(f)):

- Is the animal required because of a disability?
- What task or service has the service animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal and no further questions as to the animal's status should be asked. The individual should not be questioned about his/her disability nor should the person be asked to provide any license, certification or identification card for the service animal.

##### **335.4.2 CONTACT**

Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

##### **335.4.3 REMOVAL**

If a service animal is not housebroken or exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, an officer may direct the handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the service animal (28 CFR 35.136(b)).

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Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services that are reasonably available to an individual with a disability, with or without a service animal.

#### 335.4.4 COMPLAINTS

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ).

## Volunteers

### 336.1 PURPOSE AND SCOPE

This policy establishes the guidelines for Wintergreen Police Department volunteers to supplement and assist department personnel in their duties. Trained volunteers are members who can augment department personnel and help complete various tasks.

#### 336.1.1 DEFINITIONS

Definitions related to this policy include:

**Volunteer** - An individual who performs a service for the Department without promise, expectation or receipt of compensation for services rendered. This may include unpaid chaplains, unpaid reserve officers, interns, persons providing administrative support, and youth involved in a law enforcement Explorer Post, among others.

### 336.2 POLICY

The Wintergreen Police Department shall ensure that volunteers are properly appointed, trained and supervised to carry out specified tasks and duties in order to create an efficient department and improve services to the community.

### 336.3 ELIGIBILITY

Requirements for participation as a volunteer for the Department may include, but are not limited to:

- (a) Residency in the Wintergreen community.
- (b) Being at least 18 years of age for all positions.
- (c) Possession of a valid driver's license if the position requires vehicle operation.
- (d) Possession of liability insurance for any personally owned equipment, vehicles or animals utilized during volunteer work.
- (e) No conviction of a felony, any crime of a sexual nature or against children, any crime related to assault or violence, any crime related to dishonesty, or any crime related to impersonating a law enforcement officer.
- (f) No conviction of a misdemeanor or gross misdemeanor crime within the past 10 years, excluding petty misdemeanor traffic offenses.
- (g) No mental illness or chemical dependency condition that may adversely affect the person's ability to serve in the position.
- (h) Ability to meet physical requirements reasonably appropriate to the assignment.
- (i) A personal background history and character suitable for a person representing the Department, as validated by a background investigation.

The Chief of Police may allow exceptions to these eligibility requirements based on organizational needs and the qualifications of the individual.

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### **336.4 RECRUITMENT, SELECTION AND APPOINTMENT**

The Wintergreen Police Department shall endeavor to recruit and appoint only those applicants who meet the high ethical, moral and professional standards set forth by this department.

#### **336.4.1 RECRUITMENT**

Volunteers should be recruited on a continuous and ongoing basis consistent with department policy on equal opportunity, nondiscriminatory employment. A primary qualification for participation in the application process should be an interest in and an ability to assist the Department in serving the public.

Requests for volunteers should be submitted in writing by interested department members to the volunteer coordinator through the requester's immediate supervisor. A complete description of the volunteer's duties and a requested time frame should be included in the request. All department members should understand that the recruitment of volunteers is enhanced by creative and interesting assignments. The volunteer coordinator may withhold assignment of any volunteer until such time as the requester is prepared to make effective use of volunteer resources.

#### **336.4.2 SELECTION**

Volunteer candidates shall successfully complete the following process prior to appointment as a volunteer:

- (a) Submit the appropriate written application.
- (b) Interview with the volunteer coordinator.
- (c) Successfully complete an appropriate-level background investigation.

#### **336.4.3 APPOINTMENT**

Service as a volunteer with the Department shall begin with an official notice of acceptance or appointment by the Chief of Police or the authorized designee. Notice may only be given by an authorized representative of the Department, who will normally be the volunteer coordinator.

No volunteer should begin any assignment until he/she has been officially accepted for that position and has completed all required screening and paperwork. At the time of final acceptance, each volunteer should complete all required enrollment paperwork and will receive a copy of the position description and agreement of service with the Department.

All volunteers shall receive a copy of the volunteer orientation materials and shall be required to sign a volunteer agreement. Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills and abilities and the needs of the Department.

Volunteers serve at the discretion of the Chief of Police.

### **336.5 IDENTIFICATION AND UNIFORMS**

As representatives of the Department, volunteers are responsible for presenting a professional image to the community. Volunteers shall dress appropriately for the conditions and performance of their duties. Uniforms and necessary safety equipment will be provided for each volunteer.

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Identification symbols worn by volunteers shall be different and distinct from those worn by officers or other members of this department through the inclusion of "Volunteer" on the uniform.

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

#### **336.6 PERSONNEL WORKING AS VOLUNTEERS**

Qualified regular department personnel, when authorized, may also serve as volunteers. However, this department shall not utilize the services of volunteers in such a way that it would violate employment laws, private police rule or policy (e.g., a detention officer participating as a volunteer for reduced or no pay). Therefore, the volunteer coordinator should consult with the Human Resources prior to allowing regular department personnel to serve in a volunteer capacity (29 CFR 553.30).

#### **336.7 VOLUNTEER COORDINATOR**

The volunteer coordinator shall be appointed by and directly responsible to the Chief of Police or the authorized designee.

The function of the coordinator is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist efforts to jointly provide more productive volunteer services. Under the general direction of the Chief of Police or the authorized designee, volunteers shall report to the volunteer coordinator and/or Chief of Police.

The volunteer coordinator may appoint a senior volunteer or other designee to assist in the coordination of volunteers and their activities.

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

- (a) Recruiting, selecting and training qualified volunteers.
- (b) Conducting volunteer meetings.
- (c) Establishing and maintaining a volunteer callout roster.
- (d) Maintaining records for each volunteer.
- (e) Tracking and evaluating the contribution of volunteers.
- (f) Maintaining a record of volunteer schedules and work hours.
- (g) Completing and disseminating, as appropriate, all necessary paperwork and information.
- (h) Planning periodic recognition events.
- (i) Maintaining a liaison with other community programs that use volunteers and assisting in community-wide efforts to recognize and promote volunteering.
- (j) Maintaining volunteer orientation and training materials and outlining expectations, policies and responsibilities for all volunteers.

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An evaluation of the overall use of volunteers will be conducted on an annual basis by the coordinator.

#### **336.8 DUTIES AND RESPONSIBILITIES**

Volunteers assist department personnel as needed. Assignments of volunteers will usually be to augment the Field Operations Bureau, but volunteers may be assigned to other areas within the Department as needed. Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills and abilities and the needs of the Department.

All volunteers will be assigned to duties by the volunteer coordinator or the authorized designee.

##### **336.8.1 COMPLIANCE**

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

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

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

##### **336.8.2 VOLUNTEER MEETINGS**

All volunteers are required to attend scheduled meetings. Any absences must be satisfactorily explained to the volunteer coordinator.

#### **336.9 TASK-SPECIFIC TRAINING**

Task-specific training is intended to provide the required instruction and practice for volunteers to properly and safely perform their assigned duties. A volunteer's training should correspond to his/her assignment as determined by the volunteer coordinator.

Volunteers will be provided with an orientation program to acquaint them with the policies of the Department and law enforcement procedures applicable to their assignments.

Volunteers should receive position-specific training to ensure they have adequate knowledge and skills to complete the required tasks, and should receive ongoing training as deemed appropriate by their supervisors or the volunteer coordinator.

Training should reinforce to volunteers that they shall not intentionally represent themselves as, or by omission infer that they are, officers or other full-time members of the Department. They shall always represent themselves as volunteers.

All volunteers shall comply with the rules of conduct and with all applicable orders and directives, either oral or written, issued by the Department.

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##### **336.9.1 VOLUNTEER TRAINING MATERIALS**

Each new volunteer will be issued volunteer training materials. The materials outline the subject matter and skills necessary to properly function as a volunteer with the Wintergreen Police Department. The volunteer shall become knowledgeable of the subject matter and proficient with the skills as set forth in the training materials.

##### **336.10 SUPERVISION**

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

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

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

A volunteer may be assigned as a supervisor of other volunteers, provided that the supervising volunteer is under the direct supervision of an employee of the Wintergreen Police Department.

##### **336.10.1 EVALUATIONS**

While in training, volunteers should be continuously evaluated using standardized daily and weekly observation reports. A volunteer will be considered a trainee until he/she has satisfactorily completed training. Volunteers who have completed their training should be evaluated annually using performance dimensions applicable to the duties and authorities granted to that volunteer.

##### **336.10.2 FITNESS FOR DUTY**

No volunteer shall report for work or be at work when his/her judgment or physical condition has been impaired due to illness or injury, or by the use of alcohol or drugs, whether legal or illegal.

Volunteers shall report to their supervisors any change in status that may affect their ability to fulfill their duties. This includes, but is not limited to:

- (a) Driver's license.
- (b) Medical condition.
- (c) Arrests.
- (d) Criminal investigations.
- (e) All law enforcement contacts.



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#### **336.11 INFORMATION ACCESS**

With appropriate security clearance, a volunteer may have access to or be in the vicinity of criminal histories, investigative files or information portals. Unless otherwise directed by a supervisor, the duties of the position or department policy, all such information shall be considered confidential. Only that information specifically identified and approved by authorized members shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by department policy and supervisory personnel.

A volunteer whose assignment requires the use of, or access to, confidential information will be required to have his/her fingerprints submitted to the Criminal Justice Information Services Divisions (CJIS) of the Virginia State Police to obtain clearance. Volunteers working this type of assignment will receive training in data practices and be required to sign a nondisclosure agreement before being given an assignment with the Department. Subsequent unauthorized disclosure of any confidential information verbally, in writing or by any other means by the volunteer is grounds for immediate dismissal and possible criminal prosecution.

Volunteers shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to newspapers or other periodicals, release or divulge any information concerning the activities of the Department, or maintain that they represent the Department in such matters without permission from the proper department personnel.

#### **336.12 EQUIPMENT**

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

##### **336.12.1 VEHICLE USE**

Any volunteer who operates any vehicle while acting in the capacity of a volunteer shall receive training in safe driving and defensive driving. The specific training and course of study shall be determined by the volunteer coordinator.

Volunteers assigned to duties that require the use of a vehicle must first complete:

- (a) A driving safety briefing and department-approved driver safety course.
- (b) Verification that the volunteer possesses a valid driver's license.
- (c) Verification that the volunteer carries current vehicle insurance.

The coordinator should ensure that all volunteers receive safety briefing updates and license and insurance verification at least once a year.

When operating department vehicles, volunteers shall obey all rules of the road, including seat belt requirements.

Volunteers should not operate a marked law enforcement vehicle unless there is a prominently placed sign indicating that the vehicle is out of service.

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Volunteers are not authorized to operate department vehicles while using the vehicle's emergency equipment (e.g., emergency lights siren).

#### **336.13 DISCIPLINARY PROCEDURES/TERMINATION**

If a volunteer has a personnel complaint made against him/her or becomes involved in an internal investigation, the matter shall be investigated in compliance with the Personnel Complaints Policy.

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

Volunteers may resign from volunteer service with the Department at any time. It is requested that volunteers who intend to resign provide advance notice and a reason for their decision.

##### **336.13.1 EXIT INTERVIEWS**

The volunteer coordinator should conduct exit interviews, where possible. These interviews should ascertain why the volunteer is leaving the position and should solicit the volunteer's suggestions on improving the position. When appropriate, an exit interview should also include a discussion on the possibility of involvement in some other capacity with the Department.

# Native American Graves Protection and Repatriation

## 337.1 PURPOSE AND SCOPE

This policy is intended ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001).

### 337.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

**Funerary objects and associated funerary objects** - Objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains, or that were made exclusively for burial purposes, or to contain human remains.

**Native American human remains** - The physical remains of the body of a person of Native American ancestry.

**Objects of cultural patrimony** - Objects having ongoing historical, traditional or cultural importance that is central to the Native American group or culture itself and therefore cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

**Sacred objects** - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

## 337.2 POLICY

It is the policy of the Wintergreen Police Department that the protection of Native American human remains, funerary objects, sacred objects or objects of cultural patrimony on federal lands is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption or complicated custody transfer processes.

## 337.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, sacred objects or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.4).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

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#### *Native American Graves Protection and Repatriation*

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Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.4(d)):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land - Virginia Department of Historic Resources (Va. Code § 10.1-2300 et seq.)
- Tribal land - Responsible Indian tribal official

#### **337.4 EVIDENCE AND PROPERTY**

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.6).

#### **337.5 TREATMENT AND DISPOSITION OF HUMAN REMAINS**

This department shall cooperate with other government agencies and the Virginia Department of Historic Resources to carry out any provisions of state law regarding treatment and disposition of human remains (Va. Code § 10.1-2300 et seq.).

## Off-Duty Law Enforcement Actions

### 338.1 PURPOSE AND SCOPE

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

### 338.2 POLICY

It is the policy of the Wintergreen Police Department that officers generally should not initiate law enforcement action while off-duty. Officers are not expected to place themselves in unreasonable peril and should first consider reporting and monitoring the activity. However, any officer who becomes aware of an incident or circumstance that he/she reasonably believes poses an imminent threat of serious bodily injury or death, or significant property damage or loss, may take reasonable action to minimize or eliminate the threat.

### 338.3 DECISION TO INTERVENE

There is no legal requirement for off-duty officers to take law enforcement action. Officers should consider waiting for on-duty uniformed law enforcement personnel to arrive instead of immediately intervening and, while waiting, gather as much accurate intelligence as possible. However, if an officer decides to intervene, he/she must evaluate whether the action is necessary or desirable, and should take into consideration:

- (a) The potential to be misidentified by other law enforcement personnel.
- (b) The potential to be misidentified by members of the public, who may be armed or who may take action.
- (c) The tactical disadvantage of being alone and the possibility of multiple or hidden suspects.
- (d) Limited off-duty firearms capabilities and ammunition.
- (e) The inability to communicate with responding law enforcement personnel.
- (f) The lack of equipment, such as body armor, handcuffs or control devices.
- (g) Unfamiliarity with the surroundings, including escape routes.
- (h) The potential for increased risk to bystanders by confronting a suspect or taking action.

#### 338.3.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary, the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. If possible, the dispatcher receiving the call should obtain a description of the off-duty officer from the caller and broadcast that information to responding officers.

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

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#### *Off-Duty Law Enforcement Actions*

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#### **338.4 CONSIDERATIONS**

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she is working in an undercover capacity.

##### **338.4.1 NON-SWORN RESPONSIBILITIES**

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

##### **338.4.2 INCIDENTS OF PERSONAL INTEREST**

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

#### **338.5 REPORTING**

If prior notification to the appropriate local law enforcement agency is not reasonably possible before taking action, the officer shall notify the agency as soon as reasonably practicable. Officers shall cooperate fully with the agency having jurisdiction by providing statements or reports as requested or as appropriate.

Officers shall notify a supervisor regarding any law enforcement action taken while off-duty. The supervisor may request assistance from the Field Operations Bureau Commander, if deemed appropriate.

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

## Human Trafficking

### 339.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of human trafficking. These guidelines will address unique aspects of such cases and minimize the effects that these crimes have on the victims.

#### 339.1.1 DEFINITIONS

Definitions related to this policy include:

**Force, fraud and coercion** - Methods used by traffickers to press victims into lives of servitude and/or abuse.

- **Force** - Includes, but is not limited to, rape, beatings, burnings, constraint, confinement or deprivation (e.g., sleep, food and/or liquids, drug use).
- **Fraud** - Includes, but is not limited to, false and deceptive offers of employment, love/marriage or a better life.
- **Coercion** - A climate of fear which includes threats of serious harm to, or physical restraint of, any person; any scheme, plan or pattern intended to cause victims to believe that failure to perform an act would result in restraint and/or physical harm against them and/or their loved ones; or the abuse or threatened abuse of the legal process; creating dependency; establishing quotas.

**Human trafficking** - A modern-day form of slavery involving the illegal trade of people for exploitation or commercial gain. Crimes often related to human trafficking include:

- (a) Taking or detaining a person for prostitution or consenting thereto (Va. Code § 18.2-355).
- (b) Abduction and kidnapping (Va. Code § 18.2-47).
- (c) Abduction with intent to extort money or for immoral purpose (Va. Code § 18.2-4).
- (d) Receiving money from earnings of a male or female prostitute (Va. Code § 18.2-357).

**Labor trafficking** - The recruitment, harboring, transportation, provision or obtaining of a person for labor or services through the use of fraud or coercion for the purpose of involuntary servitude, peonage, debt bondage or slavery. This occurs in situations of forced labor such as domestic servitude, factory, construction, housekeeping, food service or agricultural work.

**Sex trafficking** - The recruitment, harboring, transportation, provision or obtaining of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act is under 18 years of age.

### 339.2 POLICY

It is the policy of the Wintergreen Police Department that its members, when responding to reports of human trafficking, will strive to identify and assist the victims of human trafficking, aggressively

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investigate human trafficking offenses and effectively identify, apprehend and prosecute those engaged in trafficking offenses in cooperation with state and federal laws.

### **339.3 RESPONSE TO HUMAN TRAFFICKING INCIDENTS**

#### **339.3.1 THE COMMUNICATION CENTER RESPONSIBILITIES**

When the Communication Center receives a call reporting a case of human trafficking, dispatchers communications personnel shall follow standard emergency response, which includes:

- (a) Evaluating and properly prioritizing the call.
- (b) Securing medical assistance when appropriate.
- (c) Determining the current location of any suspects.
- (d) Obtaining detailed information to identify any suspects.
- (e) Obtaining information about the relationship between any suspects and any victims.
- (f) Determining whether weapons are involved.
- (g) Determining whether there is a history of violence.
- (h) Determining whether there are unique hazards that may be presented to the suspects, victims, responding personnel or others.

Call prioritization should be based on actual or perceived injuries and harm and whether the suspect poses an imminent danger.

#### **339.3.2 COMMUNICATING WITH VICTIMS OF HUMAN TRAFFICKING**

Contact and communication with victims of human trafficking crimes are critical. Officers should be aware of their behavior in interactions with human trafficking victims and understand that trust is generally the top priority in communicating with human trafficking victims.

- (a) For the victim's safety and to obtain his/her cooperation and trust, strict confidentiality is paramount to prosecuting human traffickers and getting the human trafficking victim the help he/she needs.
  - 1. Talk to the victim in a safe and confidential environment.
  - 2. Limit the number of officers and/or staff members coming into contact with the suspected human trafficking victim.
- (b) Officers should indirectly and sensitively determine if a person is the victim of human trafficking and recognize that:
  - 1. The victim may deny being a human trafficking victim. Asking direct questions will not always be beneficial.
  - 2. The phrase "trafficking victim" may have no meaning to the victim or it may frighten the victim.
  - 3. As an investigator, the officer should be on the victim's level (e.g., positioning, language, tone and tenor of voice).
  - 4. Displays of emotion or surprise (e.g., gasps, acting shocked) are not appropriate.



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5. Pity, judgment or patronization are not appropriate
  6. Negative behavior (e.g., victim-blaming attitude, body language or behavior) are not appropriate.
- (c) Officers should be cautious when they arrive on-scene. Locate the victim and determine if there is a language barrier. A translator should be called to the scene if needed or appropriate. Do not use anyone from the scene as a translator as this could be someone working for the suspected human trafficker. Notify a qualified department translator who has been trained on interviewing human trafficking victims as soon as practicable.
- (d) If the human trafficking victim is a child, enlist a specialist trained in interviewing child human trafficking or abuse victims.

#### 339.3.3 INITIAL VICTIM INTERVIEW ACTIONS

Human trafficking cases are time sensitive and interviews should be conducted upon initial response. The officer should interview the human trafficking victim and record the answers to as many of the following questions as possible:

- (a) Is the victim free to leave the work site?
- (b) Has the victim has been physically, sexually or psychologically abused or involved with drug usage?
- (c) Does the victim have a passport or valid identification card, and is he/she in possession of such documents?
- (d) What is the pay and conditions of his/her employment?
- (e) Does the victim live at home or at/near the work site?
- (f) If the suspected victim is a foreign national, how did the victim travel and arrive at this destination?
- (g) Has the victim or a family member of the victim been threatened?
- (h) Does the victim fear that something bad will happen to him/her, a family member or another person if he/she leaves the job?
- (i) Are there other potential victims on-scene?
- (j) Is the suspected trafficker is on-scene and, if not, where is he/she?

#### 339.3.4 OFFICER RESPONSIBILITIES

Responding officers should arrest the suspected human trafficker as authorized by law. Officers should:

- (a) Evaluate the scene.
- (b) Provide aid and assistance as may be needed, including making arrangements for transporting any victims.

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- (c) Interview any victims (determining willingness to cooperate with an investigation if the person is an adult; however, other evidence may be used if a victim is unwilling), witnesses and suspects.
- (d) Identify, record, collect and/or preserve physical evidence.
- (e) Determine the offense and appropriate charges.
- (f) Arrest the suspect.
- (g) When the suspect is not on the scene and probable cause exists, the officer should notify a supervisor and provide the appropriate information for broadcast of an alert bulletin.
- (h) Make referrals for help services (i.e., Child Protective Services, social services, rape counseling, domestic and family violence shelters).
- (i) Obtain an arrest warrant.
- (j) Petition for an emergency protective order for victims.
- (k) Serve any issued emergency protective order and deliver the order to the Communication Center, taking appropriate steps to have entered into Virginia Criminal Information Network (VCIN).
- (l) Complete the appropriate report and ensure the human trafficking offense box is properly completed.

#### **339.3.5 FIELD OPERATIONS BUREAU COMMANDER RESPONSIBILITIES**

In any case where the officer has not made an arrest but there is probable cause and the suspect is not on the scene, the Field Operations Bureau Commander should ensure the broadcast of an alert bulletin is completed.

The Field Operations Bureau Commander should notify the Investigations supervisor on all trafficking cases.

#### **339.3.6 INVESTIGATIONS COMMANDER RESPONSIBILITIES**

When notified, the Investigations Commander should respond and initiates an investigation. If an arrest warrant can be issued, it should be done immediately and reasonable attempts should be made to locate and arrest the suspect.

- (a) Often victims of labor and/or sex trafficking will cooperate more when an outside service provider is involved to assess immediate needs. If there are no services available on-scene to meet the basic needs of any victims they are likely to stay in crisis and not respond to law enforcement reliably.
- (b) The Investigations Commander should consider use of a language assistance tool similar to the Victim Translation Assistance Tool (VITA), created by the United Nations that allows communication with people speaking another language.

## Community Relations

### 340.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for community relationship-building.

Additional guidance on community relations and outreach is provided in other policies, including the:

- Hate Crimes Policy.
- Limited English Proficiency Services Policy.
- Communications with Persons with Disabilities Policy.
- Chaplains Policy.
- Patrol Policy.
- Suspicious Activity Reporting Policy.

### 340.2 POLICY

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

### 340.3 MEMBER RESPONSIBILITIES

Officers should, as time and circumstances reasonably permit:

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

### 340.4 COMMUNITY RELATIONS COORDINATOR

The Chief of Police or the authorized designee should designate a member of the Department to serve as the community relations coordinator. He/she should report directly to the Chief of Police or the authorized designee and is responsible for:

- (a) Obtaining department-approved training related to his/her responsibilities.

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- (b) Responding to requests from department members and the community for assistance in identifying issues and solving problems related to community relations and public safety.
- (c) Organizing surveys to measure the condition of the department's relationship with the community.
- (d) Working with community groups, department members and other community resources to:
  - 1. Identify and solve public safety problems within the community.
  - 2. Organize programs and activities that help build positive relationships between department members and the community and provide community members with an improved understanding of department operations.
- (e) Working with the Field Operations Bureau Commander to develop patrol deployment plans that allow officers the time to participate in community engagement and problem-solving activities.
- (f) Recognizing department and community members for exceptional work or performance in community relations efforts.
- (g) Attending community meetings to obtain information on community relations needs.
- (h) Assisting with the department's response to events that may affect community relations, such as an incident where the conduct of a department member is called into public question.
- (i) Informing the Chief of Police and others of developments and needs related to the furtherance of the department's community relations goals, as appropriate.

#### **340.5 COMMUNITY AND YOUTH ACTIVITIES AND PROGRAMS**

The community relations coordinator should organize or assist with programs and activities that create opportunities for department members and community members, especially youth, to interact in a positive setting. Examples of such programs and events include:

- (a) Department-sponsored athletic programs (e.g., baseball, basketball, soccer, bowling).
- (b) Police-community get-togethers (e.g., cookouts, meals, charity events).
- (c) Youth leadership and life skills mentoring.
- (d) Neighborhood Watch and crime prevention programs.

#### **340.6 INFORMATION SHARING**

The community relations coordinator should work with the Chief of Police to develop methods and procedures for the convenient sharing of information (e.g., major incident notifications, significant changes in department operations, comments, feedback, positive events) between the Department and community members. Examples of information-sharing methods include:

- (a) Community meetings.
- (b) Social media (see the Department Use of Social Media Policy).

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- (c) Department website postings.

Information should be regularly refreshed, to inform and engage community members continuously.

#### **340.7 LAW ENFORCEMENT OPERATIONS EDUCATION**

The community relations coordinator should develop methods to educate community members on general law enforcement operations so they may understand the work that officers do to keep the community safe. Examples of educational methods include:

- (a) Development and distribution of informational cards/flyers.
- (b) Department website postings.
- (c) Presentations to driver education classes.
- (d) Department ride-alongs (see the Ride-Alongs Policy).
- (e) Scenario/Simulation exercises with community member participation.
- (f) Youth internships at the Department.

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

#### **340.8 SAFETY AND OTHER CONSIDERATIONS**

Department members responsible for community relations activities should consider the safety of the community participants and, as much as reasonably practicable, should not allow them to be present in any location or situation that would jeopardize their safety.

Department members in charge of community relations events should ensure that participating community members have completed waiver forms before participation, if appropriate. A parent or guardian must complete the waiver form if the participating community member has not reached 18 years of age.

Community members are subject to a criminal history check before approval for participation in certain activities, such as citizen academies.

#### **340.9 TRANSPARENCY**

The Department should periodically publish statistical data and analysis regarding the department's operations. The reports should not contain the names of officers, suspects or case numbers.

#### **340.10 TRAINING**

Subject to available resources, members should receive training related to this policy, including training on topics such as:

- (a) Effective social interaction and communication skills.

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- (b) Cultural, racial and ethnic diversity and relations.
- (c) Building community partnerships.
- (d) Community policing and problem-solving principles.
- (e) Enforcement actions and their effects on community relations.

Where practicable and appropriate, community members, especially those with relevant expertise, should be involved in the training to provide input from a community perspective.

## **Chapter 4 - Patrol Operations**

## Patrol

### 400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the patrol function and address intraorganizational cooperation and information sharing.

### 400.2 POLICY

The Wintergreen Police Department provides patrol services 24 hours a day, seven days a week and will prioritize responses to requests for emergency services using available resources to enhance the safety of the public and department members.

### 400.3 FUNCTION

Patrol will generally be conducted by uniformed officers in clearly marked law enforcement vehicles within the jurisdiction of Wintergreen. The function of patrol is to respond to calls for assistance and reports of criminal activity, act as a deterrent to crime, enforce state and local laws, identify community needs, provide support and assistance to the community and respond to emergencies.

Patrol services include, but are not limited to:

- (a) Responding to emergency calls for service.
- (b) Apprehending criminal offenders.
- (c) Providing mutual aid and assistance to other agencies for emergency and law enforcement-related activities.
- (d) Preventing criminal acts, traffic violations and accidents, maintaining public order and discovering hazardous situations or conditions.
- (e) Responding to reports of both criminal and non-criminal acts.
- (f) Responding to routine calls for service, such as public assistance or public safety.
- (g) Directing and controlling traffic.
- (h) Carrying out crime prevention activities, such as residential inspections, business inspections and community presentations.
- (i) Carrying out community-oriented policing and problem-solving activities, including the application of resources to improve or resolve specific problems or situations and contacting or assisting members of the public in a positive way.

#### 400.3.1 PATROL ASSIGNMENT

Patrol assignments should include a system that provides for:

- (a) Assignment to operational shifts.
- (b) Shift rotation, if any.
- (c) Assignment to beats, if any.
- (d) Beat rotation, if any.



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- (e) Continuous coverage during shift changes, if the Department operates on a shift schedule.
- (f) Providing information to oncoming shifts of previous shifts' activities in accordance with the Briefing Policy.

#### 400.3.2 PATROL ASSIGNMENT PROCEDURES

[Insert your specific procedures consistent with standard OPR.01.07– see the Guide Sheet for additional guidance.]

#### **400.4 INFORMATION SHARING**

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

Additionally, information should be shared with outside agencies and the public in conformance with department policies and applicable laws. Members are encouraged to share information with other units and bureaus.

#### **400.5 CROWDS, EVENTS AND GATHERINGS**

Officers may encounter gatherings of people, including, but not limited to, civil demonstrations, public displays, parades, sporting events and civic, social and business events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. The Field Operations Bureau Commander should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action.

Generally, officers should consider seeking compliance through advisements and warnings for minor violations, and should reserve greater enforcement options for more serious violations or when voluntary compliance with the law is not achieved.

Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety concerns.

#### **400.6 COMMUNITY-ORIENTED POLICING SERVICES**

The Field Operations Bureau Commander should ensure that a community-oriented policing program is established and a program manual is developed that includes at a minimum:

- (a) The mission, organizational values and management principles that support community partnerships.
- (b) A definition of community partnerships as a commitment to a philosophy rather than a program.

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- (c) A list of partnerships and collaborative efforts involving the Wintergreen Police Department and persons, groups and businesses within the community.
- (d) Training for officers and community leaders in the theory and concept, as well as function and operation, of community partnerships.
- (e) Recommended training for members in problem-solving models.
- (f) Materials that assist officers in developing support from Private Police officials for the concept of community-oriented policing, with the goal of Private Police wide adoption of the community partnership philosophy.
- (g) A survey of citizens attitudes and opinions, if applicable, that includes:
  - 1. Overall department performance.
  - 2. Overall competency of department employees.
  - 3. Officer attitudes and behavior toward citizens.
  - 4. Concern over safety and security within the department service area as a whole.
  - 5. Recommendations and suggestions for improvements.

#### **400.7 RADIO COMMUNICATIONS**

It shall be the responsibility of each Officer who uses the police radio to keep dispatch advised of their status. To ensure proper command and control, each unit is responsible for advising their status and location when leaving their vehicle. Upon return to the vehicle, officers shall immediately update their status. Additionally, changes of location by mobile units assigned to events shall be relayed to dispatch.

## Bias-Based Policing

### 401.1 PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the Wintergreen Police Department's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the department's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach and partnerships).

#### 401.1.1 DEFINITIONS

Definitions related to this policy include:

**Bias-based policing** - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement. This includes any other noncriminal characteristics prohibited by state law (Va. Code § 15.2-1609.10; Va. Code § 15.2-1722.1; Va. Code § 52-30.1 et seq.).

### 401.2 POLICY

The Wintergreen Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

### 401.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

### 401.4 MEMBER RESPONSIBILITIES

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

#### 401.4.1 REASON FOR CONTACT

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

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To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

#### **401.5 SUPERVISOR RESPONSIBILITIES**

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

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

#### **401.6 STATE REPORTING**

The Chief of Police or the authorized designee shall collect the information required by law relating to use of excessive force complaints, traffic stops, and other detentions, and shall report that information to the Department of State Police and publish it in the manner provided by law (Va. Code § 15.2-1609.10; Va. Code § 15.2-1722.1; Va. Code § 52-30.2; Va. Code § 52-30.4; 19 VAC 30-240-10; 19 VAC 30-240-20).

All complaints regarding bias-based profiling, including those investigated by a member's immediate supervisor, shall be forwarded to the Field Operations Bureau for any additional required investigation or disposition.

#### **401.7 ADMINISTRATION**

The Field Operations Bureau Commander should review the efforts of the Department to provide fair and objective policing and submit an annual report, including public concerns and complaints, to the Chief of Police. The annual report should not contain any identifying information about any specific complaint, member of the public, or officer. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service.

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Supervisors should review the traffic stop data, use of excessive force complaint data, and the annual report and discuss the results with those they are assigned to supervise.

### **401.8 TRAINING**

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

#### **401.8.1 INITIAL TRAINING**

Newly hired officers shall receive initial training in cultural diversity.

## Briefing

### 402.1 PURPOSE AND SCOPE

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

### 402.2 POLICY

Briefing is intended to facilitate the accurate flow of information in order to enhance coordination of activities, improve performance and safety, and outline the expected actions of members.

### 402.3 BRIEFING

All Officers will conduct regular briefing to discuss, disseminate and exchange information among themselves.

Briefing should include, but is not limited to:

- (a) Providing Officers with information regarding daily activities, with particular attention given to changes in the status of:
  - 1. Wanted persons.
  - 2. Crime patterns.
  - 3. Suspect descriptions.
  - 4. Intelligence reports and photographs.
  - 5. Community issues affecting law enforcement.
  - 6. Major investigations.
- (b) Notifying members of changes in schedules and assignments.
- (c) Reviewing recent incidents for situational awareness and training purposes.
- (d) Providing training on a variety of subjects.
- (e) Conducting periodic personnel inspections.

Supervisors should ensure that all members are informed about Executive Orders and any recent policy changes.

### 402.4 TRAINING

Briefing training should incorporate short segments on a variety of subjects or topics and may include:

- (a) Review and discussion of new or updated policies.
- (b) Presentation and discussion of the proper application of existing policy to routine daily activities.
- (c) Presentation and discussion of the proper application of existing policy to unusual activities.

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- (d) Review of recent incidents for training purposes.

## Crime and Disaster Scene Integrity

### 403.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

### 403.2 POLICY

It is the policy of the Wintergreen Police Department to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

### 403.3 SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Officers shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an officer has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, it shall be maintained until the officer is properly relieved by a supervisor or other designated person.

### 403.4 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the first responder's function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:

- (a) Broadcast emergency information, including requests for additional assistance and resources.
- (b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.
- (c) Locate or identify suspects and determine whether dangerous suspects are still within the area.
- (d) Provide first aid to injured parties if it can be done safely.
- (e) Evacuate the location safely as required or appropriate.
- (f) Secure the inner perimeter.
- (g) Protect items of apparent evidentiary value.
- (h) Secure an outer perimeter.
- (i) Identify potential witnesses.
- (j) Start a chronological log noting critical times and personnel allowed access.

### 403.5 SEARCHES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to determine if suspects are present and continue to pose a threat.



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Once officers are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

#### **403.5.1 CONSENT**

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

#### **403.6 INVESTIGATIONS RESPONSIBILITIES**

Investigations is responsible for:

- (a) Ensuring reasonable access to qualified personnel, equipment and supplies for processing crime scenes.
- (b) Establishing procedures for collecting, processing and preserving physical evidence in the field.
- (c) Establishing procedures for photographing, video-recording and other imaging used to collect and preserve evidence.
- (d) Establishing procedures for processing, developing, lifting and labeling fingerprints.
- (e) Establishing procedures for the safe collection, storage, transportation and submission of biological and other evidence for DNA testing and evaluation.

#### **403.7 EXECUTION OF HEALTH ORDERS**

Any sworn member of this department is authorized to enforce lawful orders of the local health officer that have been issued for the purpose of preventing the spread of any contagious, infectious or communicable disease (Va. Code § 32.1-48.02).

## Ride-Alongs

### 404.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for a ride-along with members of the Wintergreen Police Department. This policy provides the requirements, approval process, hours of operation and member responsibilities for ride-alongs.

### 404.2 POLICY

Ride-along opportunities will be provided to the members of the public, WPOA employees and members of this department to observe and experience, first-hand, various functions of the Wintergreen Police Department. The term “ride-along” includes riding as a passenger with an officer on patrol or observing the work day of members engaged in other functions within the Department, such as the Communication Center.

### 404.3 ELIGIBILITY

A ride-along is available to Wintergreen residents and business owners, students currently attending class and those employed with WPOA. Efforts will be made to accommodate all interested persons. However, any applicant may be disqualified without cause from participating.

Factors that may be considered in disqualifying an applicant include, but are not limited to:

- Being under 15 years of age.
- Prior criminal history.
- Pending criminal action.
- Pending lawsuit against this department or WPOA.
- Denial by any supervisor.

### 404.4 AVAILABILITY

A ride-along or job observation is available most days of the week, from 10:00 a.m. to 11:00 p.m. Exceptions to this schedule may be made as approved by the Chief of Police or Field Operations Bureau Commander.

### 404.5 REQUESTS TO PARTICIPATE

Generally, ride-along and job observation requests will be maintained and scheduled by the Field Operations Bureau Commander. The applicant will complete and sign a ride-along or job observation waiver form. If the applicant is under 18 years of age, a parent or guardian must be present to complete the waiver form. Information requested will include a valid state-issued identification card or driver’s license number, birthdate, address and telephone number.

The Field Operations Bureau Commander will schedule a date, based on availability, generally one week after the date of application. If approved, a copy of the waiver form will be forwarded to the appropriate Officer as soon as possible for scheduling considerations.

If the request is denied, a representative of this department will advise the applicant of the denial.

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#### *Ride-Alongs*

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#### **404.6 PROCEDURES**

Once approved, ride-along applicants will be allowed to participate no more than once every six months. An exception may apply to the following law enforcement-involved participants:

- Explorers
- Volunteers
- Chaplains
- Auxiliaries
- Wintergreen Police Department applicants
- Any others with approval of the Chief of Police
- Students enrolled in any department-approved dispatcher training course

An effort will be made to ensure that no more than one member of the public will participate in a ride-along or job observation during any given time period. Normally, no more than one ride-along participant will be allowed in department vehicles at a given time.

##### **404.6.1 OFF-DUTY PARTICIPATION**

Off-duty members of this department or any other law enforcement agency will not be permitted to participate in a ride-along with on-duty members of this department without the express consent of the Chief of Police or Field Operations Bureau Commander.

In the event that such participation is permitted, the off-duty department member or any other law enforcement agency personnel shall not:

- (a) Be considered on-duty.
- (b) Represent him/herself as a member of this department or any other law enforcement agency.
- (c) Participate in any law enforcement activity except as emergency circumstances may require.

##### **404.6.2 CRIMINAL HISTORY CHECK**

All ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Virginia Criminal Justice Information Services (CJIS) check prior to approval of the ride-along.

##### **404.6.3 SUITABLE ATTIRE**

Any person approved to participate in a ride-along is required to be suitably dressed in a collared shirt, blouse or jacket, slacks and shoes. Sandals, t-shirts, tank tops, shorts and ripped or torn pants are not permitted. Hats and ball caps will not be worn without the express consent of the Field Operations Bureau Commander. The Field Operations Bureau Commander or a supervisor may refuse a ride-along to anyone who is not dressed appropriately.

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#### **404.7 MEMBER RESPONSIBILITIES**

The assigned department member shall consider the safety of the ride-along or job observation participant at all times. The member shall maintain control over the participant and shall instruct the individual about the conditions that necessarily limit his/her participation. Instructions should include:

- (a) The participant will follow the directions of the department member.
- (b) The participant will not become involved in any investigation, handling of evidence, discussions with victims or suspects, reading an individual's criminal history or other protected information, or handling any police department equipment.
- (c) Participation may be terminated at any time by the member if the participant interferes with the performance of the member's duties.
  - 1. If the ride-along is in progress, the member may return the participant to the point the ride originated.
- (d) Participants may be allowed to continue a ride-along during the transportation and booking process, provided it does not jeopardize their safety.
- (e) Members will not allow participants to be present in any location or situation that would jeopardize the participant's safety or cause undue stress or embarrassment to a victim or any other member of the public.
- (f) Participants who are not law enforcement officers shall not be permitted to accompany the department member into a private residence without the express consent of the resident or other authorized person.

The member assigned to provide a ride-along shall advise the dispatcher that a ride-along participant is present in the vehicle before going into service. An officer with a ride-along participant should use sound discretion when encountering a potentially dangerous situation, such as a high-speed pursuit and, if feasible, let the participant out of the vehicle in a well-lit public place. The dispatcher will be advised of the situation and as soon as practicable have another department member respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

Conduct by a person participating in a ride-along that results in termination of the ride, or is otherwise inappropriate, should be immediately reported to the Field Operations Bureau Commander.

## Hazardous Material Response

### 405.1 PURPOSE AND SCOPE

Exposure to hazardous materials presents potential harm to department members and the public. This policy outlines the responsibilities of members who respond to these events and the factors that should be considered while on-scene, including the reporting of exposures and supervisor responsibilities.

#### 405.1.1 DEFINITIONS

Definitions related to this policy include:

**Hazardous material** - A substance which, by its nature, containment or reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

### 405.2 POLICY

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

### 405.3 HAZARDOUS MATERIAL RESPONSE

Members may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill or fire. When members come into contact with a suspected hazardous material, they should take certain steps to protect themselves and other persons.

The fire department is the agency trained and equipped to properly respond to and mitigate most incidents involving hazardous materials and biohazards.

Responders should not perform tasks or use equipment without proper training. A responder entering the area may require decontamination before he/she is allowed to leave the scene, and should be evaluated by appropriate technicians and emergency medical services personnel for signs of exposure.

### 405.4 CONSIDERATIONS

The following steps should be considered at any scene involving suspected hazardous materials:

- (a) Make the initial assessment of a potentially hazardous material from a safe distance.
- (b) Notify the Communication Center, appropriate supervisors, the appropriate fire department and hazardous response units.
  1. Provide weather conditions, wind direction, a suggested safe approach route and any other information pertinent to responder safety.
- (c) Wear personal protective gear, being cognizant that some hazardous material can be inhaled.

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#### *Hazardous Material Response*

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- (d) Remain upwind, uphill and at a safe distance, maintaining awareness of weather and environmental conditions, until the material is identified and a process for handling has been determined.
- (e) Attempt to identify the type of hazardous material from a safe distance using optical aids (binoculars or spotting scopes) if they are available. Identification can be determined by:
  - 1. Placards or use of an emergency response guidebook.
  - 2. Driver's statements or shipping documents from the person transporting the material.
  - 3. Information obtained from any involved person with knowledge regarding the hazardous material. Information should include:
    - (a) The type of material.
    - (b) How to secure and contain the material.
    - (c) Any other information to protect the safety of those present, the community and the environment.
- (f) Provide first aid to injured parties if it can be done safely and without contamination.
- (g) Make reasonable efforts to secure the scene to prevent access from unauthorized individuals and to protect and identify any evidence.
- (h) Begin evacuation of the immediate and surrounding areas, dependent on the material. Voluntary evacuation should be considered; mandatory evacuation may be necessary and will depend on the type of material.
- (i) Establish a decontamination area when needed.
- (j) Activate automated community notification systems, if applicable.
- (k) Notify the Virginia Department of Emergency Management Hotline (Va. Code § 44-146.18).

#### **405.5 REPORTING EXPOSURE**

Department members who believe they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the member in an incident report that shall be forwarded via chain of command to the appropriate supervisor as soon as practicable. Should the affected member be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the report.

Injury or illness caused or believed to be caused by exposure to hazardous materials shall be reported the same as any other on-duty injury or illness, in addition to a crime report or incident report as applicable.

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### 405.5.1 SUPERVISOR RESPONSIBILITIES

When a supervisor has been informed that a member has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to mitigate the exposure or continued exposure.

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

## Hostage and Barricade Incidents

### 406.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

#### 406.1.1 DEFINITIONS

Definitions related to this policy include:

**Barricade situation** - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

**Hostage situation** - An incident where it is reasonable to believe a person is:

- Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.
- Unlawfully held against his/her will under threat or actual use of force.

**Real-time location data** - Any data or information concerning the current location of an electronic device (Va. Code § 19.2-70.3).

### 406.2 POLICY

It is the policy of the Wintergreen Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

### 406.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands, and the available resources.



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##### 406.3.1 EMERGENCY COMMUNICATIONS

Officers who are supervising a hostage or barricade situation may order a telephone company to interrupt, reroute, divert or control any telephone communications service as is reasonably necessary (Va. Code § 18.2-50.2).

During an emergency situation, an officer may request to track a cell phone or other wireless device without a warrant when (Va. Code § 19.2-70.3(E)):

- (a) The officer reasonably believes that the data is needed to prevent immediate danger to a person and there is not sufficient time to obtain a warrant.
- (b) Consent has been given by the owner or user of the phone or next of kin of the owner or user, as applicable.
- (c) A call for emergency services has been made from the phone.

Within three days after any such tracking, the officer should submit a report to the appropriate court detailing the underlying facts that led to the tracking (Va. Code § 19.2-70.3(E)).

##### 406.4 FIRST RESPONDER CONSIDERATIONS

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

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

##### 406.4.1 BARRICADE SITUATION

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. In the interim, the following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

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- (d) Provide responding emergency personnel with a safe arrival route to the location.
- (e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (f) Attempt to obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.
- (h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Chief of Police.
- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.

#### 406.4.2 HOSTAGE SITUATION

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

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

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- (h) Coordinate pursuit or surveillance vehicles and control of travel routes.
- (i) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
- (j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
- (k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Chief of Police.
- (m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

#### **406.5 SUPERVISOR RESPONSIBILITIES**

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

- (a) Ensure injured persons are evacuated and treated by medical personnel.
- (b) Ensure the completion of necessary first responder responsibilities or assignments.
- (c) Request crisis negotiators, specialized assignment members, additional department members, resources or equipment as appropriate.
- (d) Establish a command post location as resources and circumstances permit.
- (e) Designate assistants who can help with intelligence information and documentation of the incident.
- (f) If it is practicable to do so, arrange for video documentation of the operation.
- (g) Consider contacting utility and communication providers when restricting such services (e.g., electric power, gas, telephone service).
- (h) Ensure adequate law enforcement coverage for the remainder of the community during the incident. The supervisor should direct nonessential personnel away from the scene unless they have been summoned by the supervisor or the Communication Center.
- (i) Identify a media staging area outside the outer perimeter and have the Chief of Police or a designated temporary media representative provide media access in accordance with the Media Relations Policy.

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- (j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.
- (k) Debrief personnel and review documentation as appropriate.

#### **406.6 ERT RESPONSIBILITIES**

It will be the ERT Commander's decision, with input from the Incident Commander, whether to deploy the ERT during a hostage or barricade situation. Once the ERT Commander authorizes deployment, the ERT Commander or the authorized designee will be responsible for the tactical response and negotiations. The Incident Commander shall continue to supervise the command post operation, outer perimeter security, evacuation and media access, and will support the ERT. The Incident Commander and the ERT Commander or the authorized designees shall maintain direct communications at all times.

#### **406.7 REPORTING**

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

## Response to Bomb Calls

### 407.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Wintergreen Police Department in their initial response to incidents involving explosives or explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

### 407.2 POLICY

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

### 407.3 RECEIPT OF BOMB THREAT

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

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

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

### 407.4 GOVERNMENT FACILITY OR PROPERTY

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

#### 407.4.1 WINTERGREEN POLICE DEPARTMENT FACILITY

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

#### 407.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the Wintergreen Police Department that is not the property of this department, the appropriate agency will be promptly informed of the threat. Assistance to the other entity may be provided as the supervisor deems appropriate.

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##### **407.4.3 FEDERAL BUILDING OR PROPERTY**

If the bomb threat is against a federal building or property, the Federal Protective Service should be immediately notified. The Federal Protective Service provides a uniformed law enforcement response for most facilities, which may include use of its Explosive Detector Dog teams.

If the bomb threat is against a federal government property where the Federal Protective Service is unable to provide a timely response, the appropriate facility's security or command staff should be notified.

Bomb threats against a military installation should be reported to the military police or other military security responsible for the installation.

##### **407.5 PRIVATE FACILITY OR PROPERTY**

When a member of this department receives notification of a bomb threat to a private facility, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

- (a) The location of the facility.
- (b) The nature of the threat.
- (c) Whether the type and detonation time of the device is known.
- (d) Whether the facility is occupied and, if so, the number of occupants currently on-scene.
- (e) Whether the individual is requesting police assistance at the facility.

Whether there are any internal facility procedures regarding bomb threats in place, such as:

- (a) No evacuation of personnel and no search for a device.
- (b) Search for a device without evacuation of personnel.
- (c) Evacuation of personnel without a search for a device.
- (d) Evacuation of personnel and a search for a device.

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

##### **407.5.1 ASSISTANCE**

A supervisor should be notified when police assistance is requested. The supervisor will make the decision whether the Department will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including police control over the facility.

Should the supervisor determine that the Department will assist or control such an incident, he/she will determine:

- (a) The appropriate level of assistance.
- (b) The plan for assistance.
- (c) Whether to evacuate and/or search the facility.

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

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

#### **407.6 FOUND DEVICE**

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.
- (b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.
- (c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes:
  - 1. Two-way radios.
  - 2. Cell phones.
  - 3. Other personal communication devices.
- (d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.
- (e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.
- (f) A safe access route should be provided for support personnel and equipment.
- (g) Search the area for secondary devices as appropriate and based upon available resources.
- (h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.
- (i) Promptly relay available information to a supervisor including:
  - 1. The time of discovery.
  - 2. The exact location of the device.
  - 3. A full description of the device (e.g., size, shape, markings, construction).

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4. The anticipated danger zone and perimeter.
5. The areas to be evacuated or cleared.

#### **407.7 EXPLOSION/BOMBING INCIDENTS**

When an explosion has occurred, there are multitudes of considerations that may confront the responding officers. As in other catastrophic events, a rapid response may help to minimize injury to victims, contamination of the scene by gathering crowds, or any additional damage from fires or unstable structures.

##### **407.7.1 CONSIDERATIONS**

Officers responding to explosions, whether accidental or a criminal act, should consider the following actions:

- (a) Assess the scope of the incident, including the number of victims and extent of injuries.
- (b) Request additional personnel and resources, as appropriate.
- (c) Assist with first aid.
- (d) Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.
- (e) Assist with the safe evacuation of victims, if possible.
- (f) Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.
- (g) Preserve evidence.
- (h) Establish an outer perimeter and evacuate if necessary.
- (i) Identify witnesses.

##### **407.7.2 NOTIFICATIONS**

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

- Fire department
- Bomb squad
- Additional department personnel, such as investigators and forensic services
- Field supervisor
- Other law enforcement agencies, including local, state or federal agencies, such as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Other government agencies, as appropriate



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### **407.8 CROWD CONTROL**

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

#### **407.8.1 PRESERVATION OF EVIDENCE**

As in any other crime scene, steps should immediately be taken to preserve the scene. The on scene supervisor or designee should assign officers to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be embedded in nearby structures or hanging in trees and bushes.

## Crisis Intervention Incidents

### 408.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

#### 408.1.1 DEFINITIONS

Definitions related to this policy include:

**Person in crisis** - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; noncompliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

### 408.2 POLICY

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

### 408.3 SIGNS

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

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

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Members should be aware that this list is not exhaustive. The presence or absence of any of these signs should not be treated as proof of the presence or absence of a mental health issue or crisis.

#### **408.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS**

The Chief of Police should designate an appropriate Bureau Commander to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources to guide department interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis (Va. Code § 9.1-187).

#### **408.5 FIRST RESPONDERS**

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

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

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

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

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#### **408.6 DE-ESCALATION**

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm and courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (i.e., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

#### **408.7 INCIDENT ORIENTATION**

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

- (a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.
- (b) Whether there have been prior incidents or suicide threats/attempts, and whether there has been previous police response.
- (c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

#### **408.8 SUPERVISOR RESPONSIBILITIES**

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

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- (a) Attempt to secure appropriate and sufficient resources.
- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- (c) Absent an imminent threat to the public, consider strategic disengagement. This may include removing or reducing law enforcement resources or engaging in passive monitoring.
- (d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.
- (e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Chief of Police.
- (f) Evaluate whether a critical incident stress management debriefing for involved members is warranted.

#### **408.9 INCIDENT REPORTING**

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

##### **408.9.1 DIVERSION**

Individuals who are not being arrested should be processed in accordance with the Civil Commitments Policy.

Members encountering a person who is sufficiently stable, and who is not arrested or committed, should provide information and direction for appropriate emergency self-help treatment services (Va. Code § 9.1-189).

#### **408.10 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS**

Non-sworn or clerical members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request and animal control issues.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.
- (c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person

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may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

#### **408.11 EVALUATION**

The Bureau Commander designated to coordinate the crisis intervention strategy for this department should ensure that a thorough review and analysis of the department response to these incidents is routinely conducted. The report will not include identifying information pertaining to any involved individuals, officers or incidents and will be submitted to the Chief of Police through the chain of command.

#### **408.12 TRAINING**

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis.

## Civil Commitments

### 409.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may place a person under an emergency custody civil commitment.

### 409.2 POLICY

It is the policy of the Wintergreen Police Department to protect the public and individuals through legal and appropriate use of the civil commitment process.

### 409.3 AUTHORITY

An officer, based upon his/her observations or the reliable report of others, may take a person into emergency custody for a civil commitment when there is probable cause to believe a person meets the criteria established by state law, which include (Va. Code § 16.1-340(G); Va. Code § 37.2-808(G)):

- (a) The person has a mental illness and because of that mental illness, either:
  - 1. Is a danger to him/herself or others, as evidenced by recent conduct.
  - 2. Is unable to care for him/herself or to protect him/herself from harm.
- (b) The person is in need of treatment.
- (c) The person is unwilling to volunteer or incapable of volunteering for treatment.

If an officer takes a person into emergency custody for a civil commitment, the officer shall transport the person to an appropriate designated location to assess the need for hospitalization or treatment. The officer shall ensure that the Community Services Board (CSB) responsible for conducting the evaluation is notified as soon as practicable once the person is taken into custody (Va. Code § 16.1-340(I); Va. Code § 37.2-808(J)).

An adult taken into emergency custody for a civil commitment shall be provided with a written summary of the emergency custody procedures and the statutory protections associated with those procedures (Va. Code § 37.2-808(M)).

An officer shall also take a person into custody when a court order is issued by any magistrate authorizing emergency custody or temporary detention for a civil commitment. The officer shall then transport the person to the designated medical facility or transfer custody of the person to the alternative transportation provider identified in the order (Va. Code § 16.1-340; Va. Code § 16.1-340.1; Va. Code § 16.1-340.2; Va. Code § 37.2-808; Va. Code § 37.2-809; Va. Code § 37.2-810).

#### 409.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for a civil commitment, he/she may inquire as to whether the person desires to be voluntarily evaluated at an appropriate facility. If the person so desires, the officer should:

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- (a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person.
- (b) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

If at any point the person changes his/her mind regarding voluntary evaluation, the officers should proceed with an emergency custody for civil commitment evaluation, if appropriate (Va. Code § 16.1-340; Va. Code § 37.2-808).

The officer shall ensure that the CSB responsible for conducting the voluntary evaluation is notified as soon as practicable once the person is taken into custody (Va. Code § 16.1-340(I); Va. Code § 37.2-808(J)).

#### **409.4 CONSIDERATIONS AND RESPONSIBILITIES**

Any officer handling a call involving a person who may qualify for detention for the purpose of civil commitment should consider, as time and circumstances reasonably permit:

- (a) Available information that might assist in determining the possible cause and nature of the person's action or stated intentions.
- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Community or other resources that may be readily available to assist with mental health issues.
- (e) Crisis intervention team programs (Va. Code § 9.1-187).

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

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

#### **409.5 TRANSPORTATION**

When transporting any individual for a civil commitment, the transporting officer should have the Communication Center notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Officers may transport individuals in the patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, Supervisor approval is required before transport commences.

#### **409.6 TRANSFER TO APPROPRIATE FACILITY**

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



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provide the staff member with the written application for a civil commitment and remain present to provide clarification of the grounds for detention, upon request.

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

#### **409.7 DOCUMENTATION**

The officer should complete all applicable forms for the emergency custody for civil commitment, provide it to the facility staff member assigned to the individual and retain a copy for inclusion in the case report.

The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

The officer should notify a supervisor regarding the circumstances of the incident and the action taken during the investigation.

#### **409.8 CRIMINAL OFFENSES**

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken into custody for a civil commitment should resolve the criminal matter by issuing a warning or a summons, as appropriate.

When an individual who may qualify for a civil commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the detention.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a civil commitment.

In the supervisor's judgment, the individual may instead be transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard), and other relevant factors in making this decision.

#### **409.9 FIREARMS AND OTHER WEAPONS**

Whenever a person is taken into custody for a civil commitment, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

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Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful warrantless entry has already been made (e.g., exigent circumstances, consent). A warrant may also be needed before searching for or seizing weapons.

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

#### **409.10 TRAINING**

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

## Summons Releases and Alternatives to Arrest

### 410.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of the Wintergreen Police Department with guidance on when to release adults who are suspected offenders on a summons for a criminal offense, rather than having the person held in custody for a court appearance or released on bail.

Additional release restrictions may apply to those detained for domestic violence, as outlined in the Domestic or Family Violence Policy.

### 410.2 POLICY

The Wintergreen Police Department will consider its resources and its mission of protecting the community when exercising any discretion to release suspected offenders on a summons, when authorized to do so.

### 410.3 RELEASE

A suspected offender shall be released in the field on a summons for any misdemeanor violation of the Code of Virginia or local ordinance unless there is a statutory exception allowing a full custodial arrest. These exceptions include driving a vehicle while intoxicated, public drunkenness, a warrant authorizing custody, or circumstances where an officer can articulate a reasonable belief that the person arrested will continue to commit the unlawful act (Va. Code § 19.2-74).

Full custodial arrests for misdemeanors punishable by jail may be made if the officer can articulate a reasonable belief that the person will fail to appear in court on the person's promise to appear in court. This may include those instances where a person is attempting to hide the person's identity. Full custodial arrests may also be made if the officer can articulate a reasonable belief that the person is likely to cause harm to the person or to any other person.

Full custodial arrest shall be made if the person refuses to give a written promise to appear (Va. Code § 19.2-74).

### 410.4 CONSIDERATIONS

In determining whether to release a person on a promise to appear in court and when discretion is permitted, officers should consider:

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

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### **410.5 ALTERNATIVES**

Alternatives to arrest: Under certain circumstances, officers are faced with situations where an arrest will not be possible. In such cases, officers may elect to exercise certain alternatives such as the issuance of summonses, referral to a social service agency, or simply to give a warning. Examples: Mentally or emotionally disturbed persons, domestic situations where counseling may be appropriate except where probable cause requires an arrest, juvenile offenders, transient persons who need shelter and food and certain misdemeanor cases

# Foreign Diplomatic and Consular Representatives

## 411.1 PURPOSE AND SCOPE

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

## 411.2 POLICY

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

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

## 411.3 CLAIMS OF IMMUNITY

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

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

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

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#### **411.4 ENFORCEMENT ACTION**

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

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

#### **411.5 DOCUMENTATION**

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

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#### **411.6 DIPLOMATIC IMMUNITY**

Reference table on diplomatic immunity:

<b>Category</b>	<b>Arrested or Detained</b>	<b>Enter Residence Subject to Ordinary Procedures</b>	<b>Issued Traffic Citation</b>	<b>Subpoenaed as Witness</b>	<b>Prosecuted</b>	<b>Recognized Family Members</b>
<b>Diplomatic Agent</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Member of Admin and Tech Staff</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Service Staff</b>	Yes (note (a))	Yes	Yes	Yes	No for official acts Yes otherwise (note (a))	No immunity or inviolability (note (a))
<b>Career Consul Officer</b>	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts Yes otherwise (note (a))	No immunity or inviolability
<b>Honorable Consul Officer</b>	Yes	Yes	Yes	No for official acts Yes otherwise	No for official acts Yes otherwise	No immunity or inviolability
<b>Consulate Employees</b>	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise	No for official acts Yes otherwise (note (a))	No immunity or inviolability (note (a))
<b>Int'l Org Staff (note (b))</b>	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts Yes otherwise (note (c))	No immunity or inviolability

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<b>Diplomatic-Level Staff of Missions to Int'l Org</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity and inviolability)
<b>Support Staff of Missions to Int'l Orgs</b>	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

- (a) This table represents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety or the prevention of serious criminal acts.
- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.



## Rapid Response and Deployment

### 412.1 PURPOSE AND SCOPE

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

### 412.2 POLICY

The Wintergreen Police Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those who are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Department in protecting themselves or others from death or serious injury.

### 412.3 CONSIDERATIONS

When dealing with a crisis situation members should:

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

### 412.4 FIRST RESPONSE

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

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

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

When deciding on a course of action officers should consider:

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- (a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advancement or engagement should be based on information known or received at the time.
- (b) Whether to wait for additional resources or personnel. This does not preclude an individual officer from taking immediate action.
- (c) Whether individuals who are under imminent threat can be moved or evacuated with reasonable safety.
- (d) Whether the suspect can be contained or denied access to victims.
- (e) Whether the officers have the ability to effectively communicate with other personnel or resources.
- (f) Whether planned tactics can be effectively deployed.
- (g) The availability of rifles, shotguns, shields, breaching tools, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

In the case of a barricaded or trapped suspect, with no hostages and no immediate threat to others, officers should consider covering escape routes and evacuating persons as appropriate, while summoning and waiting for additional assistance (e.g., special tactics and/or hostage negotiation team response).

#### **412.5 PLANNING**

The Field Operations Bureau Commander should coordinate critical incident planning. Planning efforts should consider:

- (a) Identification of likely critical incident target sites, such as schools, shopping centers, entertainment venues and sporting event venues.
- (b) Availability of building plans and venue schematics of likely critical incident target sites.
- (c) Communications interoperability with other law enforcement and emergency service agencies.
- (d) Training opportunities in critical incident target sites, including joint training with site occupants.
- (e) Evacuation routes in critical incident target sites.
- (f) Patrol first-response training.
- (g) Response coordination and resources of emergency medical and fire services.
- (h) Equipment needs.
- (i) Mutual aid agreements with other agencies.
- (j) Coordination with private security providers in critical incident target sites.

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#### **412.6 TRAINING**

The Training Supervisor should include rapid response to critical incidents in the training plan. This training should address:

- (a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment venues and sporting event venues.
- (b) Communications interoperability with other law enforcement and emergency service agencies.
- (c) Patrol first-response training, including patrol rifle, shotgun, breaching tool and control device training.
- (d) First aid, including gunshot trauma.
- (e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).

#### **412.7 SUPPLIES AND EQUIPMENT**

The Field Operations Bureau Commander should ensure that supplies and equipment required for support of rapid response and deployment events are identified and properly stored in a location and manner to ensure operational readiness. These supplies and equipment should be inspected and inventoried no less than semi-annually and any deficiencies should be promptly resolved.

##### **412.7.1 STORED DEPARTMENT OFFICE PROPERTY**

[Insert your agency's list of stored agency property consistent with standard ADM.19.03 – see the Guide Sheet for additional guidance.]

## Immigration Violations

### 413.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Wintergreen Police Department relating to immigration and interacting with federal immigration officials.

### 413.2 POLICY

It is the policy of the Wintergreen Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

### 413.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or Virginia constitutions.

#### 413.3.1 INQUIRING INTO IMMIGRATION STATUS OF VICTIMS OR WITNESSES

No officer should, in connection with the report, investigation, or prosecution of a crime, inquire into the immigration status of a victim or witness or a parent or guardian of a victim or witness (Va. Code § 19.2-11.02). However, officers may still inquire into the immigration status of a parent or guardian suspected of committing a crime against a minor victim, as well as enforce or implement the provisions of Va. Code § 18.2-59, Va. Code § 18.2-308.09(10), and Va. Code § 18.2-308.2:2(B1) (Va. Code § 19.2-11.02).

### 413.4 DETENTIONS

An officer should not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant.

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of federal immigration law may detain the person for a reasonable period of time in order to contact federal immigration officials to verify whether an immigration violation is a federal civil violation or a criminal violation. If the violation is a criminal violation, the officer may continue to detain the person for a reasonable period of time if requested by federal immigration officials (8 USC § 1357(g)(10)). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has committed a criminal immigration offense, he/she may continue the detention and

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may request a federal immigration official to respond to the location to take custody of the detained person (8 USC § 1357(g)(10)).

An officer is encouraged to forgo detentions made solely on the basis of a misdemeanor offense when time limitations, availability of personnel, issues of officer safety, communication capabilities, or the potential to obstruct a separate investigation outweigh the need for the detention.

An officer should notify a supervisor as soon as practicable whenever an individual is being detained for a criminal immigration violation.

#### **413.4.1 SUPERVISOR RESPONSIBILITIES**

When notified that an officer has detained an individual and established reasonable suspicion or probable cause to believe the person has violated a criminal immigration offense, the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Lawfully arrest the person for a criminal offense or pursuant to a judicial warrant (see the Law Enforcement Authority Policy).

#### **413.4.2 PREVIOUSLY DEPORTED FELONS**

Officers lawfully detaining a person discovered to be an alien illegally present in the United States who was deported or left the United States after the felony conviction should notify a supervisor of the circumstances. The supervisor may approve custody under Va. Code § 19.2-81.6 if federal immigration officials verify the person's presence in the United States qualifies as a federal criminal act and the federal immigration official indicates a federal criminal hold will be sought.

#### **413.5 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT**

Generally, an officer should not notify federal immigration officials when booking arrestees at a jail facility. Any required notification will be handled according to jail operation procedures. No individual who is otherwise ready to be released should continue to be detained solely for the purpose of notification.

#### **413.6 FEDERAL REQUESTS FOR ASSISTANCE**

Requests by federal immigration officials for assistance from this department should be directed to a supervisor. The Department may provide available support services, such as traffic control or peacekeeping efforts.

#### **413.7 INFORMATION SHARING**

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials
- (b) Maintaining such information in department records

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- (c) Exchanging such information with any other federal, state, or local government entity

#### **413.7.1 IMMIGRATION DETAINERS**

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 unless the person has been charged with a federal crime or the detainer is accompanied by a warrant, affidavit of probable cause, or removal order. Notification to the federal authority issuing the detainer should be made prior to the release.

#### **413.8 U VISA AND T VISA NONIMMIGRANT STATUS**

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Investigations supervisor assigned to oversee the handling of any related case. The Investigations supervisor should:

- (a) Consult with the assigned Officer to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.
  - 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

#### **413.9 TRAINING**

The Training Supervisor should ensure officers receive training on this policy.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration offense has been committed.

## Utility Service Emergencies

### 414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for addressing Wintergreen utility service emergencies. This policy will address calls for service that are directed to the Police Department.

### 414.2 POLICY

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

### 414.3 UTILITY SERVICE EMERGENCY

A current contact list of personnel to be notified in the event of a utility service emergency should be available in the Communication Center.

#### 414.3.1 ELECTRICAL LINES

When a power line poses a hazard, a member of this department should be dispatched to the reported location to protect against personal injury or property damage that might be caused by the power line. The fire department, electric company and/or the public works department should be promptly notified, as appropriate.

#### 414.3.2 NATURAL GAS LINES

All reports of a possible leak of natural gas or damage to a natural gas line shall promptly be referred to the fire department and the local entity responsible for gas lines. A member of this department should be dispatched to the reported location if it appears that assistance such as traffic control or evacuation is needed.

#### 414.3.3 TRAFFIC SIGNALS

A member of this department should be dispatched upon report of a damaged or malfunctioning traffic signal in order to protect against personal injury or property damage that might occur as the result of the damaged or malfunctioning signal. The member will advise the Communication Center of the problem with the traffic signal. The dispatcher should make the necessary notification to the appropriate traffic signal maintenance agency as soon as practicable.

## Aircraft Accidents

### 415.1 PURPOSE AND SCOPE

The purpose of this policy is to provide department members with guidelines for handling aircraft accidents.

This policy does not supersede, and is supplementary to, applicable portions of the Crime and Disaster Scene Integrity, Emergency Operations Plan and Hazardous Material Response policies.

#### 415.1.1 DEFINITIONS

Definitions related to this policy include:

**Aircraft** - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

### 415.2 POLICY

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

### 415.3 ARRIVAL AT SCENE

Officers or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

- (a) Protect persons and property.
- (b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.
- (c) Preserve ground scars and marks made by the aircraft.
- (d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.
- (e) Maintain a record of persons who enter the accident site.
- (f) Consider implementation of an Incident Command System (ICS).

### 415.4 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the Virginia State Police (VSP) and the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.



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#### **415.5 NOTIFICATIONS**

When an aircraft accident is reported to this department, the responding supervisor shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), the VSP, and when applicable, the appropriate branch of the military.

Supervisors shall ensure other notifications are made once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft accident has occurred, it is generally necessary to notify the following:

- (a) Fire department
- (b) Appropriate airport tower
- (c) Emergency medical services (EMS)

#### **415.6 CONTROLLING ACCESS AND SCENE AUTHORITY**

Prior to NTSB and VSP arrival, scene access should be limited to authorized personnel from the:

- (a) FAA.
- (b) Fire department, EMS or other assisting law enforcement agencies.
- (c) Medical Examiner.
- (d) Air Carrier/Operators investigative teams with NTSB approval.
- (e) Appropriate branch of the military, when applicable.
- (f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB and the VSP have the primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft accident, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB, VSP or military representative arrives on-scene, the efforts of this department will shift to a support role for those agencies.

If NTSB, VSP or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene department supervisor should ensure the accident is still appropriately investigated and documented.

#### **415.7 DANGEROUS MATERIALS**

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

- Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.

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

#### **415.8 DOCUMENTATION**

All aircraft accidents occurring within Wintergreen shall be documented. At a minimum the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of WPD members deployed to assist; other resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

##### **415.8.1 WRECKAGE**

When reasonably safe, members should:

- (a) Obtain the aircraft registration number (N number) and note the type of aircraft.
- (b) Attempt to ascertain the number of casualties.
- (c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.
  1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).
- (d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.
- (e) Acquire copies of any recordings from security cameras that may have captured the incident.

##### **415.8.2 WITNESSES**

Members tasked with contacting witnesses should obtain:

- (a) The location of the witness at the time of his/her observation relative to the accident site.
- (b) A detailed description of what was observed or heard.
- (c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.
- (d) The names of all persons reporting the accident, even if not yet interviewed.
- (e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

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### **415.9 MEDIA RELATIONS**

The Chief of Police or designee should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the surrounding community. Any release of information regarding details of the accident itself should be coordinated with the NTSB and VSP or other authority who may have assumed responsibility for the investigation.

Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The Chief of Police or designee should coordinate with other involved entities before the release of information.

## Field Training

### 416.1 PURPOSE AND SCOPE

This policy provides guidelines for field training that ensure standardized training and evaluation; facilitate the transition from the academic setting to the actual performance of general law enforcement duties; and introduce the policies, procedures and operations of the Wintergreen Police Department. The policy addresses the administration of field training and the selection, supervision, training and responsibilities of the Field Training Officer (FTO).

### 416.2 POLICY

It is the policy of the Wintergreen Police Department that all newly hired or appointed officer trainees will participate in field training that is staffed and supervised by trained and qualified FTOs.

### 416.3 FIELD TRAINING

The Department shall establish minimum standards for field training, which should be of sufficient duration to prepare officer trainees for law enforcement duties and be in compliance with Virginia Department of Criminal Justice Services requirements. The field training is designed to prepare trainees for a patrol assignment and ensure they acquire the skills needed to operate in a safe, productive and professional manner, in accordance with the general law enforcement duties of this department.

To the extent practicable, field training should include procedures for:

- (a) Issuance of training materials to each trainee at the beginning of his/her field training.
- (b) Daily, weekly and monthly evaluation and documentation of the trainee's performance.
- (c) A multiphase structure that includes:
  1. A formal evaluation progress report completed by the FTOs involved with the trainee and submitted to the Training Supervisor and FTO coordinator.
  2. Assignment of the trainee to a variety of shifts.
  3. Assignment of the trainee to a rotation of FTOs in order to provide for an objective evaluation of the trainee's performance.
- (d) The trainee's confidential evaluation of his/her assigned FTOs and the field training process.
- (e) Retention of all field training documentation in the officer trainee's training file including:
  1. All performance evaluations.
  2. Documentation certifying that the trainee has successfully completed the required number of field training hours.

### 416.4 FTO COORDINATOR

The Chief of Police shall delegate certain responsibilities to an FTO coordinator.

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The FTO coordinator may appoint a senior FTO or other designee to assist in the coordination of FTOs and their activities.

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

- (a) Assignment of trainees to FTOs.
- (b) Conducting FTO meetings.
- (c) Maintaining and ensuring FTO and trainee performance evaluations are completed.
- (d) Maintaining, updating and issuing department training materials to each FTO and trainee.
- (e) Developing ongoing training for FTOs.
- (f) Mentoring and supervising individual FTO performance.
- (g) Monitoring the overall performance of field training.
- (h) Maintaining a liaison with FTO coordinators from other law enforcement agencies.
- (i) Maintaining a liaison with police academy staff on recruit officer performance during academy attendance.
- (j) Performing other activities as may be directed by the Field Operations Bureau Commander.

#### **416.5 FTO SELECTION, TRAINING AND RESPONSIBILITIES**

##### **416.5.1 SELECTION PROCESS**

The selection of an FTO will be at the discretion of the Chief of Police or the authorized designee. Selection will be based on the officer's:

- (a) Desire to be an FTO.
- (b) Experience, which shall include a minimum of four years of patrol experience, two of which shall be with this department.
- (c) Demonstrated ability as a positive role model.
- (d) Successful completion of an internal oral interview process.
- (e) Evaluation by supervisors and current FTOs.
- (f) Possession of, or ability to obtain, department-approved certification.

An FTO must remain in good standing and may be relieved from FTO duties due to discipline, inappropriate conduct or poor performance.

##### **416.5.2 TRAINING**

An officer selected as an FTO shall successfully complete the minimum training standards established by the Department of Criminal Justice Services prior to being assigned as an FTO (6 VAC 20-280-20).

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All FTOs must complete an FTO update course established by the Department of Criminal Justice Services every three years while assigned to the position of FTO (6 VAC 20-280-70).

#### 416.5.3 TRAINING MATERIALS

The FTO shall receive training materials outlining the requirements, expectations and objectives of the FTO position. FTOs should refer to their training materials or the FTO coordinator regarding specific questions related to FTO or field training.

#### 416.5.4 PROVISIONAL FIELD TRAINING OFFICER

If a situation arises where the Department does not have an officer who has completed the minimum training requirements for an FTO, the Department may temporarily provide field training with an officer who has been certified as a provisional FTO by the Department of Criminal Justice Services until a fully trained FTO is available (6 VAC 20-280-30).

#### 416.5.5 RESPONSIBILITIES

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

- (a) Issuing his/her assigned trainee field training materials in accordance with the Training Policy.
  1. The FTO shall ensure that the trainee has the opportunity to become knowledgeable of the subject matter and proficient with the skills as set forth in the training materials.
  2. The FTO shall sign off on all completed topics contained in the training materials, noting the methods of learning and evaluating the performance of his/her assigned trainee.
- (b) Completing and reviewing daily performance evaluations with the trainee.
- (c) Completing and submitting a written evaluation on the performance of his/her assigned trainee to the FTO coordinator on a daily basis.
- (d) Completing a detailed weekly performance evaluation of his/her assigned trainee at the end of each week.
- (e) Completing a monthly evaluation report of his/her assigned trainee at the end of each month.
- (f) Providing the shift supervisor with a verbal synopsis of the trainee's activities at the end of each day or during any unusual occurrence needing guidance or clarification.

## Air Support

### 417.1 PURPOSE AND SCOPE

The use of air support can be invaluable in certain situations. This policy specifies situations where the use of air support may be requested and the responsibilities for making a request.

### 417.2 POLICY

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

### 417.3 REQUEST FOR AIR SUPPORT

If a supervisor or officer in charge of an incident determines that the use of air support would be beneficial, a request to obtain air support may be made.

#### 417.3.1 CIRCUMSTANCES FOR REQUESTS

Law enforcement air support may be requested under conditions that include, but are not limited to:

- (a) When the safety of officers or the community is in jeopardy and the presence of air support may reduce such hazard.
- (b) When the use of air support will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to officers or the community.
- (c) When air support is needed to locate a person who is lost and whose continued absence constitutes a serious health or safety hazard.
- (d) Vehicle pursuits.
- (e) Pre-planned events or actions that require air support.
- (f) Due to a request under an existing mutual aid agreement.
- (g) When a supervisor determines a reasonable need exists.

#### 417.3.2 ALLIED AGENCY REQUEST

After consideration and approval of the request for air support, the supervisor or the authorized designee will call the closest agency having available air support and will apprise that agency of the specific details of the incident prompting the request.

## Contacts and Temporary Detentions

### 418.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

#### 418.1.1 DEFINITIONS

Definitions related to this policy include:

**Consensual encounter** - When an officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

**Field interview (FI)** - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the officer's suspicions.

**Field photographs** - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio/Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

**Pat-down search** - A type of search used by officers in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

**Reasonable suspicion** - When, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

**Temporary detention** - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person's freedom of movement.

### 418.2 POLICY

The Wintergreen Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete an FI, pat-down search or field photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations and constitutional safeguards.



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#### **418.3 FIELD INTERVIEWS**

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Wintergreen Police Department to strengthen community involvement, community awareness and problem identification.

##### **418.3.1 INITIATING A FIELD INTERVIEW**

When initiating the stop, the officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act.
- (b) Actions suggesting that he/she is engaged in a criminal activity.
- (c) Presence in an area at an inappropriate hour of the day or night.
- (d) Presence in a particular area is suspicious.
- (e) Carrying of suspicious objects or items.
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon.
- (g) Location in proximate time and place to an alleged crime.
- (h) Physical description or clothing worn that matches a suspect in a recent crime.
- (i) Prior criminal record or involvement in criminal activity as known by the officer.

#### **418.4 PAT-DOWN SEARCHES**

Once a valid stop has been made, and consistent with the officer's training and experience, an officer may pat a suspect's outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of weapons is involved.
- (b) Where more than one suspect must be handled by a single officer.
- (c) The hour of the day and the location or area where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.
- (e) The actions and demeanor of the suspect.

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- (f) Visual indications which suggest that the suspect is carrying a firearm or other dangerous weapon.

Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

#### **418.5 FIELD PHOTOGRAPHS**

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer shall carefully consider, among other things, the factors listed below.

##### **418.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT**

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should have the individual read and sign the appropriate form accompanying the photograph.

##### **418.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT**

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

##### **418.5.3 DISPOSITION OF PHOTOGRAPHS**

All detainee photographs must be adequately labeled and submitted to the Field Operations Bureau Commander with either an associated FI card or other documentation explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation where a case number has been issued, the Field Operations Bureau Commander should review and forward the photograph to one of the following locations:

- (a) If the photograph and associated FI or documentation is relevant to criminal organization/enterprise enforcement, the Field Operations Bureau Commander will forward the photograph and documents to the Investigations supervisor. The supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy.

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- (b) Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the Chief of Police.

When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be retained in accordance with the established records retention schedule.

#### **418.5.4 SUPERVISOR RESPONSIBILITIES**

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken.

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

#### **418.6 WITNESS IDENTIFICATION AND INTERVIEWS**

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

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

## Criminal Organizations

### 419.1 PURPOSE AND SCOPE

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

#### 419.1.1 DEFINITIONS

Definitions related to this policy include:

**Criminal intelligence system** - Any record system that receives, stores, exchanges or disseminates information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates. This does not include temporary information files.

### 419.2 POLICY

The Wintergreen Police Department recognizes that certain criminal activities, including, but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this department to collect and share relevant information while respecting the privacy and legal rights of the public.

While minor vice and narcotics violations may be effectively dealt with at the patrol level, offenses of a greater magnitude and all cases involving alleged organized criminal activity may dictate investigation by highly trained and specialized personnel. The Field Operations Bureau Commander will evaluate all cases and determine who will be responsible to fully investigate the incident.

### 419.3 CRIMINAL INTELLIGENCE SYSTEMS

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

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

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

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

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##### 419.3.1 SYSTEM ENTRIES

It is the designated supervisor's responsibility to approve the entry of any information from a report, field interview (FI), photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, such as open or public source documents or documents that are on file at another agency, the designated supervisor should ensure copies of those documents are retained by the Office of the Chief of Police. Any supporting documentation for an entry shall be retained by the Office of the Chief of Police in accordance with the established records retention schedule and for at least as long as the entry is maintained in the system.

The designated supervisor should ensure that any documents retained by the Office of the Chief of Police are appropriately marked as intelligence information. The Chief of Police may not purge such documents without the approval of the designated supervisor.

##### **419.4 TEMPORARY INFORMATION FILE**

No member may create or keep files on individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the department-approved criminal intelligence system only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of criminal intelligence system entries.

##### 419.4.1 FILE CONTENTS

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

Information and documents contained in a temporary information file:

- (a) Must only be included upon documented authorization of the responsible department supervisor.
- (b) Should not be originals that would ordinarily be retained by the Office of the Chief of Police or Property and Evidence Section, but should be copies of, or references to, retained documents, such as copies of reports, FI forms, the Communication Center records or booking forms.
- (c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.
- (d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

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##### **419.4.2 FILE REVIEW AND PURGING**

The contents of a temporary information file shall not be retained longer than one year. At the end of one year, the contents must be purged.

The designated supervisor shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the supervisor.

##### **419.5 INFORMATION RECOGNITION**

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

- (a) Gang indicia associated with a person or residence.
- (b) Information related to a drug-trafficking operation.
- (c) Vandalism indicating an animus for a particular group.
- (d) Information related to an illegal gambling operation.

Department supervisors who utilize an authorized criminal intelligence system should work with the Training Supervisor to train members to identify information that may be particularly relevant for inclusion.

##### **419.6 RELEASE OF INFORMATION**

Department members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

Information from a temporary information file may only be furnished to department members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

##### **419.7 CRIMINAL STREET GANGS**

The Investigations supervisor should ensure that there are an appropriate number of department members who can:

- (a) Testify as experts on matters related to criminal street gangs, and maintain an above-average familiarity with criminal street gang activities, membership and predicate criminal street gang crimes (Va. Code § 18.2-46.1).
- (b) Coordinate with other agencies in the region regarding criminal street gang-related crimes and information.

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- (c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.

#### **419.8 REPORTS TO THE CHIEF OF POLICE**

The Investigations Bureau Commander should complete and submit an annual report to the Chief of Police regarding investigative reports and activities involving vice, drugs and organized crimes. The Investigations Bureau Commander should periodically brief the Chief of Police regarding sensitive investigations involving vice, drugs, organized crimes and other major criminal activities.

#### **419.9 TRAINING**

The Training Supervisor should provide training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

- (a) The protection of civil liberties.
- (b) Participation in a multi-agency criminal intelligence system.
- (c) Submission of information into a multi-agency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.
- (d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.
- (e) The review and purging of temporary information files.

## Portable Audio/Video Recorders

### 420.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand-held, or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews, or interrogations conducted at any Wintergreen Police Department facility, authorized undercover operations, wiretaps, or eavesdropping (concealed listening devices).

This policy provides guidelines consistent with Va. Code § 15.2-1723.1 which requires the adoption of a policy before a body-worn recording system may be purchased or deployed.

### 420.2 POLICY

The Wintergreen Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

### 420.3 COORDINATOR

The Chief of Police or the authorized designee should designate a coordinator responsible for:

- (a) Establishing procedures for the security, storage and maintenance of data and recordings.
- (b) Establishing procedures for accessing data and recordings.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging or marking events.

### 420.4 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity of this department, regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

### 420.5 MEMBER RESPONSIBILITIES

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



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

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

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

#### **420.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER**

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

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

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

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

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

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##### **420.6.1 CESSATION OF RECORDING**

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

##### **420.6.2 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER**

Virginia law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Va. Code § 19.2-62).

Members may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

##### **420.6.3 EXPLOSIVE DEVICE**

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

#### **420.7 PROHIBITED USE OF PORTABLE RECORDERS**

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in an official capacity. Misuse of department-issued portable recorders and recording media may result in civil and criminal liability (Va. Code § 19.2-63.1).

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Chief of Police. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

#### **420.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

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A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

#### **420.9 RETENTION OF RECORDINGS**

All recordings shall be retained for a period consistent with the requirements of the established records retention schedule but in no event for a period less than 180 days.

##### **420.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS**

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

#### **420.10 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource (See the Officer-Involved Shootings and Deaths Policy for guidance in those cases).

However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing a member's performance.

Recorded files may also be reviewed:

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

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## *Portable Audio/Video Recorders*

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All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy).

## Public Recording of Law Enforcement Activity

### 421.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

### 421.2 POLICY

The Wintergreen Police Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Officers should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

### 421.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

- (a) Recordings may be made from any public place or any private property where the individual has the legal right to be present.
- (b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
  - 1. Tampering with a witness or suspect.
  - 2. Inciting others to violate the law.
  - 3. Being so close to the activity as to present a clear safety hazard to the officers.
  - 4. Being so close to the activity as to interfere with an officer's effective communication with a suspect or witness.
- (c) The individual may not present an undue safety risk to the officer, him/herself or others.

### 421.4 OFFICER RESPONSE

Officers should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For

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#### *Public Recording of Law Enforcement Activity*

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example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

#### **421.5 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of department members, such as how and where to file a complaint.

#### **421.6 SEIZING RECORDINGS AS EVIDENCE**

Officers should not seize recording devices or media unless (42 USC § 2000aa):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
  1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
  1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
  2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

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## *Public Recording of Law Enforcement Activity*

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

## Automated License Plate Readers (ALPRs)

### 422.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 422.2 POLICY

The policy of the Wintergreen Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

### 422.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Wintergreen Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Field Operations Bureau Commander. The Field Operations Bureau Commander will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

### 422.4 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use, the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped vehicles to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.



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#### *Automated License Plate Readers (ALPRs)*

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- (e) No ALPR operator may access confidential department, state or federal data unless authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the appropriate official law enforcement database before taking enforcement action that is based solely on an ALPR alert.

#### **422.5 DATA COLLECTION AND RETENTION**

The Field Operations Bureau Commander is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All stored ALPR data should be retained in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances, the applicable data should be downloaded onto portable media and booked into evidence.

#### **422.6 ACCOUNTABILITY**

All data will be closely safeguarded and protected by both procedural and technological means. The Wintergreen Police Department will observe the following safeguards regarding access to and use of stored data:

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (c) ALPR system audits should be conducted on a regular basis.

#### **422.7 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
  1. The name of the agency.
  2. The name of the person requesting.
  3. The intended purpose of obtaining the information.

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## *Automated License Plate Readers (ALPRs)*

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- (b) The request is reviewed by the Field Operations Bureau Commander or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy.

## Homeless Persons

### 423.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that department members understand the needs and rights of the homeless, and to establish procedures to guide them during all contacts with the homeless, whether consensual or for enforcement purposes.

This policy establishes a liaison to the homeless community, addresses the responsibilities of the department member appointed to act as a liaison to the homeless, and details the need for special protection and services for homeless persons.

### 423.2 POLICY

It is the policy of the Wintergreen Police Department to protect the rights, dignity and private property of all members of the community, including people who are homeless. Abuse of authority to harass any member of the community will not be permitted. The Wintergreen Police Department will address the needs of homeless persons in balance with the overall mission of this department.

Homelessness is not a crime and members will not use homelessness as the sole basis for detention or law enforcement action.

### 423.3 LIAISON TO THE HOMELESS COMMUNITY

The Chief of Police shall delegate certain responsibilities to a liaison to the homeless community. The liaison shall be appointed by and directly responsible to the Field Operations Bureau Commander or the authorized designee.

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

- (a) Maintaining and making available to all department members a list of assistance programs and other resources that are available to homeless persons.
- (b) Meeting with social services and representatives of other organizations that render assistance to the homeless community.
- (c) Maintaining a list of the areas within and near the jurisdiction of this department that are used as frequent homeless encampments.
- (d) Remaining abreast of laws dealing with homelessness, including personal property rights.
- (e) Being present during any clean-up operation conducted by this department that involves the removal of personal property of the homeless. This is to ensure that the established rights of the homeless are not violated.
- (f) Developing training to assist members in understanding current legal and social issues relating to the homeless.

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#### *Homeless Persons*

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#### **423.4 FIELD CONTACTS**

Officers are encouraged to contact a homeless person to render aid, offer assistance or to check on the person's welfare. Officers also will take enforcement action when information supports a reasonable and articulable suspicion of criminal activity. However, such contacts shall not be used for harassment.

When encountering a homeless person who has committed a nonviolent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions, such as shelter referrals and counseling, in lieu of an arrest and criminal charges.

Officers should provide homeless persons with resources and assistance information whenever it is reasonably apparent that such services may be appropriate.

##### **423.4.1 CONSIDERATIONS**

A homeless person will receive the same level and quality of service provided to other members of the community. The fact that a victim, witness or suspect is homeless can, however, require special consideration for a successful investigation and prosecution. When handling investigations involving victims, witnesses or suspects who are homeless, officers should consider:

- (a) Documenting alternate contact information. This may include obtaining addresses and telephone numbers of relatives and friends.
- (b) Documenting locations the person may frequent.
- (c) Providing victim/witness resources, when appropriate.
- (d) Obtaining sufficient statements from all available witnesses in the event that a victim cannot be located and is unavailable for a court appearance.
- (e) Arranging for transportation for investigation-related matters, such as medical exams and court appearances.
- (f) Whether a crime should be reported and submitted for prosecution, even when a victim who is homeless indicates that he/she does not desire prosecution.
- (g) Whether the person may be an adult abuse victim and, if so, proceed in accordance with the Adult Abuse Policy.

#### **423.5 MENTAL HEALTH ISSUES**

When mental health issues are evident, officers should consider referring the person to the appropriate mental health agency or providing the person with contact information for mental health assistance, as appropriate. In these circumstances, officers may provide transportation to a mental health facility for voluntary evaluation if it is requested or offered and accepted by the person, and approved by a supervisor. Officers should consider detaining the person under civil commitment when facts and circumstances reasonably indicate such a detention is warranted (see the Civil Commitments Policy).

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#### *Homeless Persons*

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#### **423.6 PERSONAL PROPERTY**

The personal property of homeless persons must not be treated differently than the property of other members of the community. Officers should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, officers should make reasonable accommodations to permit the person to lawfully secure his/her personal property. Otherwise, it should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the officer, a supervisor should be consulted. The property should be photographed and measures should be taken to remove or secure it. It will be the supervisor's responsibility to coordinate its removal and safekeeping.

Officers should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the homeless liaison. When practicable, requests by the public for clean-up of a homeless encampment should be referred to the liaison.

Officers who encounter unattended encampments, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the liaison if such property appears to involve a trespass, is a blight to the community or is the subject of a complaint. It will be the responsibility of the liaison to address the matter in a timely fashion.

#### **423.7 ECOLOGICAL ISSUES**

Sometimes homeless encampments can have an impact on the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. A significant impact to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

## Medical Marijuana

### 424.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the acquisition, possession, transportation, delivery, production, or use of marijuana under Virginia's medical marijuana laws (Va. Code § 54.1-3400 et seq.).

#### 424.1.1 DEFINITIONS

Definitions related to this policy include (Va. Code § 54.1-3408.3; 18 VAC 110-60-10):

**Cannabis product** - A product that is produced by a pharmaceutical processor, registered with the Board of Pharmacy, and that is composed of cannabis oil, botanical cannabis, or other substances as allowed by Virginia law.

**Registered agent** - A designated individual registered with the Board of Pharmacy with authority to receive a cannabis product for a patient.

**Written certification** - A certification issued by a qualifying medical practitioner to a qualifying patient for the use of a cannabis product.

### 424.2 POLICY

It is the policy of the Wintergreen Police Department to prioritize resources to avoid making arrests related to marijuana that the arresting officer reasonably believes would not be prosecuted by state or federal authorities.

Virginia medical marijuana laws are intended to provide protection from prosecution to those who use, possess, deliver, or produce marijuana for treatment or to alleviate the symptoms of a patient's diagnosed medical condition or disease. However, Virginia medical marijuana laws do not affect federal laws, and there is no medical exception under federal law for the possession or distribution of marijuana. The Wintergreen Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under Virginia law and the resources of the Department.

### 424.3 INVESTIGATION

Investigations involving the possession, delivery, production, or use of marijuana generally fall into two categories:

- (a) Investigations when a medicinal claim is made.
- (b) Investigations when no person makes a medicinal claim.

#### 424.3.1 INVESTIGATIONS INVOLVING A MEDICAL CLAIM

Officers should not take enforcement action against a lawfully registered patient or registered agent who is able to provide sufficient proof of lawful registration for obtaining, possessing, transporting, or using medical marijuana (Va. Code § 54.1-3408.3; 18 VAC 110-60-50).

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#### *Medical Marijuana*

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Officers should investigate a claim made by a person that the person is lawfully qualified to possess marijuana for medical purposes when that person does not provide sufficient proof of lawful registration and should not take enforcement action against the person if the claim appears to be valid.

Employees of nursing homes, hospice, hospice facilities, and assisted living facilities who are authorized to possess, distribute, or administer medications to patients or residents are permitted to store, dispense, and administer medical marijuana to patients or residents issued written certifications and registered with the Board of Pharmacy (Va. Code § 18.2-251.1:2; Va. Code § 32.1-127; Va. Code § 32.1-162.6:1; Va. Code § 63.2-1803.01).

#### 424.3.2 INVESTIGATIONS WITH NO MEDICAL CLAIM

In any investigation involving the possession, delivery, production, or use of marijuana or drug paraphernalia where no person claims that the marijuana is used for medicinal purposes, the officer should proceed with a criminal investigation. Officers should consider that certain amounts may be permitted for personal use (Va. Code § 4.1-1100 et seq.). A medicinal defense may be raised at any time, so officers should document any statements and observations that may be relevant to whether the marijuana was possessed or produced for medicinal purposes.

#### **424.4 FEDERAL LAW ENFORCEMENT**

Officers should provide information regarding a marijuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

#### **424.5 EVIDENCE**

##### 424.5.1 MEMBER RESPONSIBILITIES

The investigating member should notify the receiving Property and Evidence Section member in writing when marijuana may be the subject of a medical claim.

##### 424.5.2 PROPERTYBUREAU SUPERVISOR RESPONSIBILITIES

The Property and Evidence Section supervisor should ensure that marijuana, drug paraphernalia, or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed. The Property and Evidence Section supervisor is not responsible for caring for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Property and Evidence Section supervisor should, as soon as practicable, return to the person from whom it was seized any useable marijuana, drug paraphernalia, or other related property.

The Property and Evidence Section supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Investigations supervisor.

## Medical Aid and Response

### 425.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons in need of medical aid and establishes a law enforcement response to such situations.

### 425.2 POLICY

It is the policy of the Wintergreen Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

### 425.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, ) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact the Communication Center and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide the Communication Center with information for relay to EMS personnel in order to enable an appropriate response, including:

- (a) The location where EMS is needed.
- (b) The nature of the incident.
- (c) Any known scene hazards.
- (d) Information on the person in need of EMS, such as:
  1. Signs and symptoms as observed by the member.
  2. Changes in apparent condition.
  3. Number of patients, sex, and age, if known.
  4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
  5. Whether the person is showing signs of extreme agitation or is engaging in violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel regarding whether to transport the person for treatment.



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#### *Medical Aid and Response*

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#### **425.4 TRANSPORTING ILL AND INJURED PERSONS**

Except in exceptional cases where alternatives are not reasonably available, members should not transport persons who are unconscious, who have serious injuries, or who may be seriously ill. EMS personnel should be called to handle patient transportation.

Officers should search any person who is in custody before releasing that person to EMS for transport.

An officer should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes, or when so directed by a supervisor.

Members should not provide emergency escort for medical transport or civilian vehicles.

#### **425.5 PERSONS REFUSING EMS CARE**

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an officer shall not force that person to receive medical care or be transported.

However, members may assist EMS personnel when EMS personnel determine the person lacks the mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the officer should consider proceeding with a civil commitment or an involuntary commitment in accordance with the Civil Commitments Policy.

If an officer believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The officer may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person who is in custody still refuses, the officer will require the person to be transported to the nearest medical facility. In such cases, the officer should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

#### **425.6 SICK OR INJURED ARRESTEE**

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

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#### *Medical Aid and Response*

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Arrestees who appear to have a serious medical issue should be transported by ambulance. Officers shall not transport an arrestee to a hospital without a supervisor's approval.

Nothing in this section should delay an officer from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the officer's training.

#### **425.7 MEDICAL ATTENTION RELATED TO USE OF FORCE**

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Conducted Energy Device policies.

#### **425.8 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION**

Trained members may administer opioid overdose medication to a person experiencing an opiate-related overdose in accordance with protocols developed by the Board of Pharmacy (Va. Code § 54.1-3408).

##### **425.8.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES**

Members who are qualified to administer opioid overdose medication, such as naloxone, should handle, store, and administer the medication consistent with their training. Members should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Training Supervisor.

Any member who administers an opioid overdose medication should contact the Communication Center as soon as possible and request response by EMS.

##### **425.8.2 OPIOID OVERDOSE MEDICATION REPORTING**

Any member administering opioid overdose medication should detail its use in an appropriate report.

##### **425.8.3 OPIOID OVERDOSE MEDICATION TRAINING**

The Training Supervisor should ensure training is provided to members authorized to administer opioid overdose medication.

#### **425.9 FIRST AID TRAINING**

Subject to available resources, the Training Supervisor should ensure officers receive periodic first aid training appropriate for their position.

## First Amendment Assemblies

### 426.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

### 426.2 POLICY

The Wintergreen Police Department respects the rights of people to peaceably assemble. It is the policy of this department not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

### 426.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter (Va. Const. art. I, § 12).

These rights may be limited by laws or ordinances regulating such matters as:

- Committing acts of terrorism (Va. Code § 18.2-46.5)
- Participating in paramilitary activity (Va. Code § 18.2-433.2)
- Rioting (Va. Code § 18.2-405)
- Committing acts of violence by a mob (Va. Code § 18.2-42.1)
- Partaking in unlawful assembly (Va. Code § 18.2-406)
- Displaying disorderly conduct (Va. Code § 18.2-415)
- Burning objects (Va. Code § 18.2-423.01)
- Wearing masks (Va. Code § 18.2-422)
- Unlawful picketing (Va. Code § 40.1-53)
- Crossing law enforcement lines (Va. Code § 18.2-414.2)
- Trespassing (Va. Code § 18.2-119)
- Obstructing free passage of others (Va. Code § 18.2-404)
- Resisting or obstructing execution of legal process (Va. Code § 18.2-409)

However, officers shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).

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#### *First Amendment Assemblies*

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- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential.

The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and to prevent the destruction of property.

Officers should not:

- (a) Engage in assembly or demonstration-related discussion with participants.
- (b) Harass, confront or intimidate participants.
- (c) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.

Supervisors should continually observe department members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

#### 426.3.1 PHOTOGRAPHS, VIDEO RECORDINGS AND OTHER INFORMATION

Photographs, video recordings and other information may be collected at assemblies and demonstrations as they can serve a number of purposes, such as support of criminal prosecutions, assistance in evaluating department performance, serving as training material, recording the use of dispersal orders and facilitating a response to allegations of improper law enforcement conduct.

Photographs, video recordings and other information shall not be maintained on the political, religious or social activities, views or associations of any individual, group or organization unless those activities, views or associations directly relate to an investigation of criminal activity and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

#### **426.4 UNPLANNED EVENTS**

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to:

- Location.
- Number of participants.
- Apparent purpose of the event.
- Leadership (whether it is apparent and/or whether it is effective).
- Any initial indicators of unlawful or disruptive activity.
- Indicators that lawful use of public facilities, streets or walkways will be impacted.
- Ability and/or need to continue monitoring the incident.

Initial assessment information should be promptly communicated to the Communication Center, and the assignment of a supervisor should be requested. Additional resources should be

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#### *First Amendment Assemblies*

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requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

#### **426.5 PLANNED EVENT PREPARATION**

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

##### **426.5.1 INFORMATION GATHERING AND ASSESSMENT**

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.
- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

##### **426.5.2 OPERATIONAL PLANS**

An operational planning team with responsibility for event planning and management should be established. The planning team should develop an operational plan for the event.

The operational plan will minimally provide for:

- (a) Command assignments, chain of command structure, roles and responsibilities.
- (b) Staffing and resource allocation.
- (c) Management of criminal investigations.
- (d) Designation of uniform of the day and related safety equipment (helmets, shields, etc.).
- (e) Deployment of specialized resources.
- (f) Event communications and interoperability in a multijurisdictional event.
- (g) An established liaison with demonstration leaders and external agencies.

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- (h) An established liaison with Private Police government and legal staff.
- (i) Media relations.
- (j) Logistics: food, fuel, replacement equipment, duty hours, relief and transportation.
- (k) Traffic management plans.
- (l) First aid and emergency medical service provider availability.
- (m) Prisoner transport and detention.
- (n) Review of policies regarding public assemblies and use of force in crowd control.
- (o) Parameters for declaring an unlawful assembly.
- (p) Arrest protocol, including management of mass arrests.
- (q) Protocol for recording information flow and decisions.
- (r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force.
- (s) Protocol for handling complaints during the event.
- (t) Parameters for the use of body-worn cameras and other portable recording devices.

#### 426.5.3 MUTUAL AID AND EXTERNAL RESOURCES

The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Outside Agency Assistance Policy).

#### 426.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS

If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event.

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he/she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group (Va. Code § 18.2-411).

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear, standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement

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should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

#### **426.7 USE OF FORCE**

Use of force is governed by current department policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices, and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and conducted energy devices should be considered only when the participants' conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and the Conducted Energy Device policies).

Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

#### **426.8 ARRESTS**

The Wintergreen Police Department should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been or reasonably appear likely to be unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

- (a) Reasonable measures to address the safety of officers and arrestees.
- (b) Dedicated arrest, booking and report writing teams.
- (c) Timely access to medical care.
- (d) Timely access to legal resources.
- (e) Timely processing of arrestees.
- (f) Full accountability for arrestees and evidence.

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- (g) Coordination and cooperation with the prosecuting authority, jail and courts (see the Citation Releases Policy).

#### **426.9 MEDIA RELATIONS**

The Chief of Police should use all available avenues of communication, including press releases, briefings, press conferences and social media, to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

#### **426.10 DEMOBILIZATION**

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.

#### **426.11 POST EVENT**

The Incident Commander should designate a member to assemble full documentation of the event, to include:

- (a) Operational plan.
- (b) Any incident logs.
- (c) Any assignment logs.
- (d) Vehicle, fuel, equipment and supply records.
- (e) Incident, arrest, use of force, injury and property damage reports.
- (f) Photographs, audio/video recordings, the Communication Center records/tapes.
- (g) Media accounts (print and broadcast media).

##### **426.11.1 AFTER-ACTION REPORTING**

The Incident Commander should work with the Executive Director and WPOA legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used, to include:

- (a) Date, time and description of the event.
- (b) Actions taken and outcomes (e.g., injuries, property damage, arrests, costs).
- (c) Problems identified.
- (d) Significant events.
- (e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.



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### **426.12 TRAINING**

Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management. The Department should, when practicable, train with its external and mutual aid partners.

## Civil Disputes

### 427.1 PURPOSE AND SCOPE

This policy provides members of the Wintergreen Police Department with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic or Family Violence Policy will address specific legal mandates related to domestic violence court orders. References in this policy to "court orders" apply to any order of a court that does not require arrest or enforcement by the terms of the order or by Virginia law.

### 427.2 POLICY

The Wintergreen Police Department recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, members of this department will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, members will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

### 427.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial.

While the following is not intended to be an exhaustive list, members should give consideration to the following when handling civil disputes:

- (a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.
- (b) Members should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.
- (c) Members shall not provide legal advice; however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.
- (d) Members are reminded that they shall not enter a residence or other non-public location without legal authority.
- (e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts longer than 30 minutes are warranted.

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#### **427.4 COURT ORDERS**

Disputes involving court orders can be complex. Where no mandate exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating officer should document:

- (a) The person's knowledge of the court order or whether proof of service exists.
- (b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor. The report should also be forwarded to the court issuing the order with a notice that the report was also forwarded to the prosecutor for review.

##### **427.4.1 STANDBY REQUESTS**

Officers responding to a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person should be advised that items that are disputed will not be allowed to be removed. The member may advise the person to seek private legal advice as to the distribution of disputed property.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party would remove the property.

If the other party is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Officers should not order the other party to allow entry or the removal of any items. If there is a restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location, the member will not allow entry into the location or the removal of property from the location.

#### **427.5 VEHICLES AND PERSONAL PROPERTY**

Officers may be faced with disputes regarding possession or ownership of vehicles or other personal property. Officers may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal property can be complex. Generally, officers should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented.

#### **427.6 REAL PROPERTY**

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.

# Suspicious Activity Reporting

## 428.1 PURPOSE AND SCOPE

This policy provides guidelines for reporting and investigating suspicious and criminal activity.

### 428.1.1 DEFINITIONS

Definitions related to this policy include:

**Involved party** - An individual who has been observed engaging in suspicious activity, as defined in this policy, when no definitive criminal activity can be identified, thus precluding the person's identification as a suspect.

**Suspicious activity** - Any reported or observed activity that a member reasonably believes may have a nexus to any criminal act or attempted criminal act, or to foreign or domestic terrorism. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions). Examples of suspicious activity may include but are not limited to:

- Suspected pre-operational surveillance or intelligence gathering (e.g., photographing security features, asking questions about sensitive security-related subjects).
- Tests of security measures and response to incidents (e.g., "dry run," creating false alarms, attempts to enter secure areas without authorization).
- Suspicious purchases (e.g., purchasing large quantities of otherwise legal items, such as fertilizer, that could be used to create an explosive or other dangerous device).
- An individual in possession of such things as a hoax explosive or dispersal device, sensitive materials (e.g., passwords, access codes, classified government information), or coded or ciphered literature or correspondence.

**Suspicious Activity Report (SAR)** - An incident report used to document suspicious activity.

## 428.2 POLICY

The Wintergreen Police Department recognizes the need to protect the public from criminal conduct and acts of terrorism and shall lawfully collect, maintain and disseminate information regarding suspicious activities, while safeguarding civil liberties and privacy protections.

## 428.3 RESPONSIBILITIES

The Investigations Bureau Commander and the authorized designees will manage SAR activities. Authorized designees should include supervisors who are responsible for department participation in criminal intelligence systems as outlined in the Criminal Organizations Policy.

The responsibilities of the Investigations Bureau include, but are not limited to:

- (a) Remaining familiar with those databases available to the department that would facilitate the purpose of this policy.

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- (b) Maintaining adequate training in the area of intelligence gathering to ensure no information is being maintained that would violate the law or civil rights of any individual.
- (c) Ensuring a process is available that would allow members to report relevant information. The process should be designed to promote efficient and quick reporting, and should not be cumbersome, duplicative or complicated.
- (d) Ensuring that members are made aware of the purpose and value of documenting information regarding suspicious activity, as well as the databases and other information resources that are available to the Department.
- (e) Ensuring that SAR information is appropriately disseminated to members in accordance with their job responsibilities.
- (f) Coordinating investigative follow-up, if appropriate.
- (g) Coordinating with any appropriate agency or fusion center.
- (h) Ensuring that, as resources are available, the Department conducts outreach that is designed to encourage community members to report suspicious activity and that outlines what they should look for and how they should report it (e.g., website, public service announcements).

#### **428.4 REPORTING AND INVESTIGATION**

Any department member receiving information regarding suspicious activity should take any necessary immediate and appropriate action, including a request for tactical response or immediate notification of specialized entities, when applicable. Any non-sworn member who receives such information should ensure that it is passed on to an officer in a timely manner.

If the suspicious activity is not directly related to a reportable crime, the member should prepare a SAR and include information about the involved parties and the circumstances of the incident. If, during any investigation an officer becomes aware of suspicious activity that is unrelated to the current investigation, the information should be documented separately in a SAR and not included in the original incident report. The report number of the original incident should be included in the SAR as a cross reference. A SAR should be processed as any other incident report.

#### **428.5 HANDLING INFORMATION**

The Office of the Chief of Police will forward copies of SARs, in a timely manner, to:

- The Investigations Commander.
- The Crime Analysis unit.
- Other authorized designees.

## VIP Protection

<b>Effective Date:</b>	January 18, 2018
<b>Revised Date:</b>	
<b>Issuing Authority:</b> D. Russell	

### **429.1 POLICY** POLICY

It is the policy of the Wintergreen Police Department to provide the appropriate level of security for all dignitaries requiring such protection. The following guidelines have been delineated to establish a set procedure for providing VIP protection.

### **429.2 OBJECTIVES** OBJECTIVES

- A. To provide a level of protection to safeguard life and property.
- B. To establish a set procedure to follow when requested to provide security for VIPs.

### **429.3 PROCEDURES** PROCEDURES

- A. Any employee receiving a request for VIP protection shall:
  - 1. Refer the request to the Field Operations Bureau Commander, by telephone,
  - 2. Send the request, if in writing, to the Field Operations Bureau Commander.
  - 3. Document the request, if by telephone or in person, and send it to the Field Operations Bureau Commander.

### **429.4 FIELD OPERATIONS BUREAU COMMANDER RESPONSIBILITIES** Field Operations Bureau Commander shall:

- 1. Decide if protection is to be afforded and to what extent.
- 2. Designate a Department member to contact requestor and advise whether or not the Department shall afford dignitary protection.

If protection is to be afforded, the Field Operations Bureau Commander will have overall protection responsibility and shall:

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1. Establish telephone contact and set up a meeting with the representative of the dignitary, if necessary.
2. Determine the itinerary of the dignitary and identity of any other persons accompanying the dignitary.
3. Ascertain protective measures of other agencies involved in the protection plan.
4. Define the responsibilities of all departmental units involved in the protection plan.
5. Evaluate any intelligence information pertaining to threats against the dignitary.

Prior to the detail itself, the Field Operations Bureau Commander shall:

1. Arrange a briefing to:
  - a. Include representatives from all support units.
  - b. Provide last minute changes.
  - c. Identify outside agencies and their responsibilities.
  - d. Identify emergency first aid, ambulance, and medical facilities.
  - e. Ensure all proper notifications have been made.
2. If necessary, establish a command post that shall:
  - a. Be used by the detail commander.
  - b. Serve as center for all communications staging, briefing, etc.

#### **429.5 AFTER ACTION REPORT**

##### After-action Report

After the VIP protection detail has been terminated, the Field Operations Bureau Commander will meet with all parties involved, and discuss important aspects of the visit. An after action report will be submitted to the Chief of Police describing the activities, resources utilized, problems noted, and suggesting any recommendations for future VIP protection details.

## Service of Court Documents

### 430.1 PURPOSE AND SCOPE

This policy provides guidelines for serving court documents to parties in civil matters.

This policy does not apply to the service of court orders as provided in the Domestic or Family Violence Policy.

### 430.2 POLICY

The Wintergreen Police Department will deliver court documents such as subpoenas or court orders with efficiency and due care. The Department will give higher priority to the service of court orders in cases when the Department reasonably believes delay may impact a person's safety.

### 430.3 RESPONSIBILITIES

Requests that the Wintergreen Police Department serve court documents should be forwarded to the Chief of Police.

#### 430.3.1 RECORDSHEAD RESPONSIBILITIES

The Chief of Police is responsible for developing procedures to ensure:

- (a) Court documents received for service are logged, dated, and time stamped.
- (b) A service application request form is received from the person requesting service that includes:
  1. The date service is due.
  2. Whether substitute service is authorized by the requestor.
  3. Risk-related information such as the subject's prior acts of violence, and the presence of aggressive dogs, drugs, or other hazardous substances.
- (c) Inquiries are made in law enforcement records management systems to determine if there are additional entries that would impact officer safety when serving the papers. Proper notations should be entered on or attached to the service application request form.
- (d) A fee schedule is maintained and applicable fees are collected. No fees shall be required when fees have been waived by a court or are prohibited by statute.
- (e) A schedule is maintained with the number of copies of each type document the Department requires when a person requests service by the Department.
- (f) Data entry regarding the service is made in a timely fashion. This includes data entry regarding the status of the service (e.g., served, attempted, returned), if appropriate.
- (g) Court documents and accompanying service application request forms are forwarded to the Field Operations Bureau Commander for service.
- (h) The court and person requesting service are promptly notified that service has been made or that attempts at service were unsuccessful. Returns of service or



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#### *Service of Court Documents*

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documentation related to failure of service for out-of-county courts may be returned by mail to the person from whom it was received.

- (i) The Department maintains a record that contains a list of all court documents received for service, including:
  - 1. The date and time received.
  - 2. Department tracking method.
  - 3. The type of court document (e.g., civil subpoena, civil summons) and any identifying document number (e.g., docket number, warrant number).
  - 4. The source of any document.
  - 5. The names of the parties to the action.
  - 6. The name and address of the person to be served unless confidential under law.
  - 7. Method of service.
  - 8. The date, time, and location of service or attempts of service.
  - 9. The number and manner of attempts to serve.
  - 10. Date and reason for non-service, if applicable.
  - 11. The officer assigned to serve the document and date of assignment.
- (j) The Department periodically confers with applicable courts regarding the service of documents by the Department and any relevant court procedural changes or possible areas of concern or improvement that need to be addressed, as appropriate.
- (k) All property acquired through civil process is properly accounted for by the Property and Evidence Section in department records and is disposed of only pursuant to legal authority (see also the Property and Evidence Section and the Asset Forfeiture policies).

#### 430.3.2 BUREAU COMMANDER RESPONSIBILITIES

The Field Operations Bureau Commander is responsible for tracking requests for service received and officers assigned to such requests to ensure service efforts are diligently made.

Upon receipt of the service application request form and court documents for service, the Field Operations Bureau Commander should assign service to an officer. Court documents reasonably known to be related to a person's immediate safety should be served as soon as practicable. Any reasonably known information related to a heightened risk in the service should be addressed and communicated to the department member assigned to serve the documents.

The Field Operations Bureau Commander will send the completed documentation of service back to the Chief of Police to ensure timely notification to the court.

The Field Operations Bureau Commander will also ensure that sufficient documentation related to the service and attempted service of court documents has occurred.

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The Field Operations Bureau Commander will ensure that orders for civil arrest or for writs involving the seizure of real or personal property are executed only by certified law enforcement officers.

#### **430.3.3 OFFICER\_DEPUTY RESPONSIBILITIES**

Officers assigned to serve court documents shall do so diligently and with due regard for privacy and property rights.

If service of a court order is not immediately possible, officers are expected to make reasonable inquiries and investigative actions to complete the service. This may include using the following resources to locate persons:

- (a) National Motor Vehicle Title Information System
- (b) Public records databases and other commercial web-based sources used to find people (skip tracing tools)
- (c) Relevant court records and contact information for parties

Officers are required to complete and submit to the Field Operations Bureau Commander a return of service for each document served or attempted to be served.

Officers are expected to complete and submit a report any time there is reasonable suspicion to believe a person is attempting to evade service or is being assisted by another person to avoid service.

Officers shall not give legal advice or express opinions as to the merit of civil issues.

Officers shall document all court documents served or attempted to be served. The documentation should include the address where service was attempted, the date and time of attempted service, any reasons or circumstances why service was unsuccessful, the date and time of service, the name of the person served and description of the service, and the mileage used for each service or service attempt.

#### **430.4 OFFICER\_DEPUTY SAFETY**

Members should always review risk-related information in the service application request form prior to service. Members may contact the requestor with any questions related to information on the form that indicate an unusual risk to safety. Members should notify a supervisor if they identify any particular safety concerns that have not been addressed.

Members may consider requesting assistance from another officer and/or avoiding confrontation at a residence or business by contacting the party and requesting to meet at a location that may pose a lower risk.

#### **430.5 CANCELED SERVICE**

Any member of the Department who becomes aware of the cancellation of court document service request should promptly inform the Field Operations Bureau Commander. The Field Operations Bureau Commander should promptly notify the assigned officer.

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### **430.6 PERSONAL SERVICE**

All service should be made by handing a copy of the document directly to the person to whom the document is directed.

### **430.7 SUBSTITUTE SERVICE**

Substitute service may be made by delivering a copy to any person found at the defendant's usual place of residence who is a family member and who is 16 years of age or older or as otherwise provided in Va. Code § 8.01-296.

### **430.8 SERVICE OF SPECIFIC DOCUMENTS**

Members of this department may be called upon to serve notices, orders, and other documents prescribed by law, regular on their face, and issued by a competent authority. The Department shall develop and maintain detailed operational procedures on (Va. Code § 8.01-293 et seq.):

- (a) Subpoena service.
- (b) Civil writs and court orders such as legal papers other than original process.
- (c) Jurisdictional issues.

These procedures should be followed by all members during the performance of the related task.

### **430.9 PROPERTY DISPOSITION**

[Insert your agency's specific procedures consistent with standard OPR.12.03 requirements – see the Guide Sheet for additional guidance.]

## **Chapter 5 - Traffic Operations**

## Traffic

### 500.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for improving public safety through education and enforcement of traffic-related laws.

### 500.2 POLICY

It is the policy of the Wintergreen Police Department to educate the public on traffic-related issues and to enforce traffic laws. The efforts of the Department will be driven by such factors as the location and/or number of traffic accidents, citizen complaints, traffic volume, traffic conditions and other traffic-related needs. The ultimate goal of traffic law enforcement and education is to increase public safety.

### 500.3 DEPLOYMENT

Enforcement efforts may include such techniques as geographic/temporal assignment of department members and equipment, the establishment of preventive patrols to deal with specific categories of unlawful driving and a variety of educational activities. These activities should incorporate methods that are suitable to the situation; timed to events, seasons, past traffic problems or locations; and, whenever practicable, preceded by enforcement activities.

Several factors will be considered in the development of deployment schedules for department members. State and local data on traffic accidents are a valuable resource. Factors for analysis include, but are not limited to:

- Location.
- Time.
- Day.
- Violation factors.
- Requests from the public.
- Construction zones.
- School zones.
- Special events.

Department members assigned to uniformed patrol or traffic enforcement functions will emphasize the enforcement of violations that contribute to traffic accidents, and also will consider the hours and locations where traffic accidents tend to occur. Members will take directed enforcement action on request, and random enforcement action when appropriate. Members shall maintain high visibility while working general enforcement, especially in areas where traffic accidents frequently occur.

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#### **500.4 ENFORCEMENT**

Traffic enforcement will be consistent with applicable Code of Virginia laws and take into account the degree and severity of the violation committed to include:

- (a) Driving under the influence of alcohol/drugs (see the Impaired Driving Policy).
- (b) Operating a vehicle after driving privileges have been suspended or revoked (see the Suspended or Revoked Licenses section of this policy).
- (c) Speed violations.
- (d) Other hazardous violations.
- (e) Off-road vehicle violations.
- (f) Equipment violations.
- (g) Public carrier/commercial vehicle violations.
- (h) Violations committed by juveniles.
- (i) Violations committed by nonresidents (out of area and/or state).
- (j) Violations resulting in traffic accidents (see the Traffic Accidents Policy).
- (k) Pedestrian and/or bicycle violations.
- (l) Legislators.
- (m) Military personnel.

This department does not establish ticket quotas. The number of arrests made or citations issued by any member shall not be used as the sole criterion for evaluating member overall performance (Va. Code § 2.2-5516; Va. Code § 15.2-1609.11; Va. Code § 15.2-1710.1).

Several methods are effective in the reduction of traffic accidents.

##### 500.4.1 WARNINGS

Warnings are a non-punitive option that may be considered by the member when circumstances warrant, such as when a minor violation was inadvertent.

##### 500.4.2 SUMMONS

A summons should be issued when a member believes it is appropriate. When issuing a summons for a traffic violation, it is essential that the rights and requirements imposed on motorists be fully explained. At a minimum, motorists should be provided with (Va. Code § 46.2-388):

- (a) An explanation of the violation or charge.
- (b) The amount of the fine that may be assessed for the violation or charge.
- (c) The court appearance date and procedure, including the optional or mandatory appearance by the motorist.
- (d) A notice of whether the motorist can enter a plea and pay the fine by mail or at the court.
- (e) The consequences of a failure to timely pay or contest the charge.

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##### 500.4.3 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses. These cases usually deal with but are not limited to:

- (a) Involuntary manslaughter (Va. Code § 18.2-36.1).
- (b) Felony and misdemeanor driving under the influence (DUI) of alcohol or drugs (Va. Code § 18.2-270).
- (c) Felony or misdemeanor hit-and-run (Va. Code § 46.2-894).
- (d) DUI with accident (Va. Code § 19.2-81).
- (e) Reckless driving that results in the death of another while driving with a suspended driver's license (Va. Code § 46.2-868).
- (f) Racing a vehicle in violation of Va. Code § 46.2-865 that results in serious bodily injury or death to another person (Va. Code § 46.2-865.1).

##### 500.5 SUSPENDED OR REVOKED LICENSES

If an officer contacts a traffic violator who is also driving on a suspended or revoked license, the officer should issue a traffic citation or make an arrest as appropriate (Va. Code § 46.2-301).

##### 500.6 HIGH-VISIBILITY VESTS

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic or by maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601).

###### 500.6.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn when increased visibility would improve the safety of the department member or when the member will be exposed to the hazards of passing traffic or will be maneuvering or operating vehicles, machinery and equipment.

Examples of when high-visibility vests should be worn include traffic control duties, traffic accident investigations, lane closures and disaster scenes.

When emergency conditions preclude the immediate donning of the vest, members should retrieve and wear the vest as soon as conditions reasonably permit.

Use of the vests shall also be mandatory when directed by a supervisor.

###### 500.6.2 CARE AND STORAGE

High-visibility vests shall be maintained in the trunk of each patrol and investigation vehicle, in the side box of each police motorcycle and in the gear bag of each patrol bicycle. Each vest should be stored inside a resealable plastic bag to protect and maintain the vest in a serviceable condition. Before going into service, each member shall ensure that a serviceable high-visibility vest is properly stored.

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A supply of high-visibility vests will be maintained and made available for replacement of damaged or unserviceable vests. The Training Supervisor should be promptly notified whenever the supply of vests needs replenishing.

#### **500.7 HAZARDOUS CONDITIONS**

Officers encountering hazardous road conditions should assess the severity of the hazard and take appropriate action including, but not limited to:

- (a) Notifying the entity responsible for maintaining that section of the road.
- (b) Removing the hazard from the roadway if it is reasonably safe to do so.
- (c) Placing a warning device around the hazard to warn oncoming traffic.
- (d) When practicable and safe to do so, positioning a patrol car in front of the hazard to warn oncoming traffic and direct the traffic around the hazard.

#### **500.8 TRAFFIC STOPS**

Officers should perform traffic stops only when there is an articulable reason to do so. The safety of the officer, the driver of the vehicle, and the public shall be considered prior to conducting a traffic stop.

Traffic stops should be performed by a uniformed on-duty officer.

Officers initiating a traffic stop shall follow department-approved safety procedures including but not limited to:

- (a) Contacting the Communication Center regarding the location, vehicle description and registration, and occupants prior to making the stop.
- (b) Activating the emergency lights and siren.
- (c) Escorting the vehicle to a tactically safe location to conduct the stop.
- (d) Positioning the department vehicle to maximize officer safety.
- (e) Approaching the vehicle and interacting with the occupants in accordance with department-approved procedures and training.
- (f) Calling for backup when warranted.
- (g) If so equipped, activating the Mobile Audio Video System.

#### **500.9 TRAFFIC CONTROL**

Members of the Wintergreen Police Department may control traffic using both department-approved temporary traffic control devices and also uniform hand signals and gestures for manual traffic direction:

- (a) At public events.
- (b) At the scene of a traffic collision.
- (c) At the scene of a fire or other emergency.
- (d) During periods of adverse road and/or weather conditions.



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- (e) When circumstances warrant the manual operation of traffic control devices.
- (f) As required by other road or traffic conditions.

#### **500.10 VEHICLE ESCORT SERVICES**

Vehicle escort services are generally not performed. All requests for escort services should be approved by the Chief of Police.

If a request is granted, the Bureau Commander should be responsible for:

- (a) Identify the required department resources.
- (b) Coordinate with outside agencies.
- (c) Identify safety and security risks.
- (d) Take reasonable precautions to ensure public safety.

Only vehicles equipped with emergency lights and sirens should be used to provide escort services.

Requests for escort for medical transport or civilian vehicles should be in accordance with the specifications in the Medical Aid and Response Policy.

## Traffic Accidents

### 501.1 PURPOSE AND SCOPE

This policy provides guidelines for responding to and investigating traffic accidents.

### 501.2 POLICY

It is the policy of the Wintergreen Police Department to respond to traffic accidents and render or summon aid to injured victims as needed. The Department will investigate and prepare reports according to the established minimum reporting requirements with the goal of reducing the occurrence of accidents by attempting to identify the cause of the accident and through enforcing applicable laws. Unless restricted by law, traffic accident reports will be made available to the public upon request.

### 501.3 RESPONSE

Upon arriving at the scene, the responding member should assess the need for additional resources and summon assistance as appropriate. Generally, the member initially dispatched to the scene will be responsible for the investigation and report, if required, unless responsibility is reassigned by a supervisor.

A supervisor should be called to the scene when the incident:

- (a) Is within the jurisdiction of this department and there is:
  - 1. A life-threatening injury.
  - 2. A fatality.
  - 3. A Department vehicle involved.
  - 4. A Department official or employee involved.
  - 5. Involvement of an on- or off-duty member of this department.
- (b) Is within another jurisdiction and there is:
  - 1. A Department vehicle involved.
  - 2. A Department official involved.
  - 3. Involvement of an on-duty member of this department.

#### 501.3.1 MEMBER RESPONSIBILITIES

Upon arriving at the scene, the responding member should consider and appropriately address:

- (a) Traffic direction and control.
- (b) Proper placement of emergency vehicles, cones, roadway flares, or other devices, if available, to provide protection for members, the public, and the scene.
- (c) First aid for any injured parties if it can be done safely.
- (d) The potential for involvement of hazardous materials.

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- (e) The need for additional support as necessary (e.g., traffic control, emergency medical services, fire department, hazardous materials response, tow vehicles).
- (f) Any disturbance between involved parties.
- (g) Clearance and cleanup of the roadway.
- (h) Protection of the accident scene for evidence preservation when required.

#### **501.4 NOTIFICATION**

If a traffic accident involves a life-threatening injury or fatality, the responding officer shall notify a supervisor. The supervisor may assign a traffic investigator or other appropriate personnel to investigate the incident. The dispatcher will ensure notification is made to the command staff in accordance with the Major Incident Notification Policy.

##### 501.4.1 NOTIFICATION OF FAMILY

In the event of a life-threatening injury or fatality, the supervisor responsible for the incident should ensure notification of the victim's immediate family or coordinate such notification with the Medical Examiner, department chaplain or another suitable person. Notification should be made as soon as practicable following positive identification of the victim (Va. Code § 32.1-309.1).

The identity of any person seriously injured or deceased in a traffic accident should not be released until notification is made to the victim's immediate family.

#### **501.5 MINIMUM REPORTING REQUIREMENTS**

An accident report shall be taken when:

- (a) A fatality, any injury (including complaint of pain), driving under the influence or hit-and-run is involved (Va. Code § 46.2-894).
- (b) The accident results in a collision with an unattended vehicle and/or damage to property other than a vehicle and the owner of that vehicle or property cannot be located (Va. Code § 46.2-896).
- (c) An on-duty member of the Private Police of Wintergreen is involved.
- (d) The accident results in any damage to any Private Police-owned or leased vehicle.
- (e) The accident involves any other public agency driver or vehicle.
- (f) There is damage to public property.
- (g) There is damage to any vehicle to the extent that towing is required.
- (h) There is property damage of at least \$1,500 (Va. Code § 46.2-373).
- (i) Prosecution or follow-up investigation is contemplated.
- (j) Directed by a supervisor.

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##### 501.5.1 PRIVATE PROPERTY

Generally, reports should be taken regardless of whether the traffic accident occurs on private or public property (Va. Code § 46.2-899).

##### 501.5.2 DEPARTMENT VEHICLE INVOLVED

A traffic accident report shall be taken when a Department vehicle is involved in a traffic accident that results in property damage or injury.

A general information report may be taken in lieu of a traffic accident report at the direction of a supervisor when the incident occurs entirely on private property or does not involve another vehicle.

Whenever there is damage to a Department vehicle, a vehicle damage report shall be completed and forwarded to the Field Operations Bureau Commander. The traffic investigator or supervisor at the scene should determine what photographs should be taken of the scene and the vehicle damage.

##### 501.5.3 INJURED ANIMALS

Department members should refer to the Animal Control Policy when a traffic accident involves the disposition of an injured animal.

##### 501.5.4 PRIVATE PROPERTY PROCEDURES

[Insert your agency's specific procedures consistent with standard OPR.07.05 - see the Guide Sheet for additional guidance.]

#### **501.6 INVESTIGATION**

When a traffic accident meets minimum reporting requirements, the investigation should include, at a minimum:

- (a) Identification and interview of all involved parties.
- (b) Identification and interview of any witnesses.
- (c) A determination of whether a violation of law has occurred and the appropriate enforcement action.
- (d) Identification and protection of items of apparent evidentiary value.
- (e) Documentation of the incident as necessary (e.g., statements, measurements, photographs, collection of evidence, reporting) on the appropriate forms.

##### 501.6.1 INVESTIGATION BY OUTSIDE LAW ENFORCEMENT AGENCY

The Field Operations Bureau Commander or on-duty supervisor should request that the Virginia State Police (VSP) or another outside law enforcement agency investigate and complete a traffic accident investigation when a life-threatening injury or fatal traffic accident occurs within the jurisdiction of the Wintergreen Police Department and involves:

- (a) An on- or off-duty member of the Department.

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1. The involved member shall complete the department traffic accident form. If the member is unable to complete the form, the supervisor shall complete it.
  - (b) An on- or off-duty official or employee of WPOA.

Department members shall promptly notify a supervisor when any department vehicle is involved in a traffic accident. The accident investigation and report shall be completed by the agency having jurisdiction.

#### **501.7 ENFORCEMENT ACTION**

After a thorough investigation in which physical evidence or independent witness statements indicate that a violation of a traffic law contributed to the accident, authorized members should issue a summons or arrest the offending driver, as appropriate.

More serious violations, such as driving under the influence of drugs or alcohol, vehicular manslaughter or other felonies, shall be enforced. If a driver who is subject to enforcement action is admitted to a hospital, a supervisor shall be contacted to determine the best enforcement option.

#### **501.8 REPORTS**

Department members shall utilize forms approved by the Department of Motor Vehicles as required for the reporting of traffic accidents. All such reports shall be forwarded to the Field Operations Bureau Commander for approval and filing (Va. Code § 46.2-374).

Traffic accident reports shall include (Va. Code § 46.2-373):

- (a) The name or names of the insurance carrier or the insurance agent of the automobile liability policy on each vehicle involved in the accident.
- (b) The speed of each vehicle involved in the accident.
- (c) The types of vehicles involved in all accidents between passenger vehicles and vehicles or combinations of vehicles used to transport property.
- (d) Whether any trucks involved in such accidents were covered or uncovered.

##### **501.8.1 REPORT MODIFICATION**

A change or modification of a written report that alters a material fact in the report may be made only by the member who prepared the report, and only prior to its approval and distribution. Once a report has been approved and distributed, corrections shall only be made by way of a written supplemental report. A written supplemental report may be made by any authorized member.

##### **501.8.2 FIELD OPERATIONS BUREAU COMMANDER RESPONSIBILITIES**

The responsibilities of the Field Operations Bureau Commander include, but are not limited to:

- (a) Ensuring the quarterly reports on traffic accident information and statistics are forwarded to the Chief of Police or other persons as required.
- (b) Ensuring that the accident report is filed with the VSP within 24 hours after the investigation is complete (Va. Code § 46.2-373).

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### **501.9 CONTROL OF PROPERTY BELONGING TO ACCIDENT VICTIM(S)**

Any property belonging to accident victim(s) shall be protected from theft or pilferage and, if owners are not present, it shall be taken into custody, tagged, and held for safekeeping until the victim(s) claim it.

## Vehicle Towing

### 502.1 PURPOSE AND SCOPE

This policy provides guidance related to vehicle towing. Nothing in this policy shall require a member of this department to tow a vehicle.

### 502.2 POLICY

The Wintergreen Police Department will tow vehicles when appropriate and in accordance with the law.

### 502.3 REMOVAL OF VEHICLES DUE TO HAZARD

When a vehicle should be towed because it presents a hazard, the owner or operator should arrange for the towing. Department members may assist by communicating requests through the Communication Center to expedite the process.

If the owner or operator is unable to arrange for towing and the vehicle presents a hazard, the vehicle may be towed at the direction of the department member (Va. Code § 46.2-1209; Va. Code § 46.2-1210; Va. Code § 46.2-1211; Va. Code § 46.2-1212; Va. Code § 46.2-1212.1; Va. Code § 46.2-1213).

Vehicles that are not the property of the Department should not be driven by department members unless it is necessary to move the vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or comply with posted signs.

### 502.4 ARREST SCENES

Whenever the owner or operator of a vehicle is arrested, the arresting officer should provide reasonable safekeeping by leaving the vehicle secured and lawfully parked at the scene or, when appropriate, by having the vehicle towed, such as when the vehicle presents a traffic hazard or the vehicle would be in jeopardy of theft or damage if left at the scene.

Officers are not required to investigate whether alternatives to towing a vehicle exist after an arrest. However, a vehicle should not be towed if reasonable alternatives exist. When considering whether to leave a vehicle at the scene, officers should take into consideration public safety as well as the reasonable safety of the vehicle and its contents (Va. Code § 19.2-80.1).

The following are examples of situations where a vehicle should not be towed:

- The vehicle can be legally parked, left in a reasonably secure and safe location and is not needed as evidence.
- The vehicle is parked on private property, on which the arrestee or owner is legally residing, or the property owner does not object to the vehicle being parked at that location.
- The arrestee or owner of the vehicle requests that it be released to a person who is present, willing and able to legally take control of the vehicle.

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- The vehicle is legally parked and the arrestee or owner requests that it be left at the scene. In such cases the requester should be informed that the Department will not be responsible for theft or damages.

#### **502.5 VEHICLES RELATED TO CRIMINAL INVESTIGATIONS**

Officers should tow vehicles that are needed for the furtherance of an investigation or prosecution of a case, or that are otherwise appropriate for seizure as evidence. Officers should make reasonable efforts to return a recovered stolen vehicle to its owner rather than have it towed, so long as the vehicle is not needed for evidence.

#### **502.6 RECORDS**

The involved Officer shall contact the Nelson County Sheriff's Office and ensure that pertinent data regarding a towed vehicle is promptly entered into the Virginia Department of Motor Vehicles (DMV) database (Va. Code § 46.2-1209).

##### **502.6.1 VEHICLE STORAGE REPORT**

Department members towing a vehicle shall complete a vehicle tow report. The report should be submitted to the Field Operations Bureau Commander as soon as practicable after the vehicle is towed.

##### **502.6.2 NOTICE OF TOW**

When a vehicle is removed from public or private property by a member of the Wintergreen Police Department, the member shall contact the DMV and all registered owners, and provide them notice of towing (Va. Code § 46.2-1209; Va. Code § 46.2-1211).

The member shall provide to the registered owners the following information:

- (a) The name, address and telephone number of the Wintergreen Police Department.
- (b) The location where the vehicle is stored.
- (c) A description of the vehicle, including:
  1. Color.
  2. Manufacturer year.
  3. Make and model.
  4. License plate number and/or Vehicle Identification Number (VIN).
  5. Mileage.
- (d) The authority and purpose for the removal of the vehicle.
- (e) An explanation of the procedure for release of the vehicle and for obtaining a vehicle tow hearing.



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##### **502.7 TOWING SERVICES**

The Department may, by ordinance, regulate the selection of one or more businesses to act as the official tow services of Wintergreen (Va. Code § 46.2-1217).

Members shall not show preference among towing services that have been authorized for use by the Department. If more than one towing service has been awarded contracts, they shall be placed on a rotation list.

##### **502.8 VEHICLE INVENTORY**

The contents of all vehicles towed at the request of department members shall be inventoried and listed on the inventory report. When reasonably practicable, photographs may be taken to assist in the inventory.

- (a) An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, any unlocked glove box, other accessible areas under or within the dashboard area, any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats.
- (b) In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in any other type of unlocked compartments that are a part of the vehicle, including unlocked vehicle trunks and unlocked car top containers.
- (c) Any locked compartments including, but not limited to, locked glove compartments, locked vehicle trunks, locked hatchbacks and locked car-top containers should be inventoried, provided the keys are available and released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.
- (d) Closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes except for the following: wallets, purses, coin purses, fanny packs, personal organizers, briefcases or other closed containers designed for carrying money, small valuables or hazardous materials.

Members should ask the occupants whether the vehicle contains any valuables or hazardous materials. Responses should be noted in the inventory report. If the occupant acknowledges that any closed container contains valuables or a hazardous material, the container shall be opened and inventoried. When practicable and appropriate, such items should be removed from the vehicle and given to the owner, or booked into property for safekeeping.

Any cash, jewelry or other small valuables located during the inventory process will be held for safekeeping, in accordance with the Property and Evidence Section Policy. A copy of the property receipt should be given to the person in control of the vehicle or, if that person is not present, left in the vehicle.

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A copy of the vehicle inventory will be given to the tow truck operator.

These inventory procedures are for the purpose of protecting the vehicle owner's property, providing for the safety of department members and protecting the Department against fraudulent claims of lost, stolen or damaged property.

Towing a vehicle in order to perform an inventory should not be used as a pretext for an evidence search. Nothing in this policy prevents the towing of a vehicle that would occur for reasons independent of any suspicion that the vehicle may contain evidence if it is otherwise justified by law or this policy.

#### **502.9 SECURITY OF VEHICLES AND RETRIEVAL OF PROPERTY**

If the search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, the department member conducting the search shall take such steps as are reasonably necessary to secure or protect the vehicle or property from such hazards.

Unless it would cause an unreasonable delay in towing the vehicle or create an issue of officer safety, reasonable accommodations should be made to permit the owner, operator or occupant to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.

Members who become aware that a vehicle may have been towed by the Department in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the owner or his/her agent to request a hearing to contest the tow.

#### **502.10 ABANDONED VEHICLES**

- (a) Whenever any motor vehicle is abandoned upon public or privately owned property without the permission of the owner, lessee, or occupant thereof, the officer may order it towed at the owner's expense.
- (b) A vehicle may be presumed to be abandoned if it lacks either a current license plate, a current county, city, or town tag or sticker or a valid state inspection, and it has been left unattended on public property (other than an interstate or primary highway) for more than 48 hours or on private property for more than 48 hours without the property owner's consent, regardless of whether it was brought onto the private property with the consent of the owner

#### **502.11 ABANDONED VEHICLES**

If an officer reasonably determines that a vehicle has been abandoned on public property or on private property without the permission of the property owner or lessee, the officer may direct that the vehicle be removed and disposed of pursuant to the following:

[Insert your agency's procedures for the handling of abandoned vehicles consistent with applicable local ordinance or state code – see the Guide Sheet for additional guidance.]

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Abandoned vehicle tow requests, inventories, and reporting shall be performed in accordance with this policy.

## Vehicle Tow Hearings

### 503.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a process for vehicle tow hearings.

### 503.2 POLICY

When a vehicle is towed at the direction of any member of the Wintergreen Police Department, a hearing will be conducted upon written request.

### 503.3 HEARING OFFICER

The Chief of Police will identify the person who will act as a hearing officer when the decision of a member to tow a vehicle is contested. The hearing officer in any case must be a person other than the member who directed the vehicle to be towed.

### 503.4 HEARING PROCESS

The registered or legal owner of the vehicle or his/her agent may request a hearing when a vehicle is towed or stored at the direction of any member of the Wintergreen Police Department (Va. Code § 19.2-80.1; Va. Code § 46.2-1209; Va. Code § 46.2-1211; Va. Code § 46.2-890).

The failure to request a hearing in a timely manner or to attend a scheduled hearing may be considered a waiver of and satisfaction of the hearing.

The requested hearing shall be conducted within 48 hours of the request, excluding weekends and holidays.

Any relevant evidence may be submitted and reviewed by the hearing officer to determine the validity of the tow.

Certain hearings, such as driving with a suspended or revoked license, may be reviewed by the appropriate general district court upon a petition of the driver, owner or co-owner of the vehicle (Va. Code § 46.2-301.1).

### 503.5 DECISION

After consideration of all the evidence, the hearing officer shall determine whether the Department has established the validity of the tow by a preponderance of the evidence.

- (a) If a decision is made that reasonable grounds for the tow have been established, the hearing officer shall advise the requesting party of the decision.
- (b) If a decision is made that reasonable grounds for the tow have not been established, the vehicle shall be released immediately. Towing and storage fees will be the responsibility of the Department.

## Impaired Driving

### 504.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI) of alcohol or drugs.

### 504.2 POLICY

The Wintergreen Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of Virginia's impaired driving laws.

### 504.3 INVESTIGATIONS

Officers should not enforce DUI laws to the exclusion of their other duties unless specifically assigned to DUI enforcement. All officers are expected to enforce these laws with due diligence.

The Bureau Commander will develop and maintain, in consultation with the prosecuting attorney, report forms with appropriate checklists to assist investigating officers in documenting relevant information and maximizing efficiency. Any DUI investigation will be documented using these forms. Information documented elsewhere on the form does not need to be duplicated in the report narrative. Information that should be documented includes, at a minimum:

- (a) The field sobriety tests (FSTs) administered and the results.
- (b) The officer's observations that indicate impairment on the part of the individual, and the officer's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.
- (f) Any prior related convictions in Virginia or another jurisdiction.

### 504.4 FIELD TESTS

The Bureau Commander should identify standardized FSTs and any approved alternate tests for officers to use when investigating violations of DUI laws.

#### 504.4.1 PRELIMINARY BREATH TESTS

If the driver is suspected of being DUI and has failed the standardized FSTs, a preliminary breath test (PBT), if available, shall be offered. The person shall be advised of his/her right to refuse the PBT. The person may observe the process of analysis and the results of the test, if requested (Va. Code § 18.2-267).

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#### **504.5 CHEMICAL TESTS**

A person, whether licensed in Virginia or not, implies consent under Virginia law to a chemical test or tests, and to providing the associated chemical sample if the person has been arrested for any of the following (or a similar ordinance) within three hours of the alleged offense (Va. Code § 18.2-268.2; Va. Code § 46.2-341.26:2):

- (a) DUI (Va. Code § 18.2-266)
- (b) Minor DUI (Va. Code § 18.2-266.1)
- (c) Driving after license forfeiture (Va. Code § 18.2-272)
- (d) Commercial vehicle DUI (Va. Code § 46.2-341.24; Va. Code § 46.2-341.31)

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

The test shall be of the person's breath unless a breath test is unavailable or the person is physically unable to submit to a breath test, in which case a blood test shall be given. If there is reason to believe that the person was driving under the influence of both alcohol and drugs, or drugs alone, a blood test may be administered in addition to the breath test.

##### **504.5.1 STATUTORY NOTIFICATIONS**

The officer shall inform the person, prior to the test, that analysis of the reading and the results may be observed. If the equipment used produces a written printout, the person shall be given a copy (Va. Code § 18.2-268.2).

##### **504.5.2 BLOOD SAMPLES**

Only persons authorized by law to draw blood shall collect blood samples (Va. Code § 18.2-268.5). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored and transported as required by the Department of Forensic Science.

If an arrestee cannot submit to a blood draw because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test shall not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

#### **504.6 REFUSALS**

When an arrestee refuses to provide a chemical sample, officers shall (Va. Code § 18.2-268.3; Va. Code § 46.2-341.26:3):

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- (a) Advise the arrestee of the requirement to provide a sample (Va. Code § 18.2-268.2; Va. Code § 46.2-341.26:2).
  - 1. If the person was driving on private property, the officer should make reasonable attempts to obtain a voluntary chemical test sample.
- (b) Audio- and/or video-record the admonishment and the response when it is practicable.
- (c) Document the refusal in the appropriate report.

#### 504.6.1 STATUTORY NOTIFICATIONS UPON REFUSAL

Upon refusal to submit to a chemical test, officers shall advise the person, using the Declaration and Acknowledgement of Refusal form, of the consequences of such refusal (Va. Code § 18.2-268.3; Va. Code § 46.2-341.26:3).

#### 504.6.2 OFFICER DECLARATIONS UNDER OATH

The arresting officer shall execute the Declaration and Acknowledgement of Refusal form, under oath before a magistrate certifying (Va. Code § 18.2-268.3; Va. Code § 46.2-341.26:3):

- (a) The arrestee has refused to permit breath or blood samples to be taken for testing.
- (b) The officer has read the form to the arrestee.
- (c) The arrestee has still refused to provide a sample after being read the admonishment.
- (d) Whether the arrestee has any prior convictions within the last 10 years.

#### 504.6.3 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who refuses to submit to a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained.
- (b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts, such as a lengthy time delay resulting from an accident investigation or medical treatment of the person.

#### 504.6.4 FORCED BLOOD SAMPLE

If an arrestee indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes, a viable form of testing in a timely manner.

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- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer), and attempt to persuade the individual to submit to providing such a sample without physical resistance.
  - 1. This dialogue should be recorded on audio and/or video when practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure that the forced blood draw is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:
  - 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
  - 2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
  - 3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.
- (g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform the duties of a supervisor, as set forth above.

#### **504.7 ARREST AND INVESTIGATION**

Officers may make a warrantless arrest within three hours of an alleged DUI offense, whether or not the offense was committed in the officer's presence (Va. Code § 19.2-81).

##### **504.7.1 TRAFFIC ACCIDENTS**

Virginia law allows officers to make an arrest of a DUI driver involved in an accident even though the accident was not committed in his/her presence (Va. Code § 19.2-81). Officers shall include relevant facts and circumstantial evidence that tends to show that the particular person was the driver of the vehicle.

#### **504.8 OFFICE OF THE CHIEF OF POLICE RESPONSIBILITIES**

The Chief of Police will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

#### **504.9 ADMINISTRATIVE HEARINGS**

The Chief of Police will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to the Virginia Department of Motor Vehicles (DMV) and entered into the Virginia Criminal Information Network (VCIN) as applicable.

Any officer who receives notice of required attendance at an administrative license suspension hearing should promptly notify the prosecuting attorney.



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An officer called to testify at an administrative hearing should document the hearing date and the DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified.

## Traffic and Parking Citations

### 505.1 PURPOSE AND SCOPE

This policy outlines the responsibilities for issuing, correcting, voiding and dismissing traffic and parking citations.

### 505.2 POLICY

It is the policy of the Wintergreen Police Department to enforce all traffic laws fairly and equally for all persons. Authorized members may issue a traffic citation, parking citation, or written or verbal warning based upon the circumstances of the contact and in the best interest of the motoring public and community safety.

### 505.3 RESPONSIBILITIES

The Field Operations Bureau Commander shall be responsible for the supply and accounting of all traffic and parking citations issued to members of this department. Citations will be kept in a secure location and issued to members by the Field Operations Bureau Commander. Members will sign for the citation books when issued or upon return of unused citations.

Members of the Wintergreen Police Department shall only use department-approved traffic and parking citation forms.

The Officer should provide information to the violator including the mandatory or discretionary court appearance schedule and any prepayment information.

#### 505.3.1 WRITTEN OR VERBAL WARNINGS

Written or verbal warnings may be issued when the department member believes it is appropriate. The Office of the Chief of Police should maintain information relating to traffic stops in which a written warning is issued. Written warnings are retained by this department in accordance with the established records retention schedule.

### 505.4 TRAFFIC CITATIONS

#### 505.4.1 CORRECTION

When a traffic citation is issued but is in need of correction, the member issuing the citation shall submit the citation and a letter to his/her immediate supervisor requesting a specific correction. Once approved, the citation and letter shall then be forwarded to the Office of the Chief of Police. The Chief of Police or the authorized designee shall prepare a letter of correction to the court having jurisdiction and notify the citation recipient in writing.

#### 505.4.2 VOIDING

Voiding a traffic citation may occur when the citation has not been completed or when it is completed but not issued. All copies of the voided citation shall be presented to a supervisor for approval. The citation and copies shall then be forwarded to the Office of the Chief of Police.

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##### 505.4.3 DISMISSAL

Members of this department do not have the authority to dismiss a traffic citation once it has been issued. Only the court has that authority. Any request from a recipient to dismiss a citation shall be referred to the Field Operations Bureau Commander. Upon a review of the circumstances involving the issuance of the traffic citation, the Bureau Commander may request the Chief of Police to recommend dismissal. If approved, the citation will be forwarded to the appropriate prosecutor with a request for dismissal. All recipients of traffic citations whose request for dismissal has been denied shall be referred to the appropriate court.

Prior to a court hearing, a member may submit a request for dismissal of a traffic citation to his/her supervisor. The request must be in writing and should include the reason for dismissal (i.e., in the interest of justice, prosecution is deemed inappropriate). Upon a review of the circumstances involving the issuance of the traffic citation, the supervisor may forward the request to the Field Operations Bureau Commander to recommend dismissal. If approved, the citation will be forwarded to the appropriate prosecutor with a request for dismissal.

Should a member determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate, the member may request the court to dismiss the citation. Upon such dismissal, the member shall notify his/her immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork as directed or required, and forward it to the Field Operations Bureau Commander for review.

##### 505.4.4 DISPOSITION

The court and file copies of all traffic citations issued by members of this department shall be forwarded to the member's immediate supervisor for review by the end of each shift. The citation copies shall then be filed with the Office of the Chief of Police.

Upon separation from appointment or employment with this department, all members who were issued traffic citation books shall return any unused citations to the Office of the Chief of Police.

##### 505.4.5 JUVENILE CITATIONS

Completion of traffic citation forms for juveniles may vary slightly from the procedure for adults. The juvenile's age, place of residency and the type of offense should be considered before issuing a juvenile a citation.

##### 505.4.6 DATA COLLECTION

Each time an officer makes a traffic stop, the officer shall report any information as required in the Bias-Based Policing Policy.

#### **505.5 PARKING CITATION APPEALS**

Parking citations may be appealed in accordance with local and state law.

## Disabled Vehicles

### 506.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for department members who provide assistance to motorists in disabled vehicles within the primary jurisdiction of the Wintergreen Police Department.

### 506.2 POLICY

It is the policy of the Wintergreen Police Department to assist motorists with disabled vehicles until those vehicles are safely removed from the roadway. Members should take appropriate action to mitigate potential problems when a vehicle constitutes a traffic hazard or the safety of the motorist is a concern.

### 506.3 RESPONSIBILITIES

When an on-duty member of this department sees a disabled vehicle on the roadway, the member should make a reasonable effort to provide assistance. If this is not reasonably possible, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another department member to respond as soon as practicable.

### 506.4 ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department members will be contingent on the time of day, the location, the availability of department resources and the vulnerability of the disabled motorist.

#### 506.4.1 MECHANICAL REPAIRS

Department members shall not make mechanical repairs to a disabled vehicle. The use of push bumpers, with consent of the owner, to relocate vehicles to a position of safety is not considered a mechanical repair.

#### 506.4.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

#### 506.4.3 RELOCATION OF DISABLED MOTORIST

The relocation of a disabled motorist should only occur with the person's consent and should be suggested when conditions reasonably indicate that immediate movement is necessary to mitigate a potential hazard. The department member may stay with the disabled motorist or transport him/her to a safe area to await pickup.

#### 506.4.4 EMERGENCY CONDITIONS

Should the disabled motorist be in jeopardy of injury or any other emergency condition is evident, the assistance response should be elevated to correspond to the circumstance.

## Traffic Procedures

### 507.1 PURPOSE AND SCOPE

This procedure provides guidance to members in the use of department-approved traffic management methods.

### 507.2 TRAFFIC DIRECTION AND CONTROL

#### 507.2.1 MANUAL TRAFFIC DIRECTION

High-visibility vests should be worn in accordance with the Traffic Policy.

Department members assigned or authorized to control traffic should use the following uniform hand gestures to perform manual traffic direction:

- (a) **Stopping traffic:** The member should extend the arm and index finger toward and look directly at the driver to be stopped until that driver is or appears to be aware of the member's gesture. The member should then raise the pointing hand at the wrist so that the palm is toward the person to be stopped, and hold the palm in this position until the person stops. To stop traffic from both directions, the member should repeat the procedure for traffic coming from the other direction and continue to maintain the raised arm and palm toward the previously stopped traffic.
- (b) **Starting traffic:** The member should stand with the member's shoulder and side toward the traffic to be started, extend the arm and index finger toward, and look directly at the driver to be started until that driver is or appears to be aware of the member's gesture. The member should then swing the pointing arm, with palm up, from the elbow through a vertical semicircle until the hand is adjacent to the chin. If necessary, the member should repeat until traffic begins to move. To start traffic from both directions, the member should repeat the procedure for traffic coming from the other direction.
- (c) **Right or left turn:** The member's extended arm, index finger, and gaze should first be directed toward the driver. The member should then swing the extended arm and index finger in the direction of the driver's intended turn.
- (d) **Use of flashlight:** A flashlight may be used to stop traffic. To stop traffic, the member should slowly swing the beam of light across the path of oncoming traffic. The beam should strike the pavement as an elongated spot of light. After the driver has stopped, the member should use hand gestures with the vehicle headlights to provide illumination.

The member should stop all traffic and address the dangerous condition with all traffic stopped.

#### 507.2.2 ACCIDENT SCENES

Members should refer to the Traffic Accidents Policy for additional guidance.

Additional guidelines should include as appropriate:

- (a) If a traffic accident results in traffic congestion, a member may request additional assistance, if available, to help with traffic control. Incidents occurring during heavy traffic periods on major streets resulting from a traffic accident and/or adverse road and

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weather conditions may also require the use or operation of temporary traffic control devices (e.g., barriers, cones, flares, traffic signals).

1. Members should use uniform hand gestures for manual traffic direction to assist in the efficient and safe movement of vehicle and pedestrian traffic.
  2. Members should coordinate traffic direction with other members at the scene, if appropriate.
- (b) Traffic may be stopped, rerouted, or restricted as necessary to ensure the safety of members, victims, and uninvolved motorists.

#### 507.2.3 CRITICAL INCIDENT SCENES

- (a) Members providing traffic direction and control at critical incident scenes (e.g., fires, utility emergencies) should prevent unauthorized vehicles and pedestrians from entering the area and provide a safe arrival route for emergency vehicles.
- (b) The Department should coordinate its efforts with other emergency service agencies at fires, utility emergencies, or other scenes to provide crowd control and adequate safety measures for vehicle and pedestrian traffic.
- (c) Members should use temporary traffic control devices as necessary and should manually direct and control the flow of all traffic in accordance with this policy.
- (d) Members should contact a supervisor if additional assistance is needed at a location for any reason.

#### 507.2.4 HAZARDOUS ROAD CONDITIONS

Hazardous road conditions due to weather, road damage, or other emergencies should be addressed as soon as practicable.

- (a) A member who locates or is assigned to investigate a hazardous road condition should use temporary traffic control devices if necessary to identify the hazard to the public, isolate it, and limit the public's ability to come into contact with or access the area.
- (b) A member who locates or is assigned to investigate a hazardous condition should assess the condition and request through the Communication Center that notifications be made to appropriate authorities responsible for correcting the hazard. The dispatcher should document the condition and all notifications that are made.
- (c) If a member needs assistance with isolating a hazard, the member may request additional members to the location.
- (d) If there are any questions regarding the proper isolation of a roadway hazard, members should contact their supervisor.
  1. Members should only use road flares when there is no risk of fire or explosion. Road flares should not be left unattended while burning. Any remnants left after a flare has been exhausted and allowed time to cool should be collected and disposed of properly.
- (e) A member should only clear from the location under one of the following circumstances:

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1. The hazardous condition has been corrected.
2. The member is relieved by an appropriate authority who will conduct the repair, and traffic direction and control services are no longer needed.
3. The member is properly relieved by another member.
4. When authorized by a supervisor.

#### **507.2.5 MANUAL OPERATION OF TRAFFIC CONTROL DEVICES**

On occasion, members may have to manually operate traffic lights or set traffic lights to flash. Only authorized members should manually operate traffic control devices with the approval of a supervisor and for the following purposes:

- (a) To correct a traffic light malfunction
- (b) To facilitate movement at traffic accidents or other emergencies
- (c) To provide passage for a motorcade or funeral procession
- (d) To alleviate congestion, particularly during planned special events

#### **507.2.6 TEMPORARY TRAFFIC CONTROL DEVICES**

Temporary traffic control devices (e.g., cones, signs, barricades) should be deployed using the procedures set forth in the most recent edition of the National Manual on Uniform Traffic Control Devices.

#### **507.3 VEHICLE ESCORT SERVICES**

Vehicle escort services are generally not performed. All requests for law enforcement escort services should be approved by the Chief of Police.

If a request is granted, the Bureau Commander should be responsible for:

- (a) Identifying the required department resources.
- (b) Coordinating with outside agencies.
- (c) Identifying safety and security risks.
- (d) Taking reasonable precautions to ensure public safety.

Only vehicles equipped with emergency lights and sirens should be used to provide escort services.

Requests for escort for medical transport or civilian vehicles should be in accordance with the specifications in the Medical Aid and Response Policy.

## **Chapter 6 - Investigation Operations**



## Investigation and Prosecution

### 600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and dispositions of criminal investigations.

### 600.2 POLICY

It is the policy of the Wintergreen Police Department to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

### 600.3 INITIAL INVESTIGATION

#### 600.3.1 NON-SWORN MEMBER RESPONSIBILITIES

A non-sworn member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an officer shall be requested.

#### 600.3.2 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following for the preparation of a case file:

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
  1. An initial statement from any witnesses or complainants.
  2. A cursory examination for evidence.
  3. Documentation of any pertinent conditions, events and remarks.
- (b) If information indicates a crime has occurred, the officer shall:
  1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
  2. Determine whether additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
  3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Bureau Commander.
  4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
  5. Collect any evidence.
  6. Take any appropriate law enforcement action.
  7. Complete and submit the appropriate reports and documentation.

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- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary and what other resources may be available, and advise the informant or complainant of this information.

#### **600.4 CUSTODIAL INTERROGATION REQUIREMENTS**

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

##### **600.4.1 AUDIO/VIDEO RECORDINGS**

An officer conducting a custodial interrogation at the Department or in any facility where suspects may be detained shall record the entire interrogation (e.g., video with audio, just audio if video is not available) as required by law (Va. Code § 19.2-390.04).

Outside of the Department or any facility where suspects may be detained, any custodial interrogation of an individual who is suspected of having committed any violent felony offense should be recorded (audio or video with audio as available) in its entirety. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Investigations supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate, and complete, and are made only for authorized and legitimate law enforcement purposes. Any recordings made should be retained until the conclusion of any resulting charges and the completion of any resulting sentence (Va. Code § 19.2-390.04).

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

##### **600.4.2 INTERVIEW ROOMS**

Interview room use is guided by the following:

- (a) Interview rooms should be constantly monitored through visual and/or video technology of the person placed and left alone in an interview room.
- (b) Members should remain in close proximity of the interview room and be available to immediately intervene on behalf of the person or Wintergreen Police Department as needed.
- (c) Officers should conduct a search of the interview room prior to and after each interview and search the person as necessary.
- (d) Weapons should be secured in accordance with any applicable department specifications.

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- (e) Access to keys and other access devices to the interview rooms should be controlled and monitored.
- (f) The Training Supervisor shall ensure that all members authorized to utilize the interview rooms receive proper training.

#### 600.4.3 INTERVIEW ROOM PROCEDURES

[Insert your specific procedures consistent with standard OPR.14.01 (d) – see the Guide Sheet for additional information.]

#### **600.5 DISCONTINUATION OF INVESTIGATIONS**

The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

- (a) All reasonable investigative efforts have been exhausted, there is no reasonable belief that the person who committed the crime can be identified and the incident has been documented appropriately.
- (b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.
  1. In these cases, the investigator shall document that the person was warned and why prosecution was not sought.
  2. Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.
- (c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.
- (d) The case has been submitted to the appropriate prosecutor; charges have been filed; further investigation is not reasonable, warranted or requested; and there is no need to take the suspect into custody.
- (e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted or requested.
- (f) Investigation has proved that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

The Domestic or Family Violence, Child Abuse, Sexual Assault Investigations and Adult Abuse policies may also require an arrest or submittal of a case to a prosecutor.

#### **600.6 COMPUTERS AND DIGITAL EVIDENCE**

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

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#### **600.7 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES**

Use of social media and any other internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights and civil liberties. Information gathered via the internet should only be accessed by members while on-duty and for purposes related to the mission of this department. If a member encounters information relevant to a criminal investigation while off-duty or while using his/her own equipment, the member should note the dates, times and locations of the information and report the discovery to his/her supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using department equipment.

Information obtained via the internet should not be archived or stored in any manner other than department-established record keeping systems (see the Records Maintenance and Release and Criminal Organizations policies).

##### **600.7.1 ACCESS RESTRICTIONS**

Information that can be accessed from any department computer, without the need of an account, password, email address, alias or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information from any internet source that requires the use or creation of an account, password, email address, alias or other identifier, or the use of nongovernment IP addresses, requires supervisor approval prior to access. The supervisor will review the justification for accessing the information and consult with legal counsel as necessary to identify any policy or legal restrictions. Any such access and the supervisor approval shall be documented in the related investigative report.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related investigative report.

Information gathered from any internet source should be evaluated for its validity, authenticity, accuracy and reliability. Corroborative evidence should be sought and documented in the related investigative report.

Any information collected in furtherance of an investigation through an internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

##### **600.7.2 INTERCEPTING ELECTRONIC COMMUNICATION**

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Officers should seek legal counsel before any such interception.

#### **600.8 IDENTITY THEFT**

A report should be taken any time a person living within the jurisdiction of the Wintergreen Police Department reports that he/she has been a victim of identity theft. This includes (Va. Code § 18.2-186.3:1):

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- (a) Taking a report, even if the location of the crime is outside the jurisdiction of this department or has not been determined.
- (b) Providing the victim with the appropriate information, as set forth in the Victim and Witness Assistance Policy. Department members should encourage the individual to review the material and should assist with any questions.

A report should also be taken if a person living outside department jurisdiction reports an identity theft that may have been committed or facilitated within this jurisdiction (e.g., use of a post office box in Wintergreen to facilitate the crime).

A member investigating a case of identity theft should ensure that the case is referred to the appropriate agency if it is determined that this department should not be the investigating agency (e.g., an identity theft ring working from out of state). The victim should be advised that the case is being transferred to the agency of jurisdiction. The appropriate entries should be made into any databases that have been authorized for department use and are specific to this type of investigation.

#### **600.9 FIREARMS**

Any member who seizes a firearm should make reasonable efforts to promptly identify and trace the history of the firearm and report required information to the National Tracing Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives within the U.S. Department of Justice (Va. Code § 52-25.1; 19 VAC 30-115-10).

If reporting a firearm may compromise an on-going investigation, members should consult with a supervisor to determine if the report and request for a trace should be delayed. Even if a delay is appropriate, the report and request shall be made prior to the conclusion of the investigation (19 VAC 30-115-10).

#### **600.10 MODIFICATION OF CHARGES FILED**

Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without the authorization of a Bureau Commander or the Chief of Police. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.

#### **600.11 SURVEILLANCE OR UNDERCOVER EQUIPMENT**

Any specialized equipment used for surveillance or undercover operations will;

- (a) Be authorized for use by the Chief of Police or designee.
- (b) Be distributed to authorized members by the Chief of Police or designee.
- (c) Be used for its intended purpose and returned in the same condition as issued.

#### **600.12 FOLLOW-UP INVESTIGATIONS**

Any member assigned to follow-up on an investigation will be required to perform the following duties.

- (a) Review and analyze all preliminary investigative reports.

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- (b) If needed conduct additional interviews or interrogations.
- (c) Identify the need to collect and/or preserve any newly discovered physical evidence.
- (d) Identifying and apprehending suspect(s).
- (e) Preparing a case file for submission to the Commonwealth Attorney's Office.

#### **600.13 FOLLOW-UP INVESTIGATION RESPONSIBILITIES**

A follow-up investigation should include the following steps, at a minimum:

- (a) Reviewing and analyzing all previous reports prepared in the preliminary phase, department records, and results from laboratory examinations, as applicable
- (b) Conducting additional interviews and interrogations, if necessary
- (c) Seeking additional information, as appropriate (e.g., from uniformed officers or informants)
- (d) Planning, organizing, and conducting searches, if necessary
- (e) Collecting physical evidence, as applicable
- (f) Collecting the appropriate materials and substances from known sources when available in order to submit these items to the appropriate laboratory for a comparative analysis with the physical evidence collected
- (g) Identifying and apprehending any suspect
- (h) Determining if a suspect is involved in another crime
- (i) Checking any suspect's criminal history
- (j) Preparing the case for court presentation, if necessary

## Sexual Assault Investigations

### 601.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims (Va. Code § 9.1-1301).

Mandatory notification requirements are addressed in the Child Abuse and Adult Abuse policies.

#### 601.1.1 DEFINITIONS

Definitions related to this policy include:

**Sexual assault** - Any crime or attempted crime of a sexual nature, to include but not limited to offenses defined in Article 7 of Chapter 4 of Title 18.2.

**Sexual Assault Response Team (SART)** - A multidisciplinary team generally comprised of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

### 601.2 POLICY

It is the policy of the Wintergreen Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

### 601.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

- (a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.
- (b) Conduct follow-up interviews and investigation.
- (c) Present appropriate cases of alleged sexual assault to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.
- (e) Provide referrals to therapy services, victim advocates and support for the victim.
- (f) Participate in or coordinate with the local or regional SART or other multidisciplinary investigative teams as applicable (Va. Code § 15.2-1627.4).

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##### **601.4 REPORTING**

In all reported or suspected cases of sexual assault, a report should be written and assigned for follow-up investigation. This includes incidents in which the allegations appear unfounded or unsubstantiated.

##### **601.5 VICTIM INTERVIEWS**

The primary considerations in sexual assault investigations, which begin with the initial call to the Communication Center, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of the SART should be included in the initial victim interviews.

An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

No opinion of whether the case is unfounded should be included in a report.

Victims shall not be asked or required to take a polygraph examination as a condition for proceeding with an investigation. Victims may voluntarily submit to a polygraph examination and shall be informed in writing that the results cannot be used in evidence and that their voluntary submission is not a condition for initiating or continuing the investigation (34 USC § 10451; Va. Code § 19.2-9.1).

Victims should be transported to the hospital by ambulance when appropriate based upon medical conditions or injuries. Officers should accommodate the victim in alternative transportation for an examination if the victim does not want to be transported in a law enforcement vehicle. The officer should also arrange for transportation of the victim after completion of the examination.

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

##### **601.6 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE**

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim. The SART member or officer should not be physically present when the examination is being conducted on victims.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to the requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.



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Victims who choose not to assist with an investigation, do not desire that the matter be investigated or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately (Va. Code § 19.2-11.6).

##### 601.6.1 COLLECTION AND TESTING REQUIREMENTS

Members investigating sexual assaults or handling related evidence are required to do the following:

- (a) Respond promptly to a facility upon receiving notice from a health care provider that a physical evidence recovery kit has been collected (Va. Code § 19.2-11.7).
- (b) Submit physical evidence recovery kits to the Virginia Department of Forensic Science (DFS) for biological testing within 60 days of receipt unless (Va. Code § 19.2-11.8):
  - 1. The victim has chosen not to report the offense.
  - 2. The evidence was collected by the Medical Examiner as part of a routine death investigation and the Bureau Commander and Medical Examiner agree that analysis is not necessary.
  - 3. The offense occurred in another state.
  - 4. Officers, after consultation with a supervisor, determine that the evidence is not related to a criminal offense.
  - 5. Another law enforcement agency has taken over responsibility for the investigation.
    - (a) The physical evidence recovery kit should be promptly sent to the investigating agency for submission to the DFS if the investigating agency is within Virginia.
- (c) Enter the identification number and any other information pertaining to a physical evidence recovery kit into the statewide electronic tracking system as required by the DFS.

Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Section Policy.

##### 601.6.2 DNA TEST RESULTS

Members investigating sexual assaults or handling related evidence should make notifications to the victim (or an appropriate family member of a victim who is a minor or who is deceased) about the submission of biological evidence for testing, the status of testing, the results of such testing, the time frame and rights related to the storage of the physical evidence recovery kit, and the kit's unique identification number and tracking information as set forth in Va. Code § 19.2-11.11.

The information required to be disclosed should be provided to the victim (or appropriate family member) as soon as reasonably practicable, unless disclosing the information would interfere with the investigation or prosecution of the case, in which case an estimated date on which the information may be available, if known, should be provided (Va. Code § 19.2-11.11).

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Members are not required to provide DNA test results to a family member of a minor or deceased victim if the family member is the alleged perpetrator. In such cases, a supervisor should be consulted before any information is provided (Va. Code § 19.2-11.11).

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

Members investigating sexual assaults cases should ensure that DNA results are entered into databases when appropriate and as soon as practicable.

#### **601.7 DISPOSITION OF CASES**

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Chief of Police, and consultation with the Commonwealth Attorney's Office.

Classification of a sexual assault case as unfounded requires the investigator to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

#### **601.8 CASE REVIEW**

The investigator should ensure cases are reviewed on a periodic basis, at least annually, using an identified group that is independent of the investigation process. The reviews should include an analysis of:

- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

The SART and/or victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Chief of Police.

#### **601.9 RELEASING INFORMATION TO THE PUBLIC**

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The investigator should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

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##### **601.10 TRAINING**

Subject to available resources, periodic training should be provided to (Va. Code § 9.1-1301):

- (a) Members who are first responders. Training should include:
  - 1. Initial response to sexual assaults.
  - 2. Legal issues.
  - 3. Victim advocacy.
  - 4. Victim's response to trauma.
- (b) Qualified investigators, who should receive advanced training on additional topics. Advanced training should include:
  - 1. Interviewing sexual assault victims.
  - 2. SART.
  - 3. Medical and legal aspects of sexual assault investigations.
  - 4. Serial crimes investigations.
  - 5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
  - 6. Techniques for communicating with victims to minimize trauma.

## Asset Forfeiture

### 602.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

#### 602.1.1 DEFINITIONS

Definitions related to this policy include:

**Fiscal agent** - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Wintergreen Police Department seizes property for forfeiture or when the Wintergreen Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

**Forfeiture** - The process by which legal ownership of an asset is transferred to a government or other authority.

**Forfeiture reviewer** - The department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and acting as the liaison between the Department and the forfeiture counsel.

**Property subject to forfeiture** - Property subject to forfeiture may include:

- (a) Property used in connection with or derived from terrorism (Va. Code § 19.2-386.15).
- (b) Vehicles used for prostitution and kidnapping related offenses (Va. Code § 19.2-386.16).
- (c) Moneys and other income, including all proceeds, derived through computer crimes (Va. Code § 19.2-386.17).
- (d) Property used in connection with money laundering (Va. Code § 19.2-386.19).
- (e) Unlawfully sold or delivered cigarettes and counterfeit/contraband cigarettes (Va. Code § 19.2-386.20; Va. Code § 19.2-386.21).
- (f) Property used in connection with or derived from illegal drug transactions (Va. Code § 19.2-386.22).
- (g) Firearms carried in violation of weapons carry laws or used in a crime (Va. Code § 19.2-386.27; Va. Code § 19.2-386.28; Va. Code § 19.2-386.29).
- (h) Money, gambling devices and personal property used in connection with illegal gambling (Va. Code § 19.2-386.30).
- (i) Property used in connection with the exploitation, solicitation or abduction of children (Va. Code § 19.2-386.31).
- (j) Money and real or personal property derived through government corruption (Va. Code § 19.2-386.33).

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- (k) Vehicles used in felony-level driving while intoxicated offenses (Va. Code § 19.2-386.34).
- (l) Property used in connection with certain listed offenses (Va. Code § 19.2-386.35).

**Seizure** - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

#### **602.2 POLICY**

The Wintergreen Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential of revenue shall not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations or any person's due process rights.

It is the policy of the Wintergreen Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeitures.

#### **602.3 ASSET SEIZURE**

Property may be seized for forfeiture as provided in this policy.

##### **602.3.1 PROPERTY SUBJECT TO SEIZURE**

The following property may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

- (a) Property subject to seizure through a court order.
- (b) Property that can be legally seized as evidence of a crime.
- (c) Property that is not subject of a court order, but:
  1. The property can be lawfully accessed by officers.
  2. There is probable cause to support a substantial connection between the property and the activity for which a statute authorizes its seizure.

Whenever practicable, obtaining a search warrant or court order for seizure prior to making a seizure is the preferred method (Va. Code § 19.2-386.2).

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

##### **602.3.2 PROPERTY NOT SUBJECT TO SEIZURE**

The following property should not be seized for forfeiture:

- (a) Cash and property that does not meet the forfeiture counsel's current minimum forfeiture thresholds.
- (b) Property when the officer suspects the owner was not a consenting party or privy to the conduct giving rise to forfeiture ("innocent owner") (Va. Code § 19.2-386.8).

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- (c) Real property absent a court order.

#### **602.3.3 REQUESTS TO RELINQUISH PROPERTY RIGHTS**

Officers shall not request or otherwise suggest that a person who is asserting an ownership or other right to property seized by the department waive that interest prior to the filing of an information related to the property (Va. Code § 19.2-386.2).

#### **602.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS**

When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

- (a) Complete the applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so (Va. Code § 19.2-386.2).
- (b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.
- (c) Forward the original seizure forms and related reports to the forfeiture reviewer within one day of seizure.

The officer will book seized property as evidence with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere; the whereabouts of the property is unknown; it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

#### **602.5 MAINTAINING SEIZED PROPERTY**

The Property and Evidence Section supervisor is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition (Va. Code § 19.2-386.4).
- (b) All property received for forfeiture is checked to determine whether the property has been stolen.

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- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.
- (e) Forfeitable property is retained until such time as its use as evidence is no longer required.

#### **602.6 FORFEITURE REVIEWER**

The Chief of Police will appoint a forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a course approved by the Department on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

- (a) Remaining familiar with state and federal forfeiture laws, particularly the Va. Code § 19.2-386.1 et seq. and the forfeiture policies of forfeiture counsel.
- (b) Serving as the liaison between the Department and the forfeiture counsel and ensuring prompt legal review of all seizures.
  - 1. If property was seized before an information was filed, notification to the forfeiture attorney should occur as soon as practicable (Va. Code § 19.2-386.3).
- (c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing, and tracking forfeitures.
- (d) Reviewing each seizure-related case and deciding whether the seizure is more appropriately made under state or federal seizure laws. The forfeiture reviewer should contact federal authorities when appropriate.
- (e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (f) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form, and a checklist that provides relevant guidance to officers. The forms should be available in languages appropriate for the region and should contain spaces for:
  - 1. Names and contact information for all relevant persons and law enforcement officers involved.
  - 2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
  - 3. A space for the signature of the person from whom cash or property is being seized.
  - 4. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the

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seizure, information regarding the process to contest the seizure, and a detailed description of the items seized.

- (g) Ensuring that officers who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs), or Executive Orders. The training should cover this policy and address any relevant statutory changes and court decisions.
- (h) Reviewing each asset forfeiture case to ensure that:
  - 1. Written documentation of the seizure and the items seized is in the case file.
  - 2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
  - 3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property.
  - 4. Property is promptly released to those entitled to its return.
  - 5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
  - 6. Any cash received is deposited with the fiscal agent.
    - (a) The cash shall be held in an interest-bearing account (Va. Code § 19.2-386.4).
  - 7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
  - 8. Current minimum forfeiture thresholds are communicated appropriately to officers.
  - 9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.
- (i) Ensuring that a written plan is available that enables the Chief of Police to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement personnel and attorneys who may assist in these matters is available.
- (j) Ensuring that the Department disposes of property as provided by law following any forfeiture.
- (k) Ensuring that the process of selling or adding forfeited property to department inventory is in accordance with all applicable laws and consistent with the use and disposition of similar property.
- (l) Upon completion of any forfeiture process, ensuring that no property is retained by the Wintergreen Police Department unless the Chief of Police authorizes in writing the retention of the property for official use.



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- (m) Forwarding a report regarding seized property subject to forfeiture, its release, or other final disposition of the property with the Department of Criminal Justice Services (DCJS) as may be required (Va. Code § 19.2-386.4; 6 VAC 20-150-30).
- (n) After consultation with the Chief of Police, filing a DCJS Form 999 with the DCJS after a court has ordered assets to be forfeited and when the Wintergreen Police Department is the designated seizing agency, as well as any other notifications that may be required by law (6 VAC 20-150-40; Va. Code § 19.2-386.14).
- (o) Ensuring that an annual financial statement of receipts and expenditures is filed with the DCJS as may be required (6 VAC 20-150-40).

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and Private Police financial directives.

#### **602.7 DISPOSITION OF FORFEITED PROPERTY**

All proceeds from a forfeiture will be used for law enforcement purposes only and will not be used to supplant existing funds from any source (6 VAC 20-150-80).

No member of this department may use property that has been seized for forfeiture until the forfeiture action has been completed and the Chief of Police has given written authorization to retain the property for official use. No department member involved in the decision to seize property should be involved in any decision regarding the disposition of the property.

## Informants

### 603.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

#### 603.1.1 DEFINITIONS

Definitions related to this policy include:

**Informant** - A person who covertly interacts with other individuals or suspects at the direction or request of, or by agreement with, the Wintergreen Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Wintergreen Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

### 603.2 POLICY

The Wintergreen Police Department recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this department that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

### 603.3 USE OF INFORMANTS

#### 603.3.1 INITIAL APPROVAL

Before using an individual as an informant, an officer must receive approval from his/her supervisor. The officer shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Members of this department should not guarantee absolute safety or confidentiality to an informant.

#### 603.3.2 JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited.

In all cases, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

- (a) The juvenile's parents or legal guardians
- (b) The juvenile's attorney, if any
- (c) The court in which the juvenile's case is being handled, if applicable
- (d) The Chief of Police or the authorized designee

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#### 603.3.3 INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated department informant agreement. The officer using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

#### 603.4 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

- (a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Bureau Commander, or their authorized designees.
  - 1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.
- (b) Criminal activity by informants shall not be condoned.
- (c) Informants shall be told they are not acting as police officers, employees or agents of the Wintergreen Police Department, and that they shall not represent themselves as such.
- (d) The relationship between department members and informants shall always be ethical and professional.
  - 1. Members shall not become intimately involved with an informant.
  - 2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Field Operations Bureau Commander or Designee.
  - 3. Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
- (e) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of the Field Operations Bureau Commander.
  - 1. Officers may meet informants alone in an occupied public place, such as a restaurant.
- (f) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.
- (g) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.
- (h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

#### 603.4.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be

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unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the Department and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file "unsuitable" when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

- (a) The informant has provided untruthful or unreliable information in the past.
- (b) The informant behaves in a way that may endanger the safety of an officer.
- (c) The informant reveals to suspects the identity of an officer or the existence of an investigation.
- (d) The informant appears to be using his/her affiliation with this department to further criminal objectives.
- (e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.
- (f) The informant engages in any other behavior that could jeopardize the safety of officers or the integrity of a criminal investigation.
- (g) The informant commits criminal acts subsequent to entering into an informant agreement.

#### **603.5 INFORMANT FILES**

Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of department members or the reliability of the informant.

Informant files shall be maintained in a secure area within the Field Operations Bureau Commander. The Field Operations Bureau Commander or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief of Police, Field Operations Bureau Commander, or their authorized designees.

The Investigations Bureau Commander should arrange for an audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. If the Field Operations Bureau Commander is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the informant files.

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##### **603.5.1 FILE SYSTEM PROCEDURE**

Informants shall be included in a master file. Within the master file, a separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file:

- (a) Name and aliases
- (b) Date of birth
- (c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos, or other distinguishing features
- (d) Photograph
- (e) Current home address and telephone numbers
- (f) Current employers, positions, addresses, and telephone numbers
- (g) Vehicles owned and registration information
- (h) Places frequented
- (i) Briefs of information provided by the informant and the informant's subsequent reliability
  1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.
- (j) Name of the officer initiating use of the informant
- (k) Signed informant agreement
- (l) Update on active or inactive status of informant

##### **603.6 INFORMANT PAYMENTS**

No informant will be told in advance or given an exact amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant's previous criminal activity
- The level of risk taken by the informant

The Investigations Commander will discuss the above factors with the Field Operations Bureau Commander and recommend the type and level of payment, subject to approval by the Chief of Police.

##### **603.6.1 PAYMENT PROCESS**

Approved payments to an informant should be in cash using the following process:

- (a) Payments of \$500 and under may be paid in cash from a buy/expense fund.

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1. The Field Operations Bureau Commander shall sign the voucher for cash payouts from the buy/expense fund.
- (b) Payments exceeding \$500 shall be made by issuance of a check, payable to the officer who will be delivering the payment.
  1. The check shall list the case numbers related to and supporting the payment.
  2. A written statement of the informant's involvement in the case shall be placed in the informant's file.
  3. The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
  4. Authorization signatures from the Chief of Police and the Executive Director are required for disbursement of the funds.
- (c) To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form.
  1. The cash transfer form shall include:
    - (a) Date.
    - (b) Payment amount.
    - (c) Wintergreen Police Department case number.
    - (d) A statement that the informant is receiving funds in payment for information voluntarily rendered.
  2. The cash transfer form shall be signed by the informant.
  3. The cash transfer form will be kept in the informant's file.

#### 603.6.2 REPORTING OF PAYMENTS

Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed \$600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of officers or the safety of the informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as "other income" and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant's file.

#### 603.6.3 AUDIT OF PAYMENTS

The Field Operations Bureau Commander or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

## Eyewitness Identification

### 604.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (Va. Code § 19.2-390.02).

#### 604.1.1 DEFINITIONS

Definitions related to this policy include:

**Eyewitness identification process** - Any field identification, live lineup, or photographic identification.

**Field identification** - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

**Live lineup** - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

**Photographic lineup** - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

### 604.2 POLICY

The Wintergreen Police Department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

### 604.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

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

### 604.4 EYEWITNESS IDENTIFICATION FORM

The Investigations supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide:

- (a) The date, time and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.

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- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
- (j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.

The process and related forms should be reviewed at least annually and modified when necessary.

#### 604.4.1 CONFERENCE WITH PROSECUTOR

The Investigations should confer with the Office of the Commonwealth's Attorney and consult the Virginia Model Policy on Eyewitness Investigation issued by the Virginia Department of Criminal Justice Services when developing, reviewing and revising the witness identification process in order to ensure that the procedures established are compatible and consistent with the model policy, as appropriate.

#### 604.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case. Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded and the recording should be retained according to current evidence procedures.



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##### **604.6 PHOTOGRAPHIC LINEUP AND IN-PERSON LINEUP CONSIDERATIONS**

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness. Techniques to achieve this include randomly numbering photographs, shuffling folders or using a computer program to order the persons in the lineup.

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

The member presenting the lineup should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

##### **604.7 FIELD IDENTIFICATION CONSIDERATIONS**

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identification. A field elimination show-up or one-on-one identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

- (a) Obtain a complete description of the suspect from the witness.
- (b) Assess whether a witness should be included in a field identification process by considering:
  - 1. The length of time the witness observed the suspect.
  - 2. The distance between the witness and the suspect.
  - 3. Whether the witness could view the suspect's face.
  - 4. The quality of the lighting when the suspect was observed by the witness.
  - 5. Whether there were distracting noises or activity during the observation.
  - 6. Any other circumstances affecting the witness's opportunity to observe the suspect.
  - 7. The length of time that has elapsed since the witness observed the suspect.
- (c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
- (d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.

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- (e) The person who is the subject of the show-up should not be shown to the same witness more than once.
- (f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.
- (g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.
- (h) If a witness positively identifies a subject of a show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow-up, if necessary.

#### **604.7 DOCUMENTATION**

A thorough description of the eyewitness process and the result of any eyewitness identification should be documented in the case report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

#### **604.8 TRAINING**

The Wintergreen Police Department should establish minimum standards of training in eyewitness identification procedures for members. The purpose of this training is to:

- (a) Ensure uniformity and consistency in eyewitness identification.
- (b) Establish and maintain a high level of member competence in eyewitness identification and to prepare members for this important aspect of criminal investigation.

The Training Supervisor should ensure that sworn members receive initial and biennial training in eyewitness identification.

## Brady Information

### 605.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called “*Brady* information”) to a prosecuting attorney.

#### 605.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** - Information known or possessed by the Wintergreen Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

### 605.2 POLICY

The Wintergreen Police Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Wintergreen Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

### 605.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor’s office.

If information is believed to be privileged or confidential (e.g., informant, attorney-client information, attorney work product), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an officer is unsure, the officer should address the issue with a supervisor.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the department case file.

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#### **605.4 BRADY PROCESS**

The Chief of Police shall select a member of the Department to coordinate requests for *Brady* information. This person shall be directly responsible to the Field Operations Bureau Commander or the authorized designee.

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

- (a) Working with the appropriate prosecutors' offices and the Commonwealth Attorney's office to establish systems and processes to determine what constitutes *Brady* information and the method for notification and disclosure.
- (b) Maintaining a current list of members who have *Brady* information in their files or backgrounds.
  - 1. Updating this list whenever potential *Brady* information concerning any department member becomes known to the Department or is placed into a personnel or internal affairs file.

#### **605.4.1 RECORDS RELATED TO PERSONNEL COMPLAINTS**

The member selected by the Chief of Police to coordinate requests for *Brady* information is also responsible for establishing a system to comply with the requirements of Va. Code § 19.2-201 regarding personnel complaints against an officer who is a witness in a criminal matter or under criminal investigation related to the performance of that officer's duties (Va. Code § 19.2-201).

Any dissemination of records related to personnel complaints shall be in compliance with state and federal law, as well as this policy and the Personnel Records and Personnel Complaints policies. Protective orders and/or redactions should be sought as appropriate.

#### **605.5 DISCLOSURE OF REQUESTED INFORMATION**

If *Brady* information is located, the following procedure shall apply:

- (a) In the event that a motion has not already been filed by the criminal defendant or other party, the Commonwealth's attorney and the department member whose file is related to the motion shall be notified of the potential presence of *Brady* information.
- (b) The Commonwealth's attorney should be requested to file a motion in order to initiate an in-camera review by the court.
  - 1. If no motion is filed, the Chief of Police should work with the Commonwealth's attorney to determine whether the records should be disclosed to the prosecutor.
- (c) The Chief of Police shall accompany all relevant personnel files during any in-camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.
- (d) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.

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1. Prior to the release of any information pursuant to this process, a protective order should be requested from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.
  - (e) If a court has determined that relevant *Brady* information is contained in a member's file in any case, the Commonwealth's attorney should be notified of that fact in all future cases involving that member.

#### **605.6 INVESTIGATING BRADY ISSUES**

If the Department receives information from any source that a member may have issues of credibility or dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

#### **605.7 SUBPOENA PROCESSING**

The individual processing subpoenas (or the supervisor of the subpoenaed member) shall check the subpoenaed member's name against the current list of those who are known to have *Brady* information in their files or background, and shall alert the coordinator if a person on the list is subpoenaed.

#### **605.8 TRAINING**

Department personnel should receive periodic training on the requirements of this policy.

## Chapter 7 - Equipment

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## Department-Owned and Personal Property

### 700.1 PURPOSE AND SCOPE

This policy addresses the care of department-owned property and the role of the Department when personal property, the property of another person or department-owned property is damaged or lost.

### 700.2 POLICY

Members of the Wintergreen Police Department shall properly care for department property assigned or entrusted to them. Department-owned property that becomes damaged shall be promptly replaced. Members' personal property that becomes damaged during the performance of assigned duties will be reimbursed in accordance with this policy.

### 700.3 DEPARTMENT-ISSUED PROPERTY

All property and equipment issued by the Department shall be documented in the appropriate property sheet or equipment log. Receipt of issued items shall be acknowledged by the receiving member's signature. Upon separation from the Department, all issued property and equipment shall be returned. Documentation of the return shall be acknowledged by the signature of a supervisor.

#### 700.3.1 CARE OF PROPERTY

Members shall be responsible for the safekeeping, serviceable condition, proper care, proper use and replacement of department property that has been assigned or entrusted to them.

Intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to, the cost of repair or replacement.

- (a) Members shall promptly report, through their chain of command, any loss, damage to, or unserviceable condition of any department-issued property or equipment.
  - 1. A supervisor receiving such a report shall conduct an investigation and direct a memo to the appropriate Bureau Commander, which shall include the result of the investigation and whether misconduct or negligence caused the loss, damage or unserviceable condition.
  - 2. A review by command staff should determine whether additional action is appropriate.
- (b) The use of damaged or unserviceable property should be discontinued as soon as practicable, and the item replaced with a comparable item as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or otherwise reasonable by circumstances, department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.

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- (d) Department property shall not be thrown away, sold, traded, donated, destroyed or otherwise disposed of without proper authority.
- (e) A supervisor's approval is required before any attempt to repair damaged or unserviceable property is made by a member.

#### **700.4 PERSONAL PROPERTY**

Carrying and/or using personal property or equipment on-duty requires prior written approval by the Chief of Police or appropriate Bureau Commander. The member should submit a request that includes a description of the property and the reason and length of time it will be used. Personal property of the type routinely carried by persons who are not performing law enforcement duties, and that is not a weapon, is excluded from this requirement.

The Department will not replace or repair costly items (e.g., jewelry, expensive watches, exotic equipment) that are not reasonably required as part of work.

##### **700.4.1 FILING CLAIMS FOR PERSONAL PROPERTY**

Claims for reimbursement for damage to, or loss of, personal property must be made on the proper form. This form is submitted to the member's immediate supervisor. The supervisor may require a separate written report.

The supervisor receiving such a report shall investigate and direct a memo to the appropriate Bureau Commander, which shall include the result of the investigation and whether reasonable care was taken to prevent the loss, damage or unserviceable condition.

Upon review by command staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief of Police, who will then forward the claim to the person responsible for issuing payments.

#### **700.5 DAMAGE TO PROPERTY OF ANOTHER PERSON**

Anyone who intentionally or unintentionally damages or causes to be damaged the real or personal property of another person while performing any law enforcement function shall promptly report the damage through his/her chain of command.

The supervisor receiving such a report shall conduct an investigation and direct a memo to the appropriate Bureau Commander, which shall include the result of the investigation and whether reasonable care was taken to prevent the loss, damage or unserviceable condition.

A review of the incident by command staff to determine whether misconduct or negligence was involved should be completed.

##### **700.5.1 DAMAGE BY PERSONNEL OF ANOTHER AGENCY**

Personnel from another agency may intentionally or unintentionally cause damage to the real or personal property of the Wintergreen Police Department or of another person while performing their duties within the jurisdiction of this department. It shall be the responsibility of the department member present or the member responsible for the property to report the damage as follows:



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- (a) A verbal report shall be made to the member's immediate supervisor as soon as circumstances permit.
- (b) A written report shall be submitted before the member goes off-duty or as otherwise directed by the supervisor.

The supervisor receiving such a report shall conduct an investigation and direct a memo to the Chief of Police, which shall include the result of the investigation and whether misconduct or negligence caused the loss, damage or unserviceable condition.

## Personal Communication Devices

### 701.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless capable tablets, and similar wireless two-way communications and/or portable internet access devices. PCD use includes but is not limited to placing and receiving calls, text messaging, blogging and microblogging, emailing, using video or camera features, playing games, and accessing sites or services on the internet.

### 701.2 POLICY

The Wintergreen Police Department allows members to utilize department-issued PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, members are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the member and the member's PCD records to civil or criminal discovery or disclosure under the Virginia Freedom of Information Act.

Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory staff.

### 701.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received or reviewed on any PCD issued or funded by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities (see the Information Technology Use Policy for additional guidance).

### 701.4 DEPARTMENT-ISSUED PCD

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, issue a PCD for the member's use to facilitate on-duty performance. Department-issued PCDs may not be used for personal business either on- or off-duty unless authorized by the Chief of Police or the authorized designee. Such devices and the associated telephone number, if any, shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

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Unless a member is expressly authorized by the Chief of Police or the authorized designee for off-duty use of the PCD, the PCD will either be secured in the workplace at the completion of the tour of duty or will be turned off when leaving the workplace.

#### **701.5 PERSONALLY OWNED PCD**

Members may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.
- (b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) The PCD and any associated services shall be purchased, used and maintained solely at the member's expense.
- (d) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Members will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.
- (e) The device shall not be utilized to record or disclose any department business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment or appointment with the Department, without the express authorization of the Chief of Police or the authorized designee.
- (f) Use of a personally owned PCD while at work or for work-related business constitutes consent for the Department to access the PCD to inspect and copy data to meet the needs of the Department, which may include litigation, retention and release obligations and internal investigations. If the PCD is carried on-duty, members will provide the Department with the telephone number of the device.
- (g) All work-related documents, emails, photographs, recordings or other public records created or received on a member's personally owned PCD should be transferred to the Wintergreen Police Department and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

Except with prior express authorization from their supervisors, members are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD while off-duty. If a member is in an authorized status that allows for appropriate compensation consistent with policy or if the member has prior express authorization from his/her supervisor, the member may engage in department business-related communications. Should members engage in such approved off-duty communications or work, members entitled to compensation shall promptly document the time worked and communicate the information to their

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supervisors to ensure appropriate compensation. Members who independently document off-duty department-related business activities in any manner shall promptly provide the Department with a copy of such records to ensure accurate record keeping.

#### **701.6 USE OF PCD**

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

- (a) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.
- (b) All PCDs in the workplace shall be set to silent or vibrate mode.
- (c) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.
- (d) Members may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.
- (e) Members are prohibited from taking pictures, audio or video recordings or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Police or the authorized designee, may result in discipline.
- (f) Members will not access social networking sites for any purpose that is not official department business.
- (g) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

#### **701.7 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.
- (b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.
  - 1. An investigation into improper conduct should be promptly initiated when circumstances warrant.

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2. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Chief of Police or the authorized designee.

#### **701.8 OFFICIAL USE**

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, members shall conduct sensitive or private communications on a land-based or other department communications network.

#### **701.9 USE WHILE DRIVING**

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions, and present a negative image to the public. Except for reporting emergencies, state law generally prohibits anyone operating a motor vehicle from holding a PCD; however, it permits the use of a PCD by an officer operating a law enforcement vehicle while engaged in the performance of his/her official duties (Va. Code § 46.2-818.2). Officers should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

## Vehicle Maintenance

### 702.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that department vehicles are appropriately maintained.

### 702.2 POLICY

The Wintergreen Police Department will service department vehicles to ensure they remain operational and maintain their appearance, as resources allow.

### 702.3 GENERAL DUTIES

Members are responsible for assisting in maintaining department vehicles so that they are properly equipped, properly maintained and properly refueled and present a clean appearance.

### 702.4 DEFECTIVE VEHICLES

When a vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service. Proper documentation shall be promptly completed by the member who becomes aware of the defective condition and forwarded for action.

Documents describing the correction of the safety issue shall be promptly filed with the vehicle history.

#### 702.4.1 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

#### 702.4.2 SEVERE USE

Vehicles operated under severe-use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as practicable. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits or prolonged high-speed operation.

#### 702.4.3 REMOVAL OF WEAPONS

All firearms, weapons and control devices shall be removed from a vehicle and properly secured prior to the vehicle being released for maintenance, service or repair.

### 702.5 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles.

#### 702.5.1 PATROL VEHICLES

Patrol vehicles must be clearly marked, have a functioning siren and emergency lights and have a communications system enabling communication with other members of the Wintergreen Police Department at all times.

Officers shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is in the vehicle:

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- 5 emergency road flares
- 1 roll crime scene barricade tape
- 1 first-aid kit and CPR mask
- 1 blanket
- 1 fire extinguisher
- 1 bloodborne pathogen kit, including protective gloves and a National Institute for Occupational Safety and Health (NIOSH) particulate respirator mask
- 1 sharps container
- 1 hazardous waste disposal bag
- 1 high-visibility vest
- 1 hazardous materials emergency response handbook
- 1 evidence collection kit
- 1 camera
- Spare tire, jack and lug wrench
- Rain gear
- Set of tire chains (seasonal)

#### 702.5.2 UNMARKED VEHICLES

Members driving unmarked department vehicles shall ensure that the following equipment, at a minimum, is in the vehicle:

- Emergency road flares
- 1 roll crime scene barricade tape
- 1 first-aid kit and CPR mask
- 1 bloodborne pathogen kit, including protective gloves and NIOSH particulate respirator mask
- 1 hazardous waste disposal bag
- 1 high-visibility vest
- 1 hazardous materials emergency response handbook
- 1 evidence collection kit
- 1 camera
- Spare tire, jack and lug wrench
- Rain gear
- Set of tire chains (seasonal)

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##### **702.6 VEHICLE REFUELING**

Absent emergency conditions or supervisor approval, patrol vehicles shall not be placed into service with less than one-quarter tank of fuel. Patrol vehicles should not be retired at the end of shift with less than one-quarter tank of fuel. Vehicles shall only be refueled at the authorized location.

##### **702.7 WASHING OF VEHICLES**

Vehicles shall be kept clean at all times and, weather conditions permitting, shall be washed as necessary to maintain the professional appearance of the Department.

Patrol officers shall obtain clearance from the dispatcher before going to the car wash. Only one patrol vehicle should be at the car wash at a time unless otherwise approved by a supervisor.

Members using a vehicle shall remove any trash or debris at the end of their shifts. Confidential material should be placed in a designated receptacle that has been provided for shredding this material.



## Vehicle Use

### 703.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure department vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of department vehicles and shall not be construed to create or imply any contractual obligation by the Wintergreen Police Department to provide assigned take-home vehicles.

### 703.2 POLICY

The Wintergreen Police Department provides vehicles for department-related business and may assign patrol and unmarked vehicles based on a determination of operational efficiency, economic impact to the Department, requirements for tactical deployments and other considerations.

### 703.3 USE OF VEHICLES

#### 703.3.1 OTHER USE OF VEHICLES

Members utilizing a vehicle for any purpose other than their normally assigned duties or normal vehicle assignment (e.g., transportation to training, community event) shall first notify the Field Operations Bureau Commander.

This subsection does not apply to those who are assigned to transport vehicles to and from the maintenance yard or car wash.

#### 703.3.2 INSPECTIONS

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

The interior of any vehicle that has been used to transport any person other than a member of this department should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner or arrestee, the transporting member shall search all areas of the vehicle that are accessible by the person before and after that person is transported.

All department vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

#### 703.3.3 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging). Officers who exit a vehicle rapidly in an emergency

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situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

Members shall ensure all weapons are secured while the vehicle is unattended.

#### 703.3.4 VEHICLE LOCATION SYSTEM

Patrol and other vehicles, at the discretion of the Chief of Police, may be equipped with a system designed to track the vehicle's location. While the system may provide vehicle location and other information, members are not relieved of their responsibility to use required communication practices to report their location and status.

Members shall not make any unauthorized modifications to the system.

System data may be accessed by supervisors at any time. However, access to historical data by personnel other than supervisors will require the Field Operations Bureau Commander approval.

All data captured by the system shall be retained in accordance with the established records retention schedule.

#### 703.3.5 KEYS

Members approved to operate marked patrol vehicles should be issued a copy of the key as part of their initial equipment distribution. Members who are assigned a specific vehicle should be issued keys for that vehicle.

Members shall not duplicate keys. The loss of a key shall be promptly reported in writing through the member's chain of command.

#### 703.3.6 AUTHORIZED PASSENGERS

Members operating department vehicles shall not permit persons other than department personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Alongs Policy.

#### 703.3.7 ALCOHOL

Members who have consumed alcohol are prohibited from operating any department vehicle unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

#### 703.3.8 PARKING

Except when responding to an emergency or when urgent department-related business requires otherwise, members driving department vehicles should obey all parking regulations at all times.

#### 703.3.9 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories without written permission from the Field Operations Bureau Commander.

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##### 703.3.10 NON-SWORN MEMBER USE

Non-sworn members using marked emergency vehicles shall ensure that all weapons have been removed before going into service. Non-sworn members shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

##### **703.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES**

Department vehicles may be assigned to individual members at the discretion of the Chief of Police. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the member is unable to perform his/her regular assignment.

##### 703.4.1 ON-DUTY USE

Vehicle assignments shall be based on the nature of the member's duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other department members at the discretion of the Chief of Police or the authorized designee.

##### 703.4.2 ASSIGNED VEHICLES

Assignment of take-home vehicles shall be based on the location of the member's residence; the nature of the member's duties, job description and essential functions; and the member's employment or appointment status. Residence in the County of Nelson is a prime consideration for assignment of a take-home vehicle. Members who reside outside the County of Nelson may be required to secure the vehicle at a designated location at the discretion of the Chief of Police.

Members are cautioned that under federal and local tax rules, personal use of a Wintergreen Police Department vehicle may create an income tax liability for the member. Questions regarding tax rules should be directed to the member's tax adviser.

Criteria for use of take-home vehicles include the following:

- (a) Vehicles shall only be used for work-related purposes and shall not be used for personal errands or transports, unless special circumstances exist and the Chief of Police or a Bureau Commander gives authorization.
- (b) Vehicles may be used to transport the member to and from the member's residence for work-related purposes.
- (c) Vehicles will not be used when off-duty except:
  - 1. In circumstances when a member has been placed on call by the Chief of Police or Bureau Commanders and there is a high probability that the member will be called back to duty.
  - 2. When the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or travelling to or from a work-related activity or function.

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#### *Vehicle Use*

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3. When the member has received permission from the Chief of Police or Bureau Commanders.
  - While operating the vehicle, authorized members will carry and have accessible their duty firearms and be prepared to perform any function they would be expected to perform while on-duty.
  - The two-way communications radio, and global positioning satellite device, if equipped, must be on and set to an audible volume when the vehicle is in operation.
  - Unattended vehicles are to be locked and secured at all times.
    - (a) No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, equipment charging).
    - (b) All weapons shall be secured while the vehicle is unattended.
    - (c) All department identification, portable radios and equipment should be secured.
  - Vehicles are to be parked off-street at the member's residence unless prior arrangements have been made with the Chief of Police or the authorized designee. If the vehicle is not secured inside a locked garage, all firearms and kinetic impact weapons shall be removed and properly secured in the residence (see the Firearms Policy regarding safe storage of firearms at home).
  - Vehicles are to be secured at the member's residence or the appropriate department facility, when a member will be away (e.g., on vacation) for periods exceeding one week.
    1. If the vehicle remains at the residence of the member, the Department shall have access to the vehicle.
    2. If the member is unable to provide access to the vehicle, it shall be parked at the Department.
  - The member is responsible for the care and maintenance of the vehicle.

#### 703.4.3 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Wintergreen Police Department or while off-duty, an officer shall not initiate enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

Officers may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

Officers driving take-home vehicles shall be armed and appropriately attired and shall carry their department-issued identification. Officers should also ensure that department radio communication capabilities are maintained to the extent feasible.

#### 703.4.4 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the Department.

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Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

- (a) Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage.
- (b) It is the member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.
- (c) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the department supervisor in charge of vehicle maintenance.
- (d) The Department shall be notified of problems with the vehicle and approve any major repairs before they are performed.
- (e) When leaving the vehicle at the maintenance facility, the member will complete a vehicle repair sheet explaining the service or repair, and leave it on the seat or dash.
- (f) All weapons shall be removed from any vehicle left for maintenance.
- (g) Supervisors shall make, at a minimum, quarterly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

#### **703.6 DAMAGE, ABUSE AND MISUSE**

When any department vehicle is involved in a traffic accident or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic accident report shall be filed with the agency having jurisdiction (see the Traffic Accidents Policy).

Damage to any department vehicle that was not caused by a traffic accident shall be immediately reported during the shift in which the damage was discovered and documented in memorandum format, which shall be forwarded to the Chief of Police. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.

#### **703.7 TOLL ROAD USAGE**

Law enforcement vehicles are exempt from incurring toll lane charges when (Va. Code § 33.2-500 et seq.):

- (a) Responding to an emergency incident.
- (b) Patrolling high-occupancy toll (HOT) lanes pursuant to an agreement by a state agency and the HOT lane operator.
- (c) Engaged in a time-sensitive investigation, active surveillance or actual pursuit of persons who are known or suspected to be engaged in, or who have knowledge of, criminal activity.

Members operating department vehicles for any reason other than those exempted by law shall pay the appropriate toll charge or utilize the appropriate toll way transponder (Va. Code § 33.2-500 et seq.).

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## *Vehicle Use*

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### **703.8 ATTIRE AND APPEARANCE**

When operating any department vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Department.

## Fiscal Management

### 704.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure department members handle fiscal matters appropriately in the performance of their duties.

This policy does not address cash-handling issues specific to the Property and Evidence Section and Informants policies.

### 704.2 POLICY

It is the policy of the Wintergreen Police Department to properly manage and audit fiscal operations including budget preparation, cash transactions, fund expenditures and disposition of assets, and to maintain accurate records of fiscal transactions in order to protect the integrity of department operations and ensure the public trust.

### 704.3 FISCAL MANAGEMENT

The Chief of Police shall be the department fiscal manager responsible for maintaining and managing fiscal operations.

The Department's accounting system should detail all fiscal operations. The fiscal manager should review all account activities on a monthly basis. The accounting system should provide a continuous and accurate update of the following:

- (a) Initial appropriations for each account program.
- (b) Account balance after each expenditure.
- (c) Documentation of all expenditures and encumbrances.
- (d) A statement of the account's unencumbered balance.

The WPD Annual Budget is set and approved by the WPOA Board of Directors. The Board sets no criteria for:

- (a) Specifications for items requiring standardized purchase.
- (b) Bidding procedures.
- (c) Criteria for the selection of vendors.
- (d) Procedures for the emergency purchasing or rental agreements for equipment.
- (e) Procedures for requesting supplemental or emergency appropriation/fund transfer.
- (f) Procedures for contracts such as maintenance or service agreements.

### 704.4 FISCAL TRANSACTIONS

Each member overseeing a fiscal responsibility shall document all transactions on the ledger and any other appropriate forms. Each person participating in the transaction shall sign or otherwise validate the ledger, attesting to the accuracy of the entry. Transactions should include the filing of an appropriate receipt, invoice, cash transfer form or expense report.

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#### *Fiscal Management*

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##### **704.5 AUDITS**

The fiscal manager shall ensure that an annual independent audit is conducted of the accounts and finances of the Department. All department funds shall be open for inspection and audit by auditors at any time. Members of the Department shall cooperate fully and provide assistance in support of any audit.

Audits shall include a review of procedures in place to manage the funds.

##### **704.6 INVENTORY CONTROL OF PROPERTY, EQUIPMENT AND OTHER ASSETS**

Members overseeing a fiscal responsibility for the acquisition, management or distribution of any capital or major items of equipment; the issue of any equipment and supplies; or the assignment of control numbers and proper markings are responsible for compliance with inventory control procedures. Such members are also responsible for ensuring:

- (a) Required inventory verification is performed in compliance with a process authorized by the fiscal manager.
- (b) Appropriate documentation in compliance with a process authorized by the fiscal manager and inclusion in inventory of items purchased or obtained for use by the Department.
- (c) Appropriate documentation and deletion from inventory of items properly authorized for disposal by the fiscal manager or the Chief of Police.
- (d) Reporting and disposition of damaged, excess and surplus property in compliance with a process authorized by the fiscal manager.
- (e) Maintenance of complete records for all department property, equipment and other assets.
- (f) An inventory of Capital Assets/Equipment greater than \$5000.00 dollars will be conducted/documented on an annual basis.

##### **704.7 PURCHASING**

All purchasing of department supplies and equipment will be in compliance with a process authorized by the fiscal manager.

Small-item or emergency purchases or rental of equipment during periods when normal purchasing procedures cannot be followed will be in compliance with a process authorized by the fiscal manager.

All purchases for the department made by an employee will require submission of a receipt and appropriate documentation necessary for reimbursement and will be in compliance with a process authorized by the fiscal manager.



## Personal Protective Equipment

### 705.1 PURPOSE AND SCOPE

This policy identifies the different types of personal protective equipment (PPE) provided by the Department as well the requirements and guidelines for the use of PPE.

This policy does not address ballistic vests or protection from communicable disease, as those issues are addressed in the Body Armor and Communicable Diseases policies.

#### 705.1.1 DEFINITIONS

Definitions related to this policy include:

**Personal protective equipment (PPE)** - Equipment that protects a person from serious workplace injuries or illnesses resulting from contact with chemical, radiological, physical, electrical, mechanical or other workplace hazards.

**Respiratory PPE** - Any device that is worn by the user to protect from exposure to atmospheres where there is smoke, low levels of oxygen, high levels of carbon monoxide, or the presence of toxic gases or other respiratory hazards. For purposes of this policy, respiratory PPE does not include particulate-filtering masks such as N95 or N100 masks.

### 705.2 POLICY

The Wintergreen Police Department endeavors to protect members by supplying certain PPE to members as provided in this policy.

### 705.3 OFFICER RESPONSIBILITIES

Members are required to use PPE as provided in this policy and pursuant to their training.

Members are responsible for proper maintenance and storage of issued PPE. PPE should be stored in an appropriate location so that it is available when needed.

Any member who identifies hazards in the workplace is encouraged to utilize the procedures in the Illness and Injury Prevention Policy to recommend new or improved PPE or additional needs for PPE.

### 705.4 HEARING PROTECTION

Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed the requirements provided in 29 CFR 1910.95 and 16 VAC 25-90-1910.

### 705.5 EYE PROTECTION

Approved eye protection shall be used by members during firearms training. Eye protection for members who wear prescription lenses shall incorporate the prescription (e.g., eye protection that can be worn over prescription lenses). Members shall ensure their eye protection does not interfere with the fit of their hearing protection.

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#### *Personal Protective Equipment*

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The Firearms Instructors shall ensure eye protection meets or exceeds the requirements provided in 29 CFR 1910.95 and 16 VAC 25-90-1910.

#### **705.6 RESPIRATORY PROTECTION**

The Field Operations Bureau Commander should ensure a respiratory protection plan is developed and maintained by a trained and qualified member. The plan shall include procedures for (29 CFR 1910.134; 16 VAC 25-90-1910):

- (a) Selecting appropriate respiratory PPE based on hazards and risks associated with functions or positions.
- (b) Fit testing, including identification of members or contractors qualified to conduct fit testing.
- (c) Medical evaluations.
- (d) PPE inventory control.
- (e) PPE issuance and replacement.
- (f) Cleaning, disinfecting, storing, inspecting, repairing, discarding and otherwise maintaining respiratory PPE, including schedules for these activities.
- (g) Regularly reviewing the PPE plan.
- (h) Remaining current with applicable National Institute for Occupational Safety and Health (NIOSH), American National Standards Institute (ANSI), Occupational Safety and Health Administration (OSHA), Environmental Protective Agency (EPA) and state PPE standards and guidelines.

##### **705.6.1 GAS MASK**

Full-face air-purifying respirators, commonly referred to as gas masks, may be fitted with mechanical pre-filters or combination cartridge/filter assemblies for use in areas where gases, vapors, dusts, fumes or mists are present. Members must identify and use the correct cartridge based on the circumstances (29 CFR 1910.134; 16 VAC 25-90-1910).

A scene commander may order the use of gas masks in certain situations. These incidents may include areas where tear gas has or will be used or where a vegetation fire is burning. Gas masks shall not be used if there is a potential for an oxygen-deficient atmosphere.

Members shall ensure their gas mask filters are replaced whenever:

- (a) They smell, taste or are irritated by a contaminant.
- (b) They experience difficulty breathing due to filter loading.
- (c) The cartridges or filters become wet.
- (d) The expiration date on the cartridges or canisters has been reached.

##### **705.6.2 RESPIRATORY MEDICAL EVALUATION QUESTIONNAIRE**

No member shall be issued respiratory protection that forms a complete seal around the face until (29 CFR 1910.134; 16 VAC 25-90-1910):

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- (a) The member has completed a medical evaluation that includes a medical evaluation questionnaire.
- (b) A physician or other licensed health care professional has reviewed the questionnaire.
- (c) The member has completed any physical examination recommended by the reviewing physician or health care professional.

#### **705.7 RECORDS**

The Training Supervisor is responsible for maintaining records of all:

- (a) PPE training.

The records shall be maintained in accordance with the established records retention schedule (29 CFR 1910.1020; 16 VAC 25-90-1910).

#### **705.8 TRAINING**

Members should be trained in the respiratory and other hazards to which they may be potentially exposed during routine and emergency situations.

All members shall be trained in the proper use and maintenance of PPE issued to them, including when the use is appropriate; how to put on, remove and adjust PPE; how to care for the PPE; and the limitations (29 CFR 1910.132; 16 VAC 25-90-1910).

## **Chapter 8 - Support Services**

## Crime Analysis

### 800.1 PURPOSE AND SCOPE

This policy provides guidelines for utilizing crime analysis to support the overall law enforcement efforts of the Wintergreen Police Department. It addresses the collection and dissemination of crime analysis data that is useful to long-range planning and that can assist in identifying enforcement priorities, strategies and tactics.

### 800.2 POLICY

It is the policy of the Wintergreen Police Department to utilize crime analysis as a tool in crime control and prevention efforts. This entails gathering, analyzing and correlating data to effectively deploy the resources of this department.

### 800.3 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

- Crime reports.
- Field Interview (FI) cards.
- Parole and probation records.
- Activity records from the Communication Center.
- Virginia Criminal Information Network (VCIN).
- Traffic Records Electronic Data System (TREDS).

### 800.4 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for crime analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

### 800.5 CRIME ANALYSIS DISSEMINATION

Information developed through crime analysis should be disseminated to the appropriate bureaus or members on a timely basis. Information that is relevant to the operational or tactical plans of

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#### *Crime Analysis*

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specific line members should be sent directly to them. Information relevant to the development of department strategic plans should be provided to the appropriate command staff members.

When information pertains to tactical and strategic plans, it should be provided to all affected members.

The Wintergreen Police Department community liaison should respond to requests for relevant data to crime prevention groups, community regulatory agencies involved with community development and other interested entities. This data should be used to improve community design and construction to mitigate the risk of criminal activity.

#### **800.6 CRIME ANALYSIS APPLICATION**

Crime analysis efforts should be aligned with identified public safety needs of the community. Annual assessments should occur to assess the effectiveness of programs and activities targeting public safety and to identify areas for improvement or adjustment.

The Wintergreen Police Department community liaison should maintain a relationship with community crime prevention groups and provide two-way discourse for the dissemination of the appropriate crime analysis data and collection of community feedback. Community outreach efforts should integrate all available data with crime analysis techniques to assist the Department in guiding effective community crime prevention group activities.

## the Communication Center

### 801.1 PURPOSE AND SCOPE

This policy establishes guidelines for the basic functions of the Communication Center. It addresses the immediate information needs of the Department in the course of its normal daily activities and during emergencies.

### 801.2 POLICY

It is the policy of the Wintergreen Police Department to provide 24-hour telephone service to the public for information and for routine or emergency assistance. The Department provides two-way radio capability for continuous communication between the Communication Center and department members in the field.

### 801.3 THE COMMUNICATION CENTER SECURITY

The communications function is vital and central to all emergency service operations. The safety and security of the Communication Center, its members and its equipment must be a high priority. Special security procedures, including but not limited to the protection of the the Communication Center equipment, should be established in a separate operations manual for the Communication Center.

Access to the Communication Center shall be limited to the Communication Center members, command staff and department members with a specific business-related purpose.

### 801.4 RESPONSIBILITIES

#### 801.4.1 SUPPORT SERVICE BUREAU COMMANDER

The Chief of Police shall appoint and delegate certain responsibilities to Field Operations Bureau Commander.

The responsibilities of the Field Operations Bureau Commander include, but are not limited to:

- (a) Overseeing the efficient and effective operation of the Communication Center in coordination with other supervisors.
- (b) Scheduling and maintaining dispatcher time records.
- (c) Supervising, training and evaluating dispatchers.
- (d) Ensuring the radio and telephone recording system is operational.
  1. Recordings shall be securely stored and maintained in accordance with the established records retention schedule and as required by law.
- (e) Processing requests for copies of the Communication Center information for release.
- (f) Maintaining the Communication Center database systems.
- (g) Maintaining and updating the Communication Center procedures manual.
  1. Procedures for specific types of crime reports may be necessary. For example, specific questions and instructions may be necessary when talking with a victim

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- of a sexual assault to ensure that his/her health and safety needs are met, as well as steps that he/she may take to preserve evidence.
2. Procedures for circumstances that require the presence of a supervisor at the scene may be necessary (e.g. notification of a supervisor to request his/her presence at an incident).
  3. Ensuring dispatcher compliance with established policies and procedures.
- (h) Handling internal and external inquiries regarding services provided and accepting personnel complaints in accordance with the Personnel Complaints Policy.
- (i) Maintaining a current contact list of personnel to be notified in the event of a utility service emergency.
- (j) Maintaining a database containing the following information:
1. The name of the officer in charge.
  2. A roster containing the contact telephone number of every sworn agency member.
  3. Duty schedule for incoming shifts.
  4. Visual maps detailing the Wintergreen Police Department's service area.
  5. Officer status information.
  6. Written procedures and telephone numbers for procuring emergency and necessary external services to the Wintergreen Police Department.

#### 801.4.2 DISPATCHERS

Dispatchers report to the Field Operations Bureau Commander. The responsibilities of the dispatcher include, but are not limited to:

- (a) Receipt and handling of all incoming and transmitted communications, including:
1. Emergency 9-1-1 lines.
  2. Business telephone lines.
  3. Telecommunications Device for the Deaf (TDD)/Text Telephone (TTY) equipment.
  4. Radio communications with department members in the field and support resources (e.g., fire department, emergency medical services (EMS), allied agency law enforcement units).
  5. Other electronic sources of information (e.g., text messages, digital photographs, video).
- (b) Documenting the field activities of department members and support resources (e.g., fire department, EMS, allied agency law enforcement units).
- (c) Inquiry and entry of information through the Communication Center, department and other law enforcement database systems (e.g., VCIN, DMV, NCIC).
- (d) Monitoring department video surveillance systems.



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- (e) Maintaining the current status of members in the field, their locations and the nature of calls for service.
- (f) Notifying the on-call or available supervisor of emergency activity, including, but not limited to:
  - 1. Vehicle pursuits.
  - 2. Foot pursuits.
  - 3. Assignment of emergency response.

#### **801.5 CALL HANDLING**

This department provides members of the public with access to the 9-1-1 system for a single emergency telephone number.

When a call for services is received, the dispatcher will reasonably and quickly attempt to determine whether the call is an emergency or non-emergency, and shall quickly ascertain the call type, location and priority by asking four key questions:

- Where?
- What?
- When?
- Who?

If the dispatcher determines that the caller has a hearing and/or speech impairment or disability, he/she shall immediately initiate a connection with the individual via available TDD/TTY equipment or Telephone Relay Service (TRS), as mandated by the Americans with Disabilities Act (ADA).

If the dispatcher determines that the caller is a limited English proficiency (LEP) individual, the dispatcher should quickly determine whether sufficient information can be obtained to initiate an appropriate response. If language assistance is still needed, the language is known and a language-appropriate authorized interpreter is available in the Communication Center, the dispatcher should immediately connect the LEP caller to the authorized interpreter.

If no authorized interpreter is available or the dispatcher is unable to identify the caller's language, the dispatcher will contact the contracted telephonic interpretation service and establish a three-party call connecting the dispatcher, the LEP individual and the interpreter.

Dispatchers should be courteous, patient and respectful when dealing with the public.

##### **801.5.1 EMERGENCY CALLS**

A call is considered an emergency when there is an immediate or potential threat to life or serious property damage, and the timely arrival of public safety assistance is of the utmost importance. A person reporting an emergency should not be placed on hold until the dispatcher has obtained all necessary information to ensure the safety of the responding department members and affected individuals.

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Emergency calls should be dispatched immediately. The on-call or available supervisor shall be notified of pending emergency calls for service when department members are unavailable for dispatch.

#### 801.5.2 NON-EMERGENCY CALLS

A call is considered a non-emergency call when there is no immediate or potential threat to life or property. A person reporting a non-emergency may be placed on hold, if necessary, to allow the dispatcher to handle a higher priority or emergency call.

The reporting person should be advised if there will be a delay in the dispatcher returning to the telephone line or when there will be a delay in the response for service.

#### **801.6 RADIO COMMUNICATIONS**

The police radio system is for official use only, to be used by dispatchers to communicate with department members in the field. All transmissions shall be professional and made in a calm, businesslike manner, using proper language and correct procedures. Such transmissions shall include, but are not limited to:

- (a) Members acknowledging the dispatcher with their radio identification call signs and current location.
- (b) Dispatchers acknowledging and responding promptly to all radio transmissions.
- (c) Members keeping the dispatcher advised of their status and location.
- (d) Member and dispatcher acknowledgements shall be concise and without further comment unless additional information is needed.

The Administrator shall be notified of radio procedure violations or other causes for complaint. All complaints and violations will be investigated and reported to the complainant's supervisor and processed through the chain of command.

#### 801.6.1 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE

Wintergreen Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and requirements.

#### 801.6.2 RADIO IDENTIFICATION

Radio call signs are assigned to department members based on factors such as duty assignment, uniformed patrol assignment and/or member identification number. Dispatchers shall identify themselves on the radio with the appropriate station name or number, and identify the department member by his/her call sign. Members should use their call signs when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate department member. Members initiating communication with other law enforcement or support agencies shall use their entire radio call sign, which includes the department station name or number.

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#### **801.7 DOCUMENTATION**

It shall be the responsibility of the Communication Center to document all relevant information on calls for service or self-initiated activity. Dispatchers shall attempt to elicit, document and relay as much information as possible to enhance the safety of the member and assist in anticipating conditions that may be encountered at the scene. Desirable information would include, at a minimum:

- Incident control number.
- Date and time of request.
- Name and address of the reporting person, if possible.
- Type of incident reported.
- Involvement of weapons, drugs and/or alcohol.
- Location of incident reported.
- Identification of members assigned as primary and backup.
- Time of dispatch.
- Time of the responding member's arrival.
- Time of member's return to service.
- Disposition or status of reported incident.
- A log of the data captured by the computer system, if using a Computer Aided Dispatch (CAD) system.
- Vehicle mileage and transport time when a member is transporting a juvenile or a person of the opposite sex.

All appropriate data will be retained in accordance with an established retention schedule. Data will be purged when it has exceeded the established retention time.

All CAD data will be retained in accordance with an established retention schedule. CAD data will be purged when it has exceeded the established retention time.

#### **801.8 CONFIDENTIALITY**

Information that becomes available through the Communication Center may be confidential or sensitive in nature. All members of the Communication Center shall treat information that becomes known to them as confidential and release that information in accordance with the Protected Information Policy.

Automated data, such as Department of Motor Vehicle records, warrants, criminal history information, records of internal police files or medical information, shall only be made available to authorized law enforcement personnel. Prior to transmitting confidential information via the radio, an admonishment shall be made that confidential information is about to be broadcast.

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#### *the Communication Center*

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#### **801.9 TRAINING AND CERTIFICATION**

Members of the Communication Center whose duties include dispatching law enforcement personnel and who were hired on or after July 1, 1988, must meet compulsory minimum training standards and shall be certified by the Virginia Department of Criminal Justice Services within 24 months of employment (Va. Code § 9.1-102; 6 VAC 20-60-30).

Members of the Communication Center must meet the compulsory minimum training standards for telecommunicator cardiopulmonary resuscitation and emergency medical dispatch developed by the Virginia Department of Health Office of Emergency Medical Services as required by Va. Code § 56-484.16:1. The Chief of Police or authorized designee should provide any necessary equipment for telecommunicator cardiopulmonary resuscitation instruction and establish procedures to maintain the quality of the department's program as required by Va. Code § 56-484.16:1.

#### **801.10 THE COMMUNICATION CENTER ALTERNATIVE POWER SOURCE**

The Wintergreen Police Department shall:

- (a) Maintain an alternate electrical power source sufficient for continued operations of emergency communications equipment absent primary power.
- (b) Maintain energy resources adequate for 3 days operation of the alternate power source.
- (c) Ensure readiness of the alternate source through scheduled routine testing.
- (d) Provide and inspect security measures to protect the power source and control/service panels.

#### **801.11 REVIEW, COPYING, AND RELEASE OF RECORDINGS**

Upon approval by the Administrator, recorded audio files (e.g., radio communications, telephone conversations) may be reviewed:

- (a) By any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation, or criminal investigation, subject to approval by a supervisor.
- (b) By supervisors reviewing member conduct, for training purposes, or when review of a recording might be beneficial in reviewing a member's performance.
- (c) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (d) By media personnel with permission of the Chief of Police or the authorized designee.
- (e) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All requests for the release of recordings shall be processed in accordance with the Records Maintenance and Release Policy.

## Property and Evidence Section

### 802.1 PURPOSE AND SCOPE

This policy provides guidelines for the proper processing, storage, security and disposition of evidence and other property. This policy also provides for the protection of the chain of custody and identifies those persons authorized to remove and/or destroy property.

#### 802.1.1 DEFINITIONS

Definitions related to this policy include:

**Property** - All articles placed in secure storage within the Property and Evidence Section, including the following:

- Evidence - Items taken or recovered in the course of an investigation that may be used in the prosecution of a case, including photographs and latent fingerprints.
- Found property - Items found by members of the Department or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.
- Safekeeping - Items received by the Department for safekeeping, such as a firearm, the personal property of an arrestee that has been not taken as evidence and items taken for safekeeping under authority of law.

### 802.2 POLICY

It is the policy of the Wintergreen Police Department to process and store all property in a manner that will protect it from loss, damage or contamination, while maintaining documentation that tracks the chain of custody, the location of property and its disposition.

### 802.3 PROPERTY AND EVIDENCE SECTION SECURITY

The Property and Evidence Section shall maintain secure storage and control of all property in the custody of this department. A bureau commander or designee shall be appointed by and will be directly responsible to the Chief of Police . The bureau commander or designee is responsible for the security of the Property and Evidence Section.

#### 802.3.1 REFUSAL OF PROPERTY

The bureau commander or designee has the obligation to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should the bureau commander or designee refuse an item of property, he/she shall maintain secure custody of the item in a temporary property locker or other safe location and inform the submitting member of the reason for refusal and the action required for acceptance into the Property and Evidence Section.

#### 802.3.2 KEY CONTROL

Property and Evidence Section keys should be maintained by the designated bureau commander or designee. Property and Evidence Section keys shall not be loaned to anyone and shall be

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maintained in a secure manner. If a Property and Evidence Section key is lost, all access points shall be re-keyed and new keys issued as necessary.

#### 802.3.3 ACCESS

Only authorized members assigned to the Property and Evidence Section shall have access to property storage areas. Any individual who needs to enter a property storage area (e.g., maintenance or repair contractors) must be approved and accompanied by the bureau commander or designee. Each individual must sign the Property and Evidence Section access log and indicate:

- (a) The date and time of entry and exit.
- (b) The purpose for access, including the specific case or property number.

Each access log entry shall be initialed by the accompanying bureau commander or designee.

#### 802.3.4 SECURE STORAGE

All property in the custody of the Department, both evidentiary and non-evidentiary, shall be stored within designated, secure areas. The Department shall provide secure facilities for the storage of property in the Department's custody during periods when the Property and Evidence Section is closed.

#### **802.4 PROPERTY HANDLING**

The member who first comes into possession of any property is generally responsible for the care, custody and control of such property until it is transferred to the bureau commander or designee and/or processed and placed in a temporary property locker or storage area. Care shall be taken to maintain the chain of custody for all items of evidence.

Whenever property is taken from an individual, a property receipt form will be completed. The receipt shall describe the property and contain a notice on how to retrieve the property from the Department. A copy of the property receipt form shall be given to the individual from whom the property was taken.

In addition, the Officer is required to write a report detailing the circumstances by which the property came into the agency's possession and describing each item of property obtained.

#### 802.4.1 PROCESSING AND PACKAGING

All property must be processed by the responsible member prior to the member going off-duty, unless otherwise approved by a supervisor. Members shall process and package property as follows:

- (a) A property form shall be completed describing each item. List all known information, including:
  1. Serial number.
  2. Owner's name.
  3. Finder's name.

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4. Other identifying information or marking.
  - (b) Each item shall be marked with the member's initials and the date processed using a method that will not damage, deface, degrade, or devalue the item. Items too small or too delicate to mark should be individually packaged and labeled and the package marked with the member's initials and date.
  - (c) Property shall be packaged in a container suitable for its size.
  - (d) A property tag shall be completed and attached to the property or container in which the property is stored.
  - (e) The case number shall be indicated on the property tag and the container.
  - (f) The property form, without the hard card portion (property control card), shall be submitted with the case report.
  - (g) The case report shall describe each item of property obtained and detail the circumstances by which the property came into the Department's possession.
  - (h) The property control card shall be submitted with the property directly to the bureau commander or designee or placed in a temporary property locker. Items too large to fit in a temporary property locker may be placed in a designated storage area that can be secured from unauthorized entry, and the property control card placed in a temporary property locker.

#### 802.4.2 EXCEPTIONAL PROCESSING

The following items require special consideration and shall be processed as follows, unless special conditions dictate a reasonable deviation:

**Bicycles** - Bicycles and bicycle frames shall have a property tag securely attached and should be placed in the bicycle storage area.

**Biological and related items** - Evidence that may contain biological samples shall be indicated as such on the property form.

Property stained with bodily fluids, such as blood or semen, shall be air-dried in a secure location (e.g., locked drying cabinet) prior to processing.

Items of evidence collected from a crime scene that require specific storage requirements pursuant to laboratory processing shall have such storage requirements clearly indicated on the property form.

Items that are potential biohazards shall be appropriately packaged and marked "Biohazard" to reduce the risk of exposure or contamination.

**Cash** - Cash shall be counted in the presence of another member. The cash shall be placed in a property envelope and initialed by both members. A supervisor shall be contacted for cash in excess of \$1,000. The supervisor shall witness the count, initial and date the envelope, and specify any additional security procedures that may be necessary.

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**Explosives and fireworks** - Explosives will not be retained in the police facility. Fireworks that are considered stable and safe, as well as road flares or similar signaling devices, may be stored in proper containers in an area designated for storage of flammable materials.

The bureau commander or designee is responsible for transporting to the fire department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

**Firearms and other weapons** - Firearms shall be unloaded and packaged separately from ammunition. Knife boxes should be used to package knives. Receipts should be provided for firearms surrendered by persons subject to protective orders as provided by Va. Code § 18.2-308.1:4.

**Government property** - License plates that have not been reported stolen or are of no evidentiary value should be placed in the designated container for return to the Department of Motor Vehicles. No formal property processing is required.

Private Police property that is of no evidentiary value should be released directly to the appropriate Private Police department. No formal property processing is required.

If no responsible Private Police personnel can be located, the property should be held for safekeeping.

**Jewelry, gemstones, and precious metals** - Jewelry, gemstones, and precious metals shall be inventoried in the presence of another member. The items shall be packaged, sealed, and initialed by both members. A supervisor shall be contacted for value in excess of \$500. The supervisor shall witness the inventory, initial, and date the package, and specify any additional security procedures that may be necessary.

**Sharps** - Syringe tubes should be used to package syringes and needles.

#### 802.4.3 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

- (a) Controlled substances and dangerous drugs shall not be packaged with other property, but shall be processed separately using a separate property form.
- (b) The member processing controlled substances and dangerous drugs shall retain such property in his/her possession until it is weighed, packaged, tagged and placed in the designated controlled substances and dangerous drugs locker, accompanied by the property control card and lab copy of the property form.
- (c) Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected controlled substances. If conducted, the result of the test shall be included in the crime report.
  1. The member shall package controlled substances and dangerous drugs as follows:
    - (a) Maintain the property in the container in which it was seized and place it in a property envelope of appropriate size.



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- (b) Seal and initial the property envelope and cover the initials with cellophane tape.
  - (c) Weigh the property envelope to obtain the Gross Package Weight (GPW).
  - (d) Write the GPW and then initial and date both the outside of the package and the property form.
- (d) When the quantity of controlled substances and dangerous drugs exceeds the available safe storage capacity as determined by the bureau commander or designee, the quantity shall be photographed and weighed.
1. A representative sample of sufficient quantity to allow scientific analysis of the controlled substances and dangerous drugs should be taken as allowed by state law and placed in a separate package or container.
  2. Excess quantities should be stored or disposed of as required by law or directed by court order.
- (e) Marijuana with any perceptible moisture content shall be loosely packaged in a container that allows for drying or shall be dried prior to storage. The bureau commander or designee shall monitor stored marijuana for growth of mold.

#### **802.5 RECORDING OF PROPERTY**

The bureau commander or designee receiving custody of property shall ensure a property control card for each item or group of items is created. The property control card will be the permanent record of the property in the Property and Evidence Section. The bureau commander or designee will record on the property control card his/her signature, GPW if the package contains controlled substances/narcotics and dangerous drugs, the date and time the property was received and where the property will be stored.

A unique property number shall be obtained for each item or group of items from the property log. This number shall be recorded on the property form, property tag and the property control card. The property log shall document the following:

- (a) Property number
- (b) Case number
- (c) Property tag number
- (d) Item description
- (e) Item storage location
- (f) Receipt, release and disposal dates

Any change in the location of property held by the Wintergreen Police Department shall be noted in the property log.

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#### **802.6 PROPERTY CONTROL**

The bureau commander or designee temporarily relinquishing custody of property to another person shall record on the property control card his/her signature, the date and time the property was released, the name and signature of the person accepting custody of the property and the reason for release.

Any member receiving property shall be responsible for such property until it is returned to the Property and Evidence Section or released to another authorized person or entity.

The return of the property to the Property and Evidence Section should be recorded on the property control card, indicating the date, the time, the name and the signature of the person who returned the property and the name and signature of the person to whom the property was returned.

The property and evidence should be entered into the appropriate databases for automated and electronic searching and identification.

##### **802.6.1 EVIDENCE**

Every time evidence is released or received, an appropriate entry on the property control card shall be completed to maintain the chain of custody.

The temporary release of evidence to members for investigative purposes or for court proceedings shall be noted on the property control card, stating the date, time and to whom it was released. Requests for items of evidence needed for court proceedings shall be submitted to the bureau commander or designee at least one day prior to the court date.

Requests for laboratory analysis shall be completed on the appropriate lab form and submitted to the bureau commander or designee. This request may be submitted any time after the property has been processed.

##### **802.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY**

The bureau commander or designee releasing items of evidence for laboratory analysis must complete the required information on the property control card. The transporting member will acknowledge receipt of the evidence by indicating the date and time on the property control card. The lab form will be transported with the evidence to the examining laboratory. Upon delivering the item, the member will record the delivery time on the lab form and the property control card, and obtain the signature of the person accepting responsibility for the evidence. The original copy of the lab form will remain with the evidence and a copy of the form will be returned to the Office of the Chief of Police for filing with the case.

##### **802.6.3 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

The designated bureau commander or designee will be responsible for the storage, control and destruction of all controlled substances and dangerous drugs coming into the custody of this department. The GPW will be verified every time controlled substances and dangerous drugs are checked in or out of the Property and Evidence Section and any discrepancies noted on the outside of the package. Any change in weight should be immediately reported to the Chief of Police.

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##### 802.6.4 UNCLAIMED MONEY

The bureau commander or designee shall submit an annual report, or more frequently as directed, regarding money that is presumed to have been abandoned to the Chief of Police. The bureau commander or designee may deposit such money in compliance with existing laws upon receipt of proper authorization from the Chief of Police (Va. Code § 55.1-2500 et seq.).

##### **802.7 RELEASE OF PROPERTY**

The Investigations shall authorize the release of all property coming into the care and custody of the Department.

Release of property shall be made upon receipt of an authorized property release form, listing the name and address of the person to whom the property is to be released. The property release form shall be signed by the authorizing supervisor and must conform to the items listed on the property control card or must specify the specific items to be released. Release of all property shall be documented on the property control card.

All reasonable attempts shall be made to identify both the rightful owner of found property and items held for safekeeping, and all required notices shall be given (Va. Code § 15.2-1719).

Found property and property held for safekeeping shall be retained for the period of time required by law. During such period, members shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. The final disposition of all such property shall be fully documented on the property control card.

A bureau commander or designee shall release such property when the owner presents proper identification and an authorized property release form has been received. The signature of the person receiving the property shall be recorded on the property control card.

If any item listed on a property control card has not been released, the property control card will remain with the Property and Evidence Section. When all property listed on the card has been released, the card shall be forwarded to the Office of the Chief of Police for filing with the case, and the release of all items shall be documented in the property log.

##### 802.7.1 DISCREPANCIES

The Bureau Commander shall be notified whenever a person alleges that there is a shortage or discrepancy regarding his/her property. The Bureau Commander will interview the person claiming the shortage. The Bureau Commander shall ensure that a search for the alleged missing items is completed and shall attempt to prove or disprove the claim.

##### 802.7.2 DISPUTED CLAIMS TO PROPERTY

Occasionally, more than one party may claim an interest in property being held by this department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or establishes an undisputed right to the property.

All parties should be advised that their claims are civil. In extreme situations, legal counsel for this department should be contacted.

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##### **802.7.3 RELEASE OF FIREARMS**

Firearms or ammunition should be released within any time periods provided by law and should only be released upon presentation of valid identification and authorized documents showing that the individual may legally possess the item (Va. Code § 18.2-308.1:4; Va. Code § 19.2-152.15; Va. Code § 52-25.1).

##### **802.8 DESTRUCTION OR DISPOSAL OF PROPERTY**

An authorized Investigations investigator or supervisor shall approve the destruction or disposal of all property held by this department.

All property not held for evidence in a pending criminal investigation or proceeding may be destroyed or disposed of in compliance with existing laws upon receipt of proper authorization from a supervisor. The disposition of all property shall be entered on the property control card and property log. The final disposition of property or evidence should be completed within six months after legal requirements have been satisfied or completed.

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law, unless a different disposition is ordered by a court:

- Weapons or devices declared by law to be illegal to possess
- Unclaimed or surrendered firearms or other weapons (Va. Code § 15.2-1721; Va. Code § 18.2-308.1:4; Va. Code § 19.2-152.15)
- Controlled substances or dangerous drugs declared by law to be illegal to possess without a legal prescription (Va. Code § 19.2-386.23)
- Seized property from illegal transactions (Va. Code § 19.2-386.15 et seq.)

##### **802.8.1 BIOLOGICAL EVIDENCE**

The bureau commander or designee shall ensure that no biological evidence held by this department is destroyed without adequate notification to the following persons, when applicable (Va. Code § 19.2-11.8):

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor and/or Commonwealth Attorney
- (d) Any sexual assault victim
- (e) The applicable court

Biological evidence shall be retained for a minimum period established by law or the expiration of any sentence imposed related to the evidence, whichever time period is greater (Va. Code § 19.2-11.8). Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice, unless a motion seeking an order to retain the sample is filed and served on this department within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological

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evidence should be retained in the appropriate file and a copy forwarded to the Investigations Bureau Commander.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

Biological evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations. Even after expiration of the applicable statute of limitations, the department investigator should be consulted and the sexual assault victim should be notified.

#### **802.8.2 VICTIM OBJECTION**

If a sexual assault victim makes a written objection to the destruction of biological evidence, the evidence shall be retained for a period of 10 years after receipt of the objection. Upon the expiration of this 10-year period, the victim should be notified prior to the destruction of the evidence unless the victim has made a written request not to be contacted for this purpose. Once the victim has been notified, the evidence may be destroyed if the victim does not respond within the time period designated in this policy or if the victim consents to the destruction (Va. Code § 19.2-11.8).

#### **802.8.3 MARIJUANA**

At the first sign of mold growth, stored marijuana shall be photographed showing the mold growth. As soon as practicable, the bureau commander or designee shall make efforts to lawfully destroy the contaminated marijuana, in compliance with this policy. The bureau commander or designee should consult with the member assigned to the case investigation for authorization to destroy the remaining marijuana, after taking representative samples, and should request assistance from the appropriate prosecutor in obtaining a court order for immediate destruction.

#### **802.8.4 MEDICAL MARIJUANA**

The investigating member should advise the bureau commander or designee and the prosecutor if the party from whom the marijuana was seized holds a valid medical permit to possess marijuana or claims that the possession of the marijuana is for medical purposes (Va. Code § 18.2-251.1).

The bureau commander or designee shall store marijuana, drug paraphernalia or other related property that is seized from a person engaged in or assisting with the use of medical marijuana in a manner that is consistent with the provisions of the Medical Marijuana Policy.

Marijuana that is infected with mold shall not be returned. This includes marijuana seized from a person who holds a valid medical permit to possess marijuana or who claims that possession of the marijuana is for medical purposes.

#### **802.9 INSPECTION OF THE PROPERTY AND EVIDENCE SECTION**

At least quarterly, the person responsible for the property and evidence control function, or his or her designee, conducts a documented inspection of adherence to procedures used for the control of property.

Whenever a property key holder is assigned and /or transferred from the property control function, a documented audit of property is conducted jointly by the newly designated property key holder

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and a designee of the Chief to ensure that records are correct and properly annotated. At a minimum, the agency must meet the requirements set forth in Appendix A of the VALEAC Program Manual.

A documented annual audit of property held by the agency is conducted by an employee not routinely or directly connected with property control.

Documented unannounced inspections of property storage areas, conducted by an employee not routinely or directly connected with property control, are performed at least twice per year as directed by the Chief.

#### 802.9.1 ADDITIONAL REQUIREMENTS

All audits must be consistent with the requirements set forth by the Virginia Law Enforcement Professional Standards Commission at a minimum.

The results of all inspections and audits shall be documented and forwarded to the Chief of Police.

## Records

### 803.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the Wintergreen Police Department Office of the Chief of Police. The policy addresses department file access and internal requests for case reports.

### 803.2 POLICY

It is the policy of the Wintergreen Police Department to maintain department records securely, professionally and efficiently (Va. Code § 15.2-1722).

### 803.3 RESPONSIBILITIES

#### 803.3.1 CHIEF OF POLICE

The Chief of Police shall be the designated records custodian.

The responsibilities of the Chief of Police include, but are not limited to:

- (a) Overseeing the efficient and effective operation of all records.
- (b) Scheduling and maintaining time records.
- (c) Supervising, training and evaluating staff.
- (d) Maintaining and updating a procedure manual.
- (e) Ensuring compliance with established policies and procedures.
- (f) Supervising the access, use and release of protected information (see the Protected Information Policy).
- (g) Establishing security and access protocols for case reports designated as sensitive, where additional restrictions to access have been implemented. Sensitive reports may include, but are not limited to:
  1. Homicides
  2. Cases involving department members or public officials
  3. Any case where restricted access is prudent

#### 803.3.2 OFFICE OF THE CHIEF OF POLICE

The responsibilities of the records custodian include, but are not limited to:

- (a) Maintaining a records management system for case reports.
  1. The records management system should include a process for numbering, identifying, tracking and retrieving case reports.
    - (a) A process for numbering, identifying, tracking and retrieving case reports.
    - (b) An alphabetical master name index, physical or electronic, to serve as a cross reference to all documents in which a person has been named.

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- (c) A process for documenting incident by type of offense or report, incidents by location, stolen property and recovered property.
- (d) A case file management system for criminal investigations to include case status, assigned coordinator, types of records, and authorized access.
- (b) Entering case report information into the records management system.
  - 1. Modification of case reports shall only be made when authorized by a supervisor.
- (c) Providing members of the Department with access to case reports, physical or electronic, 24 hours a day.
- (d) Maintaining compliance with federal, state and local regulations regarding reporting requirements of crime statistics.
- (e) Maintaining compliance with federal, state and local regulations regarding criminal history reports and auditing.
- (f) Identifying missing case reports and notifying the responsible member's supervisor.
- (g) Preparing and maintaining an annual report of the department's activities and statistical data summaries.

#### **803.4 FILE ACCESS AND SECURITY**

The security of files in Records must be a high priority and shall be maintained as mandated by state or federal law. All case reports including, but not limited to, initial, supplemental, follow-up, evidence and any other reports related to a police department case, including field interview (FI) cards, criminal history records and publicly accessible logs, shall be maintained in a secure area within the Office of the Chief of Police, accessible only by authorized members. Access to case reports or files when the Chief of Police is not available may be obtained through the Field Operations Bureau Commander.

The Office of the Chief of Police will also maintain a secure file for case reports deemed as sensitive or otherwise requiring extraordinary access restrictions. Records or reports relating to active vice, drug and organized crime investigations shall be maintained in a secure manner separate from the central records system. The Chief of Police will ensure that procedures are in place for the separation of juvenile criminal arrest records from adult criminal arrest records pursuant to Virginia law.

##### **803.4.1 ORIGINAL CASE REPORTS**

Generally, original case reports shall not be removed from the Office of the Chief of Police. Should an original case report be needed for any reason, the requesting department member shall first obtain authorization from the Chief of Police. All original case reports removed from the Office of the Chief of Police shall be recorded on a designated report check-out log, which shall be the only authorized manner by which an original case report may be removed from the Office of the Chief of Police.

All original case reports to be removed from the Office of the Chief of Police shall be photocopied and the photocopy retained in the file location of the original case report until the original is returned



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to the Office of the Chief of Police. The photocopied report shall be shredded upon return of the original report to the file.

#### **803.5 CONFIDENTIALITY**

Office of the Chief of Police has access to information that may be confidential or sensitive in nature. Office of the Chief of Police shall not access, view or distribute, or allow anyone else to access, view or distribute any record, file or report, whether in hard copy or electronic file format, or any other confidential, protected or sensitive information except in accordance with the Records Maintenance and Release and Protected Information policies.

## Records Maintenance and Release

### 804.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

### 804.2 POLICY

The Wintergreen Police Department is committed to providing public access to records in a manner that is consistent with the Virginia Freedom of Information Act (FOIA) (Va. Code § 2.2-3700 et seq.).

### 804.3 CUSTODIAN OF RECORDS

The Chief of Police is designated as the Custodian of Records (Va. Code § 2.2-3704.2). The responsibilities of the Custodian of Records include, but are not limited to:

- (a) Managing the records management system for the Department, including the retention, archiving, release and destruction of department public records.
- (b) Maintaining, updating and complying with the department records retention schedule, including:
  1. Identifying the minimum length of time the Department must keep records.
  2. Identifying the department bureau responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records.
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring the availability of a current schedule of fees for public records as allowed by law (Va. Code § 2.2-3704).
- (g) Preparing and ensuring the following information is made available to the public upon request and posted on the department website as required by Va. Code § 2.2-3704.1.
  1. In plain English, a description of the basic rights of a person who requests public information, the responsibilities of the Department and the procedures, to include the cost of inspecting or obtaining copies.
  2. Contact information for the Custodian of Records.
  3. A general description, summary, list or index of the types of public records maintained by this department and exemptions in law that permit or require such records to be withheld from release.
  4. The policy concerning the type of public records the Department routinely withholds from release as permitted by law.

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5. The following statement: "A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen as set forth in subsection F of § 2.2-3704 of the Code of Virginia."
  - (h) Acting as the department's FOIA officer, designating additional members as FOIA officers to receive requests from the public, and ensuring updated contact information for the Records Custodian and any additional FOIA officers is maintained on the department's website or otherwise made easily available to the public as required by Va. Code § 2.2-3704.2.
  - (i) Confirming that the online posting requirement relating to the Freedom of Information Advisory Council's comment form has been complied with as required by Va. Code § 2.2-3704.1.

#### **804.4 PROCESSING REQUESTS FOR PUBLIC RECORDS**

Any department member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

##### **804.4.1 REQUESTS FOR RECORDS**

The processing of requests for any record is subject to the following (Va. Code § 2.2-3704):

- (a) A request for records should be in writing, identify the requested records with reasonable specificity, and include the name of the requester and the requester's legal address.
- (b) The Department is not required to create records that do not exist.
- (c) Prior to making a search for requested records, the Department should notify the requester in writing that reasonable charges not to exceed actual costs may be assessed and ask whether a cost estimate is desired in advance.
- (d) A request for records shall be responded to promptly but in all cases within five working days of receiving the request. Failure to respond to a request shall be deemed a denial and a violation of FOIA. A request shall be responded to with one of the following:
  1. Provide the requested records to the requester.
  2. If the records are not provided, supply a written response that the requested records are being withheld as exempted by law. The response shall identify the volume and subject matter of the withheld records and include the citation to the specific Code of Virginia statute authorizing the records to be withheld.
  3. If the records are provided in part, supply a written response that the requested records are being provided in part and being withheld in part as prohibited by law. The response shall identify the subject matter of the withheld portions and

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citation to the specific Code of Virginia statute authorizing the records to be withheld. When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released (Va. Code § 2.2-3704.01).

- (a) A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
4. If the records cannot be found or do not exist, supply a written response explaining this. However, if it is known that another public body has the requested records, the response shall include the contact information for the other public body.
  5. If the records cannot be provided within five working days, supply a written response that it is not practically possible to provide the requested records or to determine whether they are available within the five-workday period. The response shall specify the conditions that make the request impossible. If this response is made within five working days, the Department shall have an additional seven working days, or 60 working days in the case of a request for criminal investigative files under Va. Code § 2.2-3706.1, to provide the requester with a written response to the original request.
    - (a) Records that contain criminal investigative files related to a criminal investigation or proceeding are governed by Va. Code § 2.2-3706.1, which requires victim notification under certain circumstances and provides for when disclosure is mandatory, permissive, or prohibited. Response periods are tolled under certain circumstances when a victim seeks an injunction from disclosure.
    - (b) If additional time is required to respond to a request because the request is for an extraordinary volume of records or an extraordinarily lengthy search is required, the Custodian of Records shall contact the requester to reach an agreement concerning additional time in which to respond to the request. If an agreement is not reached, legal counsel for the Department should be contacted for filing a petition to the appropriate court to obtain additional time to respond to the request.
- (e) The period for providing records is tolled for the amount of time that elapses between notice of the cost estimate and the response of the requester. If the Department receives no response from the requester within 30 days of sending the cost estimate, the request may be considered withdrawn.
  - (f) The time for providing records may also be tolled if the Department determines that the cost of producing the records will exceed \$200 and requests a deposit from the person requesting the records as allowed by law.

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- (g) Nonexempt records maintained in an electronic database shall be produced in any tangible medium identified by the requester, if that medium is used by this department in the regular course of business.

#### 804.4.2 REQUESTS FOR SENSITIVE SECURITY INFORMATION

If a request is received seeking information relating to the prevention or response to terrorist activity or cyberattacks (including information about infrastructure security plans and systems), and the release of the information might jeopardize the safety of any person or reveal the location of security or other sensitive systems or equipment, the Custodian of Records shall notify the Secretary of Public Safety and Homeland Security of the request and the department's response to the request (Va. Code § 2.2-3705.2).

#### 804.4.3 MANDATORY RELEASE

When requested, records of completed suicide, accidental and natural death investigations where no criminal charges will be initiated shall be released to the parent or spouse of the decedent or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided the person is not a person of interest or a suspect (Va. Code § 2.2-3706).

#### **804.5 RELEASE RESTRICTIONS**

Examples of release restrictions include:

- (a) Personal identifying information, including an individual's photograph; Social Security and driver's license identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver's license record, motor vehicle record, or any department record, including traffic accident reports, are restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Personnel records containing information concerning identifiable members (Va. Code § 2.2-3705.1).
- (c) Records that would disclose a member's telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to members for use in the performance of their official duties (Va. Code § 2.2-3706).
- (d) Personal contact information, as defined in Va. Code § 2.2-3705.1, furnished to the Department for the purpose of receiving electronic mail from this department provided the recipient has requested the non-disclosure.
- (e) Records that contain information related to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective details (Va. Code § 2.2-3706).
- (f) Background investigation records of law enforcement employment applicants for law enforcement employment, administrative investigations relating to allegations of wrongdoing by members, and other administrative investigations conducted by the Department that are made confidential by law (Va. Code § 2.2-3706).

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- (g) The identity of any individual providing information about a crime or criminal activity under a promise of anonymity (Va. Code § 2.2-3706).
- (h) Victim or witness information as provided in Va. Code § 19.2-11.2, as well as certain photographic, audio, video, and other information as provided in Va. Code § 2.2-3706.1.
- (i) Juvenile law enforcement records, except for those authorized to receive such information as provided in Va. Code § 16.1-301 and Va. Code § 16.1-309.
- (j) Criminal investigation files including complaints, court orders, notes, memoranda, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence relating to a criminal investigation or prosecution not required to be disclosed in accordance with Va. Code § 2.2-3706.1 (Va. Code § 2.2-3706).
- (k) Portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature where the release of such information would jeopardize the safety or privacy of any person (Va. Code § 2.2-3706).
- (l) Records relating to neighborhood watch programs (Va. Code § 2.2-3706).
- (m) Confidential records, including victim identities provided to staff of a rape crisis center or a program for battered spouses (Va. Code § 2.2-3705.2).
- (n) Documentation or other information that describes the design, function, operation, or access control features of any department security system used to control access to or use of any automated data processing or telecommunications systems, including the Statewide Agencies Radio System (STARS) (Va. Code § 2.2-3705.2).
- (o) Plans and information to prevent or respond to terrorist activity or cyberattacks, the disclosure of which would jeopardize the safety of any person (Va. Code § 2.2-3705.2).
- (p) Records that contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law enforcement personnel or the general public (Va. Code § 2.2-3706).
- (q) Any other information that may be appropriately denied by Virginia law.

#### **804.6 SUBPOENAS AND DISCOVERY REQUESTS**

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the Commonwealth Attorney, or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

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##### **804.7 RELEASED RECORDS TO BE MARKED**

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the department name and to whom the record was released.

Each audio/video recording released shall include the department name and to whom the record was released.

##### **804.8 SECURITY BREACHES**

Members who become aware that any Wintergreen Police Department system containing personal information may have been breached should notify the Chief of Police as soon as practicable.

The Chief of Police shall ensure the required notice is given to any resident of this state whose unsecured personal information is reasonably believed to have been acquired by an unauthorized person (Va. Code § 18.2-186.6). Notice shall also be provided to the Office of the Attorney General. Notice shall be in the form and manner specified in Va. Code § 18.2-186.6.

Notice shall be given as soon as reasonably practicable and consistent with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the system. Notice may be delayed if notification will impede a criminal or civil investigation or homeland or national security (Va. Code § 18.2-186.6).

If notification is required to more than 1000 persons at one time, notice of the timing, distribution and content of notices sent as a result of the breach shall be provided to the Office of the Attorney General and all consumer reporting agencies as specified in Va. Code § 18.2-186.6.

For the purposes of the notice requirement, personal information includes an individual's first name or first initial and last name in combination with, and linked to, any one or more of the following:

- (a) Social Security number
- (b) Driver's license number or Virginia identification card number
- (c) Full account number, credit, or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial accounts
- (d) Passport number
- (e) Military identification number

If the breach reasonably appears to have been made to protected information covered in the Protected Information Policy, the Chief of Police should promptly notify the appropriate member designated to oversee the security of protected information (see the Protected Information Policy).

##### **804.8.1 BREACH OF TAXPAYER IDENTIFICATION DATA**

In the event that both the taxpayer identification number of any department member and the amount of income tax withheld for that member are breached, the Chief of Police shall notify the Office of the Attorney General in accordance with Va. Code § 18.2-186.6(M).

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### **804.9 EXPUNGEMENT AND SEALING**

Expungement orders received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall expunge such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once a record is expunged, members shall respond to any inquiry as though the record did not exist (Va. Code § 19.2-392.2).

Sealing orders received by the Department shall also be reviewed for appropriate action by the Custodian of Records. Records may include those related to arrests, charges, and convictions. Once a record is ordered sealed, members shall respond to any inquiry as though the record did not exist unless otherwise permitted or required by law (Va. Code § 19.2-392.5 et seq.).



## Protected Information

### 805.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Wintergreen Police Department. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the public records information covered in the Records Maintenance and Release Policy.

#### 805.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by members of the Wintergreen Police Department and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

### 805.2 POLICY

Members of the Wintergreen Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

### 805.3 RESPONSIBILITIES

The Chief of Police shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include but are not limited to:

- (a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS) and Department of Motor Vehicles (DMV) records.
- (b) Developing, disseminating, and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (c) Developing, disseminating, and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release, and security of protected information (Va. Code § 9.1-130; Va. Code § 19.2-389; Va. Code § 19.2-389.1; Va. Code § 38.2-613(B)(5); 6 VAC 20-120-50; 6 VAC 20-120-60).
- (d) Developing procedures to ensure training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.
- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

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#### **805.4 ACCESS TO PROTECTED INFORMATION**

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Wintergreen Police Department policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

#### **805.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION**

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Chief of Police for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Office of the Chief of Police to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of officers, other department members or the public is at risk.

Nothing in this policy is intended to prohibit broadcasting warrant information.

##### **805.5.1 REVIEW OF CRIMINAL HISTORY RECORD**

A person whose criminal history record is maintained by this department has the right to inspect a copy of his/her information at the Department for the purpose of ascertaining the completeness and accuracy of the information. For offenses that are required to be reported to the Central Criminal Records Exchange (CCRE), the requester shall be referred to the CCRE. For offenses that are non-reportable to CCRE, the Department shall provide the information requested following the dissemination procedures as required by 6 VAC 20-120-50 (Va. Code § 9.1-132).

#### **805.6 SECURITY OF PROTECTED INFORMATION**

The Chief of Police will select a member of the Department to oversee the security of protected information.

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The responsibilities of this position include but are not limited to:

- (a) Developing and maintaining security practices, procedures, and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis, and containment of security incidents including computer attacks.
- (d) Tracking, documenting, and reporting all breach of security incidents to the Chief of Police and appropriate authorities (Va. Code § 2.2-5514).

#### **805.6.1 MEMBER RESPONSIBILITIES**

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk, in or on an unattended vehicle, in an unlocked desk drawer or file cabinet, on an unattended computer terminal).

#### **805.7 TRAINING**

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

## Animal Control

### 806.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for interacting with animals and responding to calls for service that involve animals.

### 806.2 POLICY

It is the policy of the Wintergreen Police Department to be responsive to the needs of the community regarding animal-related issues. This includes enforcing local, state and federal laws relating to animals and appropriately resolving or referring animal-related problems, as outlined in this policy.

Officers shall enforce laws relating to animals to the same extent that other laws in the Commonwealth of Virginia are enforced (Va. Code § 3.2-6567).

### 806.3 PATROL RESPONSIBILITIES

Animal control services are generally the primary responsibility of Patrol and include the following:

- (a) Animal-related matters during periods when Patrol is available.
- (b) Ongoing or persistent animal nuisance complaints. Such complaints may be scheduled, if reasonable, for handling during periods that Patrol is available for investigation and resolution.
- (c) Follow-up on animal-related calls, such as locating owners of injured animals.

### 806.4 MEMBER RESPONSIBILITIES

Members who respond to or assist with animal-related calls for service should evaluate the situation to determine appropriate actions to control the situation.

Due to the hazards of handling animals without proper training and equipment, responding members generally should not attempt to capture or pick up any animal, but should keep the animal under observation until the arrival of appropriate assistance.

Members may consider acting before the arrival of such assistance when:

- (a) There is a threat to public safety.
- (b) An animal has bitten someone. Members should take measures to confine the animal and prevent further injury.
- (c) An animal is creating a traffic hazard.
- (d) An animal is seriously injured.
- (e) The owner/handler of an animal has been arrested or is incapacitated. In such circumstances, the member should find appropriate placement for the animal.

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1. This is only necessary when the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animal.
  2. With the owner's consent, locating appropriate placement may require contacting relatives or neighbors to care for the animal.
  3. If no person can be found or the owner does not or cannot give consent, the animal should be taken to a designated animal care facility.
- (f) A dangerous or vicious dog is found in violation of Va. Code § 3.2-6540 or Va. Code § 3.2-6540.1.

#### 806.4.1 STATE REQUIREMENTS

Members taking custody of a dog or a cat shall ask whether, if known, the animal has bitten a person or other animal, and the date and circumstances of such bite. Members shall document the information in the report of the incident.

Members who subsequently release the animal for adoption, return to rightful owner, or transfer to another agency shall disclose that the animal has bitten a person or other animal and the circumstances and date of such bite (Va. Code § 3.2-6509.1).

#### **806.5 ANIMAL CRUELTY COMPLAINTS**

Laws relating to the cruelty to animals should be enforced including, but not limited to:

- (a) Care of companion animals by owner (Va. Code § 3.2-6503).
- (b) Care of agricultural animals by owner (Va. Code § 3.2-6503.1).
- (c) Abandonment of animal (Va. Code § 3.2-6504).
- (d) Cruelty to animals (Va. Code § 3.2-6570 et seq.).

Members should conduct an investigation on all reports of animal cruelty. Legal steps should be taken to protect an animal that is in need of immediate care or protection from acts of cruelty (Va. Code § 3.2-6564).

#### **806.6 ANIMAL BITE REPORTS**

Members investigating an animal bite should obtain as much information as possible for follow-up with the appropriate health or animal authorities. Efforts should be made to capture or otherwise have the animal placed under control. Members should attempt to identify and notify the owner of the final disposition of the animal.

#### **806.7 STRAY DOGS**

If the dog has a license or can otherwise be identified, the owner should be contacted, if possible. If the owner is contacted, the dog should be released to the owner and a summons may be issued, if appropriate. If a dog is taken into custody, it shall be transported to the appropriate shelter/holding pen.

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#### **806.8 DANGEROUS ANIMALS**

In the event responding members cannot fulfill a request for service because an animal is difficult or dangerous to handle, the Field Operations Bureau Commander will be contacted to determine available resources, including requesting the assistance of animal control services from an allied agency.

#### **806.9 PUBLIC NUISANCE CALLS RELATING TO ANIMALS**

Members should diligently address calls related to nuisance animals (e.g., barking dogs), because such calls may involve significant quality-of-life issues.

#### **806.10 INJURED ANIMALS**

When a member becomes aware of an injured domesticated animal, all reasonable attempts should be made to contact an owner or responsible handler. If an owner or responsible handler cannot be located, the animal should be taken to a designated animal care facility.

##### 806.10.1 VETERINARY CARE

When the owner or responsible handler cannot be located and the animal is not an immediate danger to the community, it shall be taken to a veterinarian as described below:

Members are authorized to impound and take any animal to a veterinarian when the animal (Va. Code § 3.2-6569):

- (a) Has been abandoned.
- (b) Has been cruelly treated.
- (c) Is suffering a direct and immediate threat to its life, safety or health.

Prior to seizing or impounding any agricultural animal, members shall contact the State Veterinarian who shall recommend the most appropriate action for effecting the seizure or impoundment (Va. Code § 3.2-6569).

#### **806.11 DESTRUCTION OF ANIMALS**

When it is necessary to use a firearm to euthanize a badly injured animal or stop an animal that poses an imminent threat to human safety, the Firearms Policy shall be followed. A badly injured animal should only be euthanized with the approval of a supervisor.

Patrol officers may kill a dog that is in the act of killing or injuring livestock or poultry (Va. Code § 3.2-6552).

#### **806.12 REPORTS**

Members who take an animal into custody should generate a complete report of the incident, including a description of the animal (species, color, breed, sex, approximate age and weight, and temperament), the reason the animal was taken into custody, the animal's home address, if known, and any identification number, tag information or other identification on the animal (Va. Code § 3.2-6557).

## **Chapter 9 - Custody**

## Temporary Custody of Adults

### 900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into custody by members of the Wintergreen Police Department for processing prior to being released or transferred to a housing or other type of facility.

Custody of juveniles is addressed in the Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

### 900.2 POLICY

The Wintergreen Police Department is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

### 900.3 INITIATING CUSTODY

The officer responsible for an individual in custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The officer should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The officer should promptly notify a supervisor of any conditions that may warrant immediate medical attention or other appropriate action.

#### 900.3.1 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Field Operations Bureau Commander will ensure that the U.S. Department of State's list of countries and jurisdictions that require mandatory notification is readily available to department members. There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be transmitted and then retained for documentation. Prominently displayed signs informing foreign nationals of their rights related to consular notification should also be posted in areas used for the temporary custody of adults.

Department members assigned to process a foreign national shall:

- (a) Inform the individual, without delay, that he/she may have his/her consular officers notified of the arrest or detention and may communicate with them.
  - 1. This notification should be documented.
- (b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.



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1. If the country is on the mandatory notification list, then:
  - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
  - (b) Tell the individual that this notification has been made and inform him/her without delay that he/she may communicate with consular officers.
  - (c) Forward any communication from the individual to his/her consular officers without delay.
  - (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
2. If the country is not on the mandatory notification list and the individual requests that his/her consular officers be notified, then:
  - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
  - (b) Forward any communication from the individual to his/her consular officers without delay.

#### **900.4 USE OF RESTRAINT DEVICES**

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk, handcuffs should generally be removed when the person is in a cell.

The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Wintergreen Police Department unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

##### **900.4.1 PREGNANT ADULTS**

Women who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

#### **900.5 PERSONAL PROPERTY**

The personal property of an individual in custody should be removed, inventoried and processed as provided in the Custodial Searches Policy, unless the individual requests a different disposition. For example, an individual may request property (e.g., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient's signature on the appropriate form.

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#### **900.6 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY**

The Field Operations Bureau Commander will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the Wintergreen Police Department. The procedures should include:

- (a) Immediate request for emergency medical assistance if appropriate.
- (b) Immediate notification of the Bureau Commander, Chief of Police and Investigations Bureau Commander.
- (c) Notification of the spouse, next of kin or other appropriate person.
- (d) Notification of the appropriate prosecutor.
- (e) Notification of the Commonwealth Attorney.
- (f) Notification of the Medical Examiner.
- (g) Evidence preservation.
- (h) Initial report of death to the local facilities supervisor or designee of the Compliance and Accreditation Unit, Department of Corrections within 24 hours (6 VAC 15-40-1350).

#### **900.7 RELEASE AND/OR TRANSFER**

When an individual is released or transferred from custody, the member releasing the individual should ensure:

- (a) All proper reports, forms and logs have been completed prior to release.
- (b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.
- (c) It has been confirmed that the correct individual is being released or transported.
- (d) All property, except evidence, contraband or dangerous weapons, has been returned to, or sent with, the individual.
- (e) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, medical records, an itemized list of his/her property, warrant copies).
- (f) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if he/she is being sent to a facility.
  - 1. The department member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility.
- (g) Generally, persons of the opposite sex, or adults and juveniles, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating individuals is not practicable, officers should be alert to inappropriate physical or verbal contact and take appropriate action as necessary.

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- (h) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with his/her personal needs as reasonable.

#### 900.7.1 ESCAPE DURING TRANSPORT

The Field Operations Bureau Commander will ensure procedures are in place to address any escape of an individual during transport by the Wintergreen Police Department. The procedures should include:

- (a) Further actions to be taken by the officers conducting the transport.
- (b) Notifications of the escape.
- (c) Written reports by the officers conducting the transport.

## Temporary Custody of Juveniles

### 901.1 PURPOSE AND SCOPE

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

#### 901.1.1 DEFINITIONS

Definitions related to this policy include:

**Juvenile non-offender** - An abused, neglected, dependent, or alien juvenile who may be legally held for the juvenile's own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for the juvenile's protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person.

**Juvenile offender** - A juvenile 17 years of age or younger who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense). It also includes unlawful possession or transportation of a handgun or assault firearms under Va. Code § 18.2-308.7 (28 CFR 31.303).

**Non-secure custody** - When a juvenile is held in the presence of an officer or other department member at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication, is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation.

**Safety checks** - Direct visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of juveniles in temporary custody.

**Secure custody** - When a juvenile offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object.

Examples of secure custody include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) A juvenile handcuffed to a rail.
- (c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
- (d) A juvenile being processed in a secure booking area when a non-secure booking area is available.
- (e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.

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- (f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- (g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

**Sight and sound separation** - Located or arranged to prevent physical, visual, or auditory contact.

**Status offender** - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation, and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender. The term status offender includes a child in need of supervision and a child in need of services as defined in Va. Code § 16.1-228.

#### **901.2 POLICY**

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

The Wintergreen Police Department is committed to the development and perpetuation of programs designated to prevent and control juvenile delinquency.

#### **901.3 JUVENILES WHO SHOULD NOT BE HELD**

Juveniles who exhibit certain behaviors or conditions should not be brought to the Wintergreen Police Department. These include:

- (a) Unconsciousness or having been unconscious while being taken into custody or transported.
- (b) Serious injuries or a medical condition requiring immediate medical attention.
- (c) A suspected suicide risk or showing obvious signs of severe emotional or mental disturbance (see the Civil Commitments Policy).
  - 1. If the officer taking custody of a juvenile believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release, or transfer to an appropriate facility is completed.
- (d) Significant intoxication or showing signs of having ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (e) Extremely violent or continuously violent behavior.
- (f) Afflicted with, or displaying symptoms of, a communicable disease that poses an unreasonable exposure risk.

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

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situation. These juveniles should not be held at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

#### **901.4 CUSTODY OF JUVENILES**

Officers should take custody of a juvenile and temporarily hold the juvenile at the Wintergreen Police Department when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile who is suspected of being a victim.

No juvenile should be held in temporary custody at the Department without authorization of the arresting officer's supervisor. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile's parent, legal guardian, or other responsible adult, or transferred to a juvenile custody facility or to other authority as soon as practicable. In no event shall a juvenile be held beyond six hours from the time of his/her entry into the Department (34 USC § 11133).

##### **901.4.1 CUSTODY OF JUVENILE NON-OFFENDERS**

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

##### **901.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS**

Status offenders should generally be released on a summons or with a warning rather than taken into temporary custody. However, officers may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent). Juvenile status offenders may not be held in secure custody (34 USC § 11133).

A juvenile who has run away should be released to the institution, facility, or residence from which he/she ran away. If not released, the officer should contact an intake officer to determine whether the juvenile should be detained pursuant to a warrant or detention order (Va. Code § 16.1-247).

##### **901.4.3 CUSTODY OF JUVENILE OFFENDERS**

- (a) Juvenile offenders may be taken into custody under the following circumstances (Va. Code § 16.1-246):
  - 1. When the juvenile has committed a crime in the presence of an officer and the officer believes that custody is necessary for the protection of the public interest.
  - 2. When the officer has probable cause based on the reasonable complaint of a person who observed the misdemeanor offense of:
    - (a) Shoplifting in violation of Va. Code § 18.2-103.
    - (b) Assault and battery.

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- (c) Carrying a weapon on school property in violation of Va. Code § 18.2-308.1.
- 3. When the officer has probable cause to believe that the juvenile has committed an offense which if committed by an adult would be a felony.
- 4. Pursuant to a detention order or warrant.
- (b) Juvenile offenders should be released to a responsible adult unless there is reason to believe the juvenile offender (Va. Code § 16.1-248.1):
  - 1. Committed an act that would be a felony or Class 1 misdemeanor committed by an adult and either:
    - (a) There appears to be a threat to the juvenile, property, or others.
    - (b) The juvenile has threatened to abscond or has a record of failing to appear at court hearings within the prior year.
  - 2. Violated the terms of their probation or parole that was based on a felony or Class 1 misdemeanor charge and either:
    - (a) There appears to be a threat to the juvenile, property, or others.
    - (b) The juvenile has threatened to abscond or has a record of failing to appear at court hearings within the prior year.
  - 3. Possessed or transported a firearm in violation of Va. Code § 18.2-308.7 and either:
    - (a) There appears to be a threat to the juvenile, property, or others.
    - (b) The juvenile has threatened to abscond or has a record of failing to appear at court hearings within the prior year.
  - 4. Has absconded from a detention facility.
  - 5. Is a fugitive from another state.
  - 6. Has failed to appear in court.
  - 7. Is also in need of supervision.

If the juvenile offender is not released, the officer shall contact the intake officer and provide the intake officer written notice, including the reasons the juvenile was taken into custody, and shall also ensure notice is given to the juvenile's parent, guardian, legal custodian, or other person standing in loco parentis.

#### 901.4.4 ALTERNATIVES TO TEMPORARY CUSTODY

Officers handling juvenile offenders should use the least coercive, reasonable alternatives to custody, including:

- (a) Release to a parent, legal guardian, or other responsible adult, with no further action.
- (b) Issuance of a summons or complaint as a referral to the juvenile court.
- (c) Referral to juvenile court.

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##### **901.4.5 CONSIDERATIONS**

When considering appropriate alternatives to temporary custody, several factors should be taken into consideration. These factors include but are not limited to the following:

- (a) The nature of the offense
- (b) The juvenile's age
- (c) The juvenile's prior contacts with law enforcement
- (d) The availability of an appropriate juvenile diversion program
- (e) The recommendation of the complainant or victim

##### **901.5 ADVISEMENTS**

Juveniles are entitled to *Miranda* warnings the same as adults. Officers should consider whether the age, mental capacity, education, or experience warrant explaining these rights in the presence of a parent or other responsible adult.

##### **901.6 NOTICE TO SCHOOLS**

The Chief of Police or the authorized designee should disclose to the school principal that a juvenile is a suspect or has been charged with any of the following (Va. Code § 16.1-301):

- (a) A violent juvenile felony specified in subsections B and C of Va. Code § 16.1-269.1
- (b) A violation of any of the provisions of Va. Code § 18.2-77 et seq. (arson-related crimes)
- (c) A violation of law involving any weapon as described in subsection Va. Code § 18.2-308(A)
- (d) Any of the crimes described in subsection G of Va. Code § 16.1-260

The member making the disclosure is responsible for ensuring notice is provided to the principal within the time frames provided in Va. Code § 16.1-301.

Additionally, an officer shall report to the principal of a school, or the principal's designee, the commission of any of the offenses covered under Va. Code § 22.1-279.3:1 when any such offense is committed by a student enrolled at the school.

##### **901.7 RELIGIOUS ACCOMMODATION**

Juveniles have the right to the same religious accommodation as adults while in the custody of the Wintergreen Police Department. (see the Temporary Custody of Adults Policy).

##### **901.8 USE OF RESTRAINT DEVICES**

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Wintergreen Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening.



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Other restraints shall only be used after less restrictive measures have failed and with the approval of a supervisor. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others.

Juveniles in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

#### 901.8.1 PREGNANT JUVENILES

Juveniles who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

#### 901.9 PERSONAL PROPERTY

The personal property of a juvenile shall be processed in the same manner as an adult in temporary custody (see the Temporary Custody of Adults Policy).

#### 901.11 INTERVIEWING OR INTERROGATING

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent, to an interview or interrogation. Documentation of any custodial interview will include the duration and number of Officers present during the interview.

#### 901.11.1 PARENTAL NOTIFICATION AND CONTACT

Prior to a custodial interrogation of a juvenile offender taken into custody under Va. Code § 16.1-246(C), (C1), or (D), an officer shall notify the juvenile's parent, guardian, or custodian and allow the juvenile to have contact with that parent, guardian, or custodian, unless (Va. Code § 16.1-247.1):

- (a) That parent, guardian, or custodian:
  - 1. Is a co-defendant with the juvenile in the offense.
  - 2. Is a suspect for a crime against the juvenile.
  - 3. Cannot be located or refuses contact with the juvenile.
- (b) The information sought is necessary to protect persons or property from imminent danger and the questions are limited to that information.

#### 901.11.2 ACCESS TO COUNSEL

If there are valid, substantial reasons a parent or interested adult cannot be present for an interrogation, officers should ensure before interrogating the juvenile that the juvenile understands the *Miranda* warnings, the consequences of waiving *Miranda* warnings, and that any waiver of the juvenile's rights is made intelligently, knowingly, and voluntarily. A valid waiver will not occur unless the juvenile demonstrates a high degree of intelligence, experience, knowledge, or sophistication. Considerations should also include the juvenile's age, education, and background.

#### 901.12 RESTRICTION ON FINGERPRINTING AND PHOTOGRAPHING

Fingerprints and photographs shall only be taken if the juvenile is charged with a delinquent act which, if committed by an adult, is required to be reported to Central Criminal Records Exchange

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(CCRE) pursuant to Va. Code § 19.2-390(A) or if the juvenile is 14 years of age or older and charged with a violent juvenile felony under Va. Code § 16.1-228 (Va. Code § 16.1-299).

Juvenile fingerprint cards and photographs should be separately and securely maintained. Copies of fingerprints shall be filed with the juvenile court on forms provided by the CCRE.

Fingerprint cards and photographs shall be destroyed under the following circumstances (Va. Code § 16.1-299):

- (a) If no petition or warrant is filed within 60 days against a juvenile whose fingerprints or photographs have been taken in connection with an alleged violation of law.
- (b) Pursuant to a court order.

#### **901.13 TRANSPORTING JUVENILES**

No juvenile should be transported with an adult accused of any criminal act (Va. Code § 16.1-254).

#### **901.14 TRAINING**

Department members should be trained on and familiar with this policy and any supplemental procedures.

#### **901.14 JUVENILE SUMMONS IN LIEU OF PETITION**

The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations, or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.
2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § [16.1-241](#).
3. In the case of a misdemeanor violation of § [18.2-266](#), [18.2-266.1](#), or [29.1-738](#) or the commission of any other alcohol-related offense, provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile.
4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § [16.1-237](#) on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

## Custodial Searches

### 902.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Wintergreen Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

#### 902.1.1 DEFINITIONS

Definitions related to this policy include:

**Custody search** - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

**Physical body cavity search** - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

**Strip search** - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

### 902.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

### 902.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

### 902.4 STRIP SEARCHES

No individual in temporary custody at any Wintergreen Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and

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articulable facts to believe the individual has a health condition requiring immediate medical attention, or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include but are not limited to:

- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.
- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
  1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.
- (c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).
- (d) The individual's actions or demeanor.
- (e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

A strip search of an individual 17 years of age or under or who is in custody solely for one or more of the following offenses shall only be permitted if an officer determines there is reasonable cause to believe the individual is concealing a weapon (Va. Code § 19.2-59.1; 6 VAC 15-40-1230):

- Traffic infraction
- Class 3 or Class 4 misdemeanor
- Violation of a city, county, or town ordinance, which is punishable by no more than 30 days in jail

#### 902.4.1 STRIP SEARCH PROCEDURES

Strip searches shall be conducted as follows (28 CFR 115.115):

- (a) Written authorization from the Chief of Police or designee shall be obtained prior to the strip search.
- (b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner (Va. Code § 19.2-59.1).
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that the search cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.
- (d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.

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- (e) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.
- (f) The primary member conducting the search shall prepare a written report to include:
  1. The facts that led to the decision to perform a strip search.
  2. The reasons less intrusive methods of searching were not used or were insufficient.
  3. The written authorization for the search, obtained from the Chief of Police or designee.
  4. The name of the individual who was searched.
  5. The name and sex of the members who conducted the search.
  6. The name, sex and role of any person present during the search.
  7. The time and date of the search.
  8. The place at which the search was conducted.
  9. A list of the items, if any, that were recovered.
  10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.
- (g) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is performing bodily functions or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect his/her privacy and dignity.

#### **902.4.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES**

A strip search may be conducted in the field only with the Chief of Police or designee authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Chief of Police or designee authorization does not need to be in writing.

#### **902.5 PHYSICAL BODY CAVITY SEARCH**

Physical body cavity searches shall be subject to the following:

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- (a) No individual shall be subjected to a physical body cavity search without written approval of the Chief of Police or designee and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).
- (b) Only medically trained personnel may conduct a physical body cavity search (Va. Code § 19.2-59.1).
- (c) Except for the medically trained personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present.
- (d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search (Va. Code § 19.2-59.1).
- (e) All such searches shall be documented, including:
  - 1. The facts that led to the decision to perform a physical body cavity search of the individual.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.
  - 3. The Chief of Police's or designee approval.
  - 4. A copy of the search warrant.
  - 5. The time, date and location of the search.
  - 6. The medical personnel present.
  - 7. The names, sex and roles of any department members present.
  - 8. Any contraband or weapons discovered by the search.
- (f) A copy of the written authorization shall be retained and shall be made available to the individual who was searched or other authorized representative upon request.

#### **902.6 TRAINING**

The Training Supervisor shall ensure members have training that includes (28 CFR 115.115):

- (a) Conducting searches of cross-gender individuals.
- (b) Conducting searches of transgender and intersex individuals.
- (c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

## **Chapter 10 - Personnel**

## Recruitment and Selection

### 1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Wintergreen Police Department and that are promulgated and maintained by the Human Resources.

### 1000.2 POLICY

In accordance with applicable federal, state, and local law, the Wintergreen Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

### 1000.3 RECRUITMENT

The Field Operations Bureau Commander should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

- (a) Identification of racially and culturally diverse target markets.
- (b) Use of marketing strategies to target diverse applicant pools.
- (c) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive department website and the use of department-managed social networking sites, if resources permit.
- (d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military.
- (e) Employee referral and recruitment incentive programs.
- (f) Consideration of shared or collaborative regional testing processes.

The Field Operations Bureau Commander shall avoid advertising, recruiting, and screening practices that tend to stereotype, focus on homogeneous applicant pools, or screen applicants in a discriminatory manner.

The Department should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of his/her status in the recruiting process.



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##### 1000.3.1 APPLICATION DISPOSITION

The Department shall notify each candidate of the final disposition of their application.

##### **1000.4 SELECTION PROCESS**

The Department shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department should employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, and military record)
- (b) Driving record
- (c) Reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks (Va. Code § 15.2-1705; Va. Code § 15.2-1503.1; Va. Code § 15.2-1505.1; Va. Code § 19.2-389)
- (h) Polygraph or voice stress analyzer examination (when legally permissible)
- (i) Medical and psychological examination (may only be given after a conditional offer of employment) (Va. Code § 15.2-1705)
- (j) Review board or selection committee assessment

##### 1000.4.1 VETERAN PREFERENCE

The Department will provide veteran preference points as required (Va. Code § 15.2-1509).

##### 1000.4.2 DISABILITY PREFERENCE

The Department will provide preference to candidates with a disability who meet the minimum qualifications for employment pursuant to Va. Code § 15.2-1509.

##### **1000.5 BACKGROUND INVESTIGATION**

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Wintergreen Police Department. This process will be conducted by a trained member.

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##### 1000.5.1 STATE NOTICES

If required, the Department shall notify the candidate of the information appearing in his/her criminal history record if the information is a basis for an adverse employment determination (Va. Code § 15.2-1503.1).

##### 1000.5.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA (15 USC § 1681d).

##### 1000.5.2 REVIEW OF SOCIAL MEDIA SITES

Due to the potential for accessing unsubstantiated, private or protected information, the Chief of Police shall not require candidates to provide passwords, account information or access to password-protected social media accounts (Va. Code § 40.1-28.7:5).

The Chief of Police should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches and/or review information from social media sites to ensure that:

- (a) The legal rights of candidates are protected.
- (b) Material and information to be considered are verified, accurate and validated.
- (c) The Department fully complies with applicable privacy protections and local, state and federal law.

Regardless of whether a third party is used, the Chief of Police should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

##### 1000.5.3 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file.

##### 1000.5.4 RECORDS RETENTION

The background report and all supporting documentation shall be maintained in accordance with the established records retention schedule.

##### 1000.5.5 ADDITIONAL REQUIREMENTS

The Department shall not request, require, solicit, or administer a genetic test to any applicant as a condition of employment (Va. Code § 40.1-28.7:1).

For all candidates previously employed as an officer by a law enforcement agency or jail, the Department shall request from any such agencies information related to prior arrests,

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prosecutions, criminal conduct, excessive use of force, official misconduct, civil suits, or adverse employment actions as required by Va. Code § 15.2-1705, and no candidate may begin employment as an officer prior to the department's receipt of that information (Va. Code § 15.2-1705). The Department shall request that the candidate complete a waiver or release authorizing the request for this information (Va. Code § 15.2-1705).

#### **1000.6 DISQUALIFICATION GUIDELINES**

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following (Va. Code § 15.2-1505.1):

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

#### **1000.7 EMPLOYMENT STANDARDS**

All candidates shall meet the minimum standards required by state law. Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation and shall be conducted in a uniform manner. The Human Resources should maintain validated standards for all positions.

##### **1000.7.1 STANDARDS FOR OFFICERS**

Candidates shall meet minimum standards established by Virginia law, including those required in Va. Code § 15.2-1705:

- (a) Be a citizen of the United States

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- (b) Pass a background investigation including fingerprint-based criminal history records inquiries to both the Central Criminal Records Exchange and the Federal Bureau of Investigation
- (c) Possess a high school education or have passed a high school equivalency examination approved by the Board of Education
- (d) Possess a valid driver's license if required by the duties of office to operate a motor vehicle
- (e) Pass a physical examination, subsequent to a conditional offer of employment, conducted under the supervision of a licensed physician
- (f) Be at least 18 years of age
- (g) Not have been convicted of or pled guilty or no contest to a felony or any offense that would be a felony if committed in the Commonwealth
- (h) Not have produced a positive result on a pre-employment drug screening, if such screening is required by the Department, where the positive result cannot be explained to the Chief of Police's satisfaction
- (i) Not have been convicted of or pled guilty or no contest to:
  - 1. Any misdemeanor involving moral turpitude, including but not limited to petit larceny under Va. Code § 18.2-96, or any offense involving moral turpitude that would be a misdemeanor if committed in the Commonwealth
  - 2. Any misdemeanor sex offense in the Commonwealth, another state, or the United States, including but not limited to sexual battery under Va. Code § 18.2-67.4 or consensual sexual intercourse with a minor 15 years of age or older under clause (ii) of Va. Code § 18.2-371
  - 3. Domestic assault under Va. Code § 18.2-57.2 or any offense that would be domestic assault under the laws of another state or the United States

The Chief of Police maintains the right to request a waiver and establish department requirements for certain positions when such requirements are determined to be necessary to perform the duties of the position.

#### **1000.8 PROBATIONARY PERIODS**

The Chief of Police should coordinate with the Human Resources to identify positions subject to probationary periods and procedures for:

- (a) Appraising performance during probation.
- (b) Assessing the level of performance required to complete probation.
- (c) Extending probation.
- (d) Documenting successful or unsuccessful completion of probation.

#### **1000.9 TRAINING**

All members involved in conducting the selection process shall have department-approved training in the particular tasks being performed.

## Performance Evaluations

### 1001.1 PURPOSE AND SCOPE

This policy provides guidelines for the Wintergreen Police Department performance evaluation system.

### 1001.2 POLICY

The Wintergreen Police Department shall use a performance evaluation system to measure, document, and recognize work performance. The performance evaluation will serve as an objective guide for the recognition of good work and the development of a process for improvement.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

### 1001.3 TYPES OF EVALUATIONS

The Department shall use the following types of evaluations:

**Regular** - An evaluation completed at regular intervals by the employee's immediate supervisor. Employees who have been promoted should be evaluated as established by the Human Resources or, minimally, on the anniversary of the date of the last promotion.

When an employee transfers to a different assignment in the middle of an evaluation period and less than six months has transpired since the transfer, the evaluation should be completed by the current supervisor with input from the previous supervisor.

**Special** - An evaluation that may be completed at any time the supervisor and Bureau Commander or the authorized designee determine an evaluation is necessary to address less than standard performance. The evaluation may include a plan for follow-up action (e.g., performance improvement plan (PIP), remedial training, retraining).

#### 1001.3.1 RATINGS

When completing an evaluation, the supervisor will identify the rating category that best describes the employee's performance. The definition of each rating category is as follows:

**Outstanding** - Performance is well beyond that required for the position. It is exceptional performance, definitely superior or extraordinary.

**Exceeds standards** - Performance is better than demonstrated by a competent employee. It is performance superior to what is required, but is not of such nature to warrant a rating of outstanding.

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#### *Performance Evaluations*

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**Meets standards** - Performance of a competent employee. It is satisfactory performance that meets the standards required of the position.

**Needs improvement** - Performance is less than the standards required of the position. A needs improvement rating shall be thoroughly discussed with the employee.

**Unsatisfactory** - Performance is inferior to the standards required of the position. It is inadequate or undesirable performance that cannot be allowed to continue.

Supervisor comments may be included in the evaluation to document the employee's strengths, weaknesses and requirements for improvement. Any job dimension rating marked as unsatisfactory or outstanding shall be substantiated with supervisor comments.

#### 1001.3.2 PERFORMANCE IMPROVEMENT PLAN

Employees who receive an unsatisfactory rating may be subject to a PIP. The PIP shall delineate areas that need improvement, any improvement measures and a timetable in which to demonstrate improvement. The issuing supervisor shall meet with the employee to review his/her performance and the status of the PIP at least monthly.

#### 1001.4 EVALUATION PROCESS

Supervisors should meet with the employees they supervise at the beginning of the evaluation period to discuss expectations and establish performance standards. Each supervisor should discuss the tasks of the position, standards of expected performance and the evaluation criteria with each employee.

Performance evaluations cover a specific period and should be based upon documented performance dimensions that are applicable to the duties and authorities granted to the employee during that period. Evaluations should be completed by each employee's immediate supervisor. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the evaluating supervisor for input.

Assessment of an employee's job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise and to acknowledge good work. Periodic discussions with the employee during the course of the evaluation period are encouraged. Supervisors should document all discussions in the prescribed manner.

Non-probationary employees demonstrating substandard performance shall be notified in writing as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity, with the goal being a minimum of 90 days written notice prior to the end of the evaluation period.

All supervisors shall receive training on performance evaluations within one year of a supervisory appointment.

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#### *Performance Evaluations*

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##### **1001.5 EVALUATION FREQUENCY**

Supervisors shall ensure that all employees they supervise are evaluated at least once every year on the anniversary of the employee's date of appointment or hire.

Those employees who are required to successfully complete a probationary period should be evaluated upon completing their first six months of employment..

##### **1001.6 EVALUATION INTERVIEW**

When the supervisor has completed his/her evaluation, a private discussion of the evaluation should be scheduled with the employee. The supervisor should discuss the evaluation ratings and respond to any questions the employee may have. The supervisor should provide relevant counseling regarding advancement, specialty positions and training opportunities. Any performance areas in need of improvement and goals for reaching the expected level of performance should be identified and discussed. If the employee has reasonable objections to any of the ratings, the supervisor may make appropriate adjustments to the evaluation. The reason for such adjustments shall be documented.

Employees may write comments in an identified section of the evaluation. The supervisor and employee will sign and date the evaluation.

###### **1001.6.1 DISCRIMINATORY HARASSMENT FORM**

At the time of each employee's annual evaluation, the supervisor shall provide access to and require the employee to read the Department harassment and discrimination policies and the Wintergreen Police Department Discriminatory Harassment Policy. The supervisor shall give the employee a form to be completed and returned that acknowledges the following:

- (a) The employee understands the harassment and discrimination policies.
- (b) The employee has had all questions regarding the policies sufficiently addressed.
- (c) The employee knows how to report alleged harassment and discrimination policy violations.
- (d) Whether the employee has been the subject of, or witness to, any unreported conduct that may violate the discrimination or harassment policies.

The completed form should be returned to the supervisor (or other authorized individual if the employee is uncomfortable returning the form to the presenting supervisor) within one week. If the employee has expressed any questions or concerns, the receiving supervisor or other authorized individual shall ensure that appropriate follow-up action is taken.

##### **1001.7 APPEAL**

An employee who disagrees with his/her evaluation may provide a formal written response that will be attached to the evaluation, or may request an appeal.

To request an appeal, the employee shall forward a written memorandum within three days to the evaluating supervisor's Bureau Commander or the authorized designee. The memorandum

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#### *Performance Evaluations*

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shall identify the specific basis for the appeal and include any relevant information for the reviewer to consider.

#### **1001.8 CHAIN OF REVIEW**

The signed performance evaluation and any employee attachment should be forwarded to the Chief of Police or the authorized designee. The Chief of Police or the authorized designee shall review the evaluation for fairness, impartiality, uniformity and consistency, and shall consider any written response or appeal made by the employee.

The Chief of Police or the authorized designee should evaluate the supervisor on the quality of ratings given.

#### **1001.9 RETENTION AND DISTRIBUTION**

The original performance evaluation and any original correspondence related to an appeal shall be maintained by the Department in accordance with the Personnel Records Policy.

A copy of the evaluation and any documentation of a related appeal shall be provided to the employee and also forwarded to the Wintergreen Human Resources.



## Special Assignments and Promotions

### 1002.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Wintergreen Police Department.

### 1002.2 POLICY

The Wintergreen Police Department determines special assignments and promotions in a nondiscriminatory manner based upon job-related factors and candidate skills and qualifications. Special assignments and promotions are made by the Chief of Police.

### 1002.3 SPECIAL ASSIGNMENT POSITIONS

The following positions are considered special assignments and not promotions:

- (a) Administrator
- (b) Lieutenant
- (c) Investigator
- (d) Accreditation Manager
- (e) Firearms Instructor
- (f) Training Coordinator
- (g) Field Training Officer
- (h) Community Relations Officer

#### 1002.3.1 GENERAL REQUIREMENTS

The following requirements should be considered when selecting a candidate for a special assignment:

- (a) Three years of relevant experience
- (b) Off probation
- (c) Possession of or ability to obtain any certification required by the Virginia Department of Criminal Justice Services or law
- (d) Exceptional skills, experience or abilities related to the special assignment

#### 1002.3.2 EVALUATION CRITERIA

The following criteria will be used in evaluating candidates for a special assignment:

- (a) Presents a professional, neat appearance.
- (b) Maintains a physical condition that aids in his/her performance.
- (c) Expressed an interest in the assignment.
- (d) Demonstrates the following traits:

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#### *Special Assignments and Promotions*

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1. Emotional stability and maturity
2. Stress tolerance
3. Sound judgment and decision-making
4. Personal integrity and ethical conduct
5. Leadership skills
6. Initiative
7. Adaptability and flexibility
8. Ability to conform to department goals and objectives in a positive manner

#### 1002.3.3 SELECTION PROCESS

The selection process for special assignments will include an administrative evaluation as determined by the Chief of Police to include:

- (a) Supervisor recommendations - Each supervisor who has supervised or otherwise been involved with the candidate will submit a recommendation.
  1. The supervisor recommendations will be submitted to the Bureau Commander for whom the candidate will work.
- (b) Bureau Commander interview - The Bureau Commander will schedule interviews with each candidate.
  1. Based on supervisor recommendations and those of the Bureau Commander after the interview, the Bureau Commander will submit his/her recommendations to the Chief of Police.
- (c) Assignment by the Chief of Police.

The selection process for all special assignment positions may be waived for temporary assignments, emergency situations, training and at the discretion of the Chief of Police.

## Grievances

### 1003.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the Wintergreen Police Department grievance system. The grievance system is intended to facilitate communication and to promptly and equitably address employee grievances in the workplace.

#### 1003.1.1 GRIEVANCE DEFINED

A grievance is a difference of opinion or dispute regarding the meaning, interpretation, or application of any of the following:

- This Policy Manual
- Rules and regulations governing personnel practices or working conditions
- Workplace issues that do not amount to misconduct under the Personnel Complaints Policy, such as fraud, waste, abuse of authority, gross mismanagement, or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety, or well-being of members

Specifically outside the category of grievances are complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy. Also outside the category of grievances are personnel complaints regarding any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy or federal, state, or local law, as set forth in the Personnel Complaints Policy.

### 1003.2 POLICY

It is the policy of the Wintergreen Police Department to provide a just and equitable system for the prompt handling of employee grievances without discrimination, coercion, restraint or retaliation against any employee who submits or is otherwise involved in a grievance.

### 1003.3 PROCESS

Grievances may be brought by an individual employee. Employees may have representation during the grievance process.

If an employee believes that he/she has a grievance as defined above, that employee shall:

- (a) Attempt to resolve the issue through informal discussion with his/her immediate supervisor.
- (b) If after a reasonable amount of time, generally seven days, the grievance cannot be settled by the immediate supervisor, the employee may request an interview with the appropriate Bureau Commander.
- (c) If a successful resolution is not found with the Bureau Commander, the employee may request a meeting with the Chief of Police.

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#### *Grievances*

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- (d) If the employee and the Chief of Police are unable to arrive at a mutual solution, the employee shall proceed as follows:
  - 1. Submit a written statement of the grievance to the Chief of Police and provide a copy to the employee's immediate supervisor.
  - 2. Include the following information in the written statement:
    - (a) The basis for the grievance (i.e., the facts of the case).
    - (b) The allegation of any specific wrongful act and the harm done.
    - (c) The specific policies, rules or regulations at issue.
    - (d) The remedy or goal being sought by the grievance.
- (e) The supervisor shall provide the employee with a signed acknowledgment of the grievance that shall include the date and time of receipt.
- (f) The Chief of Police and the Executive Director should review the grievance and respond to the employee within 14 calendar days.
  - 1. The response will be in writing, and will affirm or deny the allegations.
  - 2. The response shall include any remedies, if appropriate.
  - 3. The decision of the Executive Director is considered final.

#### **1003.4 GRIEVANCE RECORDS**

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded to the Chief of Police for inclusion into a secure file for all written grievances. Copies of the documents should also be sent to Human Resources.

#### **1003.5 POLICY OR TRAINING IMPLICATIONS**

If an employee who participates in the grievance review process identifies any issue that may warrant an immediate revision to this Policy Manual, a procedural change or an immediate training need, the employee should promptly notify the Chief of Police in the memorandum.

## Anti-Retaliation, Discrimination & Reporting

### 1004.1 PURPOSE AND SCOPE

This policy prohibits retaliation and discrimination against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, state and local law, ordinance or department rule or policy.

### 1004.2 POLICY

The Wintergreen Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

### 1004.3 RETALIATION/DISCRIMINATION PROHIBITED

No member may retaliate or discriminate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory, or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation/Discrimination includes any adverse action or conduct including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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#### *Anti-Retaliation, Discrimination & Reporting*

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##### **1004.4 REPORTING COMPLAINTS OF RETALIATION/DISCRIMINATION**

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Police or the Executive Director.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false or with willful or reckless disregard for the truth or falsity of the information, or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

Reports of Retaliation/Discrimination will be investigated by the Field Operations Bureau Commander unless the complaint is directed toward them then the Chief of Police will investigate the complaint.

##### **1004.5 SUPERVISOR RESPONSIBILITIES**

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of a member to make any complaint.

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#### *Anti-Retaliation, Discrimination & Reporting*

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- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

#### **1004.6 COMMAND STAFF RESPONSIBILITIES**

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place including, but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

#### **1004.7 WHISTLE-BLOWING**

State law protects:

- (a) Members from retaliation for the reporting or intended reporting of violations of law or of the misuse, destruction, waste, or loss of public funds or resources (Va. Code § 2.2-3010.1; Va. Code § 2.2-3011; Va. Code § 40.1-27.3; 1 VAC 42-30-10 et seq.).
- (b) Employees when exercising certain rights to report safety or health issues or to otherwise comment regarding matters of public concern or matters of interest to the community as a whole (Va. Code § 15.2-1512.4; Va. Code § 40.1-51.2:1).
- (c) Employees from retaliation regarding the terms and conditions of employment for (Va. Code § 40.1-27.3):
  1. Providing information or testimony, or participating upon request, in any investigation, hearing, or inquiry by law enforcement or a governmental body.
  2. Refusing to engage in a criminal act that would subject the employee to criminal liability.
  3. Refusing to carry out an order that would result in a violation of law, provided the employee informs the employer of the reason for refusal.

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Field Operations Bureau Commander for investigation pursuant to the Personnel Complaints Policy.

##### **1004.7.1 INFORMATION DISTRIBUTION**

The Department shall post notices and take other reasonable measures to make sure employees are informed of the protections and obligations of the Virginia Fraud and Abuse Whistle Blower Protection Act (Va. Code § 2.2-3013).

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## *Anti-Retaliation, Discrimination & Reporting*

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### **1004.8 RECORDS RETENTION AND RELEASE**

The Chief of Police shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

### **1004.9 TRAINING**

This policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.



# Reporting of Arrests, Convictions and Court Orders

## 1005.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the notification requirements and procedures that members must follow when certain arrests, convictions and court orders restrict their ability to perform the official duties and responsibilities of the Wintergreen Police Department.

## 1005.2 POLICY

The Wintergreen Police Department requires disclosure of member arrests, convictions and certain court orders to maintain the high standards, ethics and integrity in its workforce, and to ensure compatibility with the duties and responsibilities of the Department.

## 1005.3 DOMESTIC OR FAMILY VIOLENCE CONVICTIONS AND COURT ORDERS

Federal and Virginia law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing firearms. Such convictions and court orders often involve allegations of the use or attempted use of force, or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Va. Code § 18.2-308.2).

All members are responsible for ensuring that they have not been disqualified from possessing firearms by any such conviction or court order, and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

## 1005.4 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

While legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this department may be inherently in conflict with law enforcement duties and the public trust, and shall be reported as provided in this policy.

Virginia law prohibits individuals convicted of or pleading guilty or no contest to a felony and certain misdemeanors from becoming an officer (Va. Code § 15.2-1705).

## 1005.5 REPORTING

All members shall immediately notify their supervisors in writing of any past or current criminal detention, arrest, charge or conviction in any state or foreign country, regardless of whether the matter was dropped or rejected, is currently pending or is on appeal, and regardless of the penalty or sentence, if any.

All members shall immediately notify their supervisors in writing if they become the subject of a domestic or family violence-related order or any court order that prevents the member from possessing a firearm or requires suspension or revocation of applicable Virginia Department of Criminal Justice Services (DCJS) certification.

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#### *Reporting of Arrests, Convictions and Court Orders*

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Any member whose criminal arrest, conviction or court order restricts or prohibits that member from fully and properly performing his/her duties, including carrying a firearm, may be disciplined. This includes, but is not limited to, being placed on administrative leave, reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member, on his/her own time and at his/her own expense.

Any employee failing to provide prompt written notice pursuant to this policy shall be subject to discipline, up to and including termination.

#### 1005.5.1 NOTIFICATION REQUIREMENTS

The Field Operations Bureau Commander shall submit, in writing, the proper notice to the DCJS within 48 hours of becoming aware that an officer has (Va. Code § 15.2-1707):

- (a) Failed to maintain the mandatory training requirements.
- (b) Been convicted of a criminal offense that would require reporting.
- (c) Refused to submit to a drug screening or has produced a positive result on a drug screening, where the positive result cannot be explained to the Field Operations Bureau Commander's satisfaction.
- (d) Resigned or been terminated in advance of:
  - 1. Being convicted of an offense that would require reporting.
  - 2. A pending drug screening.
- (e) Resigned or been terminated under any other circumstances that require reporting.

## Drug- and Alcohol-Free Workplace

### 1006.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103).

### 1006.2 POLICY

It is the policy of the Wintergreen Police Department to provide a drug- and alcohol-free workplace for all members.

### 1006.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the appropriate supervisor as soon as the member is aware that he/she will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, he/she shall be immediately removed and released from work (see the Work Restrictions section in this policy).

#### 1006.3.1 USE OF MEDICATIONS

Members should not use any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to his/her immediate supervisor prior to commencing any on-duty status.

#### 1006.3.2 MEDICAL CANNABIS

Possession, use, or being under the influence of medical cannabis on-duty is prohibited and may lead to disciplinary action (Va. Code § 40.1-27.4).

### 1006.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow on-duty member is impaired due to drug or alcohol use.

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#### *Drug- and Alcohol-Free Workplace*

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Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

#### **1006.5 EMPLOYEE ASSISTANCE PROGRAM**

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact Human Resources, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

#### **1006.6 WORK RESTRICTIONS**

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

#### **1006.7 SCREENING TESTS**

A supervisor may require an employee to submit to a screening under any the following circumstances:

- (a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing his/her ability to perform duties safely and efficiently.
- (b) The employee discharges a firearm in the performance of his/her duties (excluding training or authorized euthanizing of an animal).
- (c) The employee discharges a firearm issued by the Department while off-duty, resulting in injury, death or substantial property damage.
- (d) The employee drives a motor vehicle in the performance of his/her duties and becomes involved in an incident that results in bodily injury, death or substantial damage to property.

##### **1006.7.1 SUPERVISOR RESPONSIBILITIES**

The supervisor shall prepare a written record documenting the specific facts that led to the decision to require the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.
- (b) The result of the test is not admissible in any criminal proceeding against the employee.

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#### *Drug- and Alcohol-Free Workplace*

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- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

#### 1006.7.2 DISCIPLINE

An employee may be subject to disciplinary action if he/she:

- (a) Fails or refuses to submit to a screening test.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.

#### 1006.7.3 SAMPLE COLLECTION AND TESTING

Any blood or urine sample collected will be divided into two samples and the second sample will be preserved and made available should the employee wish to obtain subsequent independent analysis. An employee may request a subsequent test using the second sample by notifying the Chief of Police in writing within 10 days of receiving notice of a positive test. In this event, the disciplinary action may be suspended until the confirmation test results are obtained (Va. Code § 9.1-501). The employee shall pay all costs of the confirmation test unless the confirmation test reverses the findings of the positive test.

Subsequent testing by the employee should follow the general standards as would apply to the testing standards used in a driving under the influence (DUI) investigation set forth in Va. Code § 18.2-268.1 through Va. Code § 18.2-268.12 (Va. Code § 9.1-501).

#### **1006.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT**

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

#### **1006.9 CONFIDENTIALITY**

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained in the member's confidential medical file in accordance with the Personnel Records Policy.

## **PERSONAL TIME OFF (PTO)**

### **1007.1 PURPOSE AND SCOPE**

This policy provides general guidance regarding the use and processing of Personal Time Off (PTO), which includes vacation, sick and holiday leave. The accrual and terms of Personal Time Off for eligible employees are detailed in the Employee Handbook manual or applicable employment agreement. Administrative and Military leave are also addressed in this policy.

This policy is not intended to cover all types of leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 USC § 2601 et seq.).

### **1007.2 POLICY**

It is the policy of the Wintergreen Police Department to provide eligible employees with a Personal Time Off benefit.

### **1007.3 USE OF PERSONAL TIME OFF**

Personal Time Off is intended to be used for qualified absences. Vacation begins to be accrued from the date of employment. Vacation time is earned in proportion to time actually worked. Sick leave is accrued from the date of employment. Sick time, like vacation time, accrues in proportion to the time you actually work.

Abuse of personal time off may result in discipline, denial of leave benefits, or both. Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity or other activity that may impede recovery from the injury or illness (see the Outside Employment and Outside Overtime Policy).

Qualified appointments should be scheduled during a member's non-working hours when it is reasonable to do so.

Employees of the police department earn vacation at a different rate than other full time employees. Police employees, by the nature of their work receive no paid holidays.

Administrative Leave is a leave of absence with or without pay granted at the discretion of the Chief.

#### **1007.3.1 NOTIFICATION**

All members shall notify the Bureau Commander as soon as practical to request vacation leave.

All members shall notify the Bureau Commander or appropriate supervisor as soon as they are aware that they will not be able to report to work and no less than two hours before the start of

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#### *PERSONAL TIME OFF (PTO)*

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their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor.

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the Department with no less than 30 days' notice of the impending absence.

Upon return to work, members are responsible for ensuring their personal time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

#### **1007.4 EXTENDED ABSENCE**

Members absent from duty due to illness for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of three or fewer days.

#### **1007.5 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors include, but are not limited to:

- (a) Approving requests for Personal Time Off (PTO)
- (b) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of personal time off and absences is consistent with this policy.
- (c) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Human Resources as appropriate.
- (d) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
  1. Negatively affected the member's performance or ability to complete assigned duties.
  2. Negatively affected department operations.
- (e) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (f) Referring eligible members to an available employee assistance program when appropriate.

#### **1007.6 MILITARY LEAVE**

Employees who are members of the organized reserve forces of the United States armed services, naval militia, or national guard shall be entitled to leaves of absence from their respective duties, without loss of seniority, accrued leave, or efficiency rating, on all days during which they are engaged in federally funded military training duty, or when called forth by the governor pursuant to

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## *PERSONAL TIME OFF (PTO)*

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state law. Members who receive military orders or need to request a leave of absence for military service, notify the Bureau Commander or supervisor as far in advance as possible. Members must furnish a copy of their military orders. See WPOA Employee Handbook for more details.



# Communicable Diseases

## 1008.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

### 1008.1.1 DEFINITIONS

Definitions related to this policy include:

**Communicable disease** - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

**Exposure** - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (i.e., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Wintergreen Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

## 1008.2 POLICY

The Wintergreen Police Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

## 1008.3 EXPOSURE CONTROL OFFICER

The Chief of Police is designated as the Exposure Control Officer (ECO). The ECO shall develop an exposure control plan that includes:

- (a) Exposure prevention and decontamination procedures (6 VAC 15-40-393).
- (b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.
- (c) The provision that department members will have no-cost access to the appropriate personal protective equipment (PPE) (i.e., gloves, face masks, eye protection, pocket masks) that is appropriate for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them.
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
  1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).

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#### *Communicable Diseases*

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2. Exposure control mandates for bloodborne pathogens in 29 CFR 1910.1030 (Va. Code § 40.1-51.1; 16 VAC 25-90-1910).
3. Reporting any outbreak of a recordable disease, as identified by the State Board of Health, to the local health director or State Health Commissioner (Va. Code § 32.1-37).
4. Notifying emergency medical services personnel and/or an infection control officer of a receiving facility when a person who is in the custody of this department is known to have a communicable disease or is subject to a quarantine order prior to being transferred for medical treatment (Va. Code § 32.1-116.3).
5. Establishing procedures for the safe handling, storage and use of sharps by members (6 VAC 15-40-395).

The ECO should also act as the liaison with the Virginia Occupational Safety and Health (VOSH) Program and may request voluntary compliance inspections. The ECO should annually review and update the exposure control plan and review implementation of the plan.

#### **1008.4 EXPOSURE PREVENTION AND MITIGATION**

##### 1008.4.1 GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. When transporting persons suspected of having a communicable disease these procedures should be followed. This includes, but is not limited to (29 CFR 1910.1030; 16 VAC 25-90-1910):

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area of department vehicles, as applicable.
- (b) Wearing department-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.
- (c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.
- (d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.
- (e) Using an appropriate barrier device when providing CPR.
- (f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing, portable radio) as soon as possible if the equipment is a potential source of exposure.
  1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.

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- (h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.
- (i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
- (j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

#### 1008.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (29 CFR 1910.1030; 16 VAC 25-90-1910).

#### 1008.5 POST EXPOSURE

##### 1008.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall (29 CFR 1910.1030; 16 VAC 25-90-1910):

- (a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).
- (b) Obtain medical attention as appropriate.
- (c) Notify a supervisor as soon as practical.

##### 1008.5.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (29 CFR 1910.1030; 16 VAC 25-90-1910):

- (a) Name of the member exposed
- (b) Date and time of incident
- (c) Location of incident
- (d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure
- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting

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requirements that may apply (see the Work-Related Disease, Injury and Death Reporting and Illness and Injury Prevention policies).

#### 1008.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Department members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary.

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information (29 CFR 1910.1030; 16 VAC 25-90-1910):

- (a) Whether the member has been informed of the results of the evaluation.
- (b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

#### 1008.5.4 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (29 CFR 1910.1030; 16 VAC 25-90-1910).

#### 1008.5.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate. Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

- (a) Obtaining consent from the individual.
- (b) Seeking testing of the source if the member is exposed to bodily fluids that may transmit HIV or HBV or hepatitis C (Va. Code § 32.1-45.1; Va. Code § 32.1-45.2).

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the Commonwealth Attorney to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

#### **1008.6 CONFIDENTIALITY OF REPORTS**

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

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##### **1008.7 TRAINING**

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (29 CFR 1910.1030; 16 VAC 25-90-1910):

- (a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.
- (b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.
- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

## Smoking and Tobacco Use

### 1009.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Wintergreen Police Department facilities or vehicles.

For the purpose of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device that is intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

### 1009.2 POLICY

The Wintergreen Police Department recognizes that tobacco use is a health risk and can be offensive to others. Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all Wintergreen Police Department facilities, buildings and vehicles, and as is further outlined in this policy.

### 1009.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited any time members are in public view representing the Wintergreen Police Department.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside Wintergreen Police Department facilities and vehicles.

### 1009.4 ADDITIONAL PROHIBITIONS

The Wintergreen Police Department may regulate smoking inside facilities and may designate reasonable smoking areas, considering the nature of the use and the size of the building (Va. Code § 15.2-2823).

## Personnel Complaints & Disciplinary Action

### 1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Wintergreen Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation (Va. Code § 9.1-506).

### 1010.2 POLICY

The Wintergreen Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law and municipal and county rules.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

Department administrative investigations process and procedure are disseminated and available to all personnel.

### 1010.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public. These complaints require investigation by the internal affairs function.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

The Field Operations Bureau Commander is responsible for internal affairs and personnel complaints investigations.

#### 1010.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

**Informal** - A matter in which the Chief of Police is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

**Formal** - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Field Operations Bureau Commander, depending on the seriousness and complexity of the investigation.

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**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Field Operations Bureau Commander, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

#### 1010.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
  - 1. Upon request and as practicable, assistance shall be provided to an individual filing a written complaint (Va. Code § 9.1-600).
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

#### 1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

##### 1010.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

##### 1010.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

#### 1010.5 DOCUMENTATION

The Department shall ensure that all formal and informal complaints are documented on a complaint form and that the nature of the complaint is defined as clearly as possible. The



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Department will process and conduct appropriate investigations of all complaints against the Department or its members, regardless of the source in order to maintain the integrity of the Department.

#### **1010.6 FIELD OPERATIONS BUREAU COMMANDER**

The responsibilities of the Field Operations Bureau Commander include, but are not limited to:

- (a) The coordination of all administrative investigations.
- (b) The conducting of/or assigning administrative investigations.
- (c) Serving as the repository for all active administrative investigation files.
- (d) Assuring the timely completion of administrative investigations.
- (e) Assuring compliance with the administrative investigation process.
- (f) Classifying complaints.
- (g) Maintaining the confidentiality of investigations assigned to the unit.

##### 1010.6.1 FIELD OPERATIONS BUREAU COMMANDER

The Field Operations Bureau Commander is selected by the Chief of Police and reports to the Chief of Police. The Field Operations Bureau Commander is responsible for investigating all internal affairs investigations.

#### **1010.7 ADMINISTRATIVE INVESTIGATIONS**

The procedures relating to administrative investigations shall be disseminated to all members. Allegations of misconduct will be administratively investigated as follows.

##### 1010.7.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
  - 1. The original complaint form will be directed to the supervisor of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
  - 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant

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is at issue, a supervisor shall orally report the matter to the member's Bureau Commander or the Chief of Police, who will initiate appropriate action.

- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
  - 1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
  - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Chief of Police.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Field Operations Bureau Commander and Chief of Police are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Human Resources and the Chief of Police for direction regarding the supervisor's role in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Chief of Police, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
  - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
  - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

#### 1010.7.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or the Field Operations Bureau Commander, the following applies to employees:

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Wintergreen Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee shall be provided written notice of the nature of the investigation, the employee's rights relative to the investigation and the employee's responsibilities.

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- (e) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
- (g) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview.
- (h) All employees subjected to interviews that could result in discipline have the right to have an uninformed representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (i) All employees shall provide complete and truthful responses to questions posed during interviews.
- (j) No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Va. Code § 40.1-51.4:4).

#### 1010.7.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

**Introduction** - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

**Synopsis** - Provide a brief summary of the facts giving rise to the investigation.

**Summary** - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

**Evidence** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

**Conclusion** - A recommendation regarding further action or disposition should be provided.

**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

#### 1010.7.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

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**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded.

**Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

**Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

#### 1010.7.5 COMPLETION OF INVESTIGATIONS

Every supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation.

#### 1010.7.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

#### 1010.7.7 NOTICE TO EMPLOYEE OF INVESTIGATION STATUS

The member conducting the investigation should provide the employee who is the subject of the investigation with periodic updates on the status of the investigation, as appropriate.

### 1010.8 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

### 1010.9 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.

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- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift and will report as ordered.

#### **1010.10 CRIMINAL INVESTIGATION**

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The Wintergreen Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

#### **1010.11 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES**

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review the report and include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

##### **1010.11.1 BUREAU COMMANDER RESPONSIBILITIES**

Upon receipt of any completed personnel investigation, the Bureau Commander of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Bureau Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Bureau Commander may return the entire investigation to the assigned supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Bureau Commander shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

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##### 1010.11.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Bureau Commander for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed, and whether remedial training, counseling or other punitive actions are warranted. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally and in writing to the Chief of Police within five days of receiving the notice.
  - 1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
  - 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response, or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

##### 1010.11.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized designee should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

#### **1010.12 PRE-DISCIPLINE EMPLOYEE RESPONSE**

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.

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- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to conduct further investigation, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

#### **1010.13 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

#### **1010.14 POST-DISCIPLINE APPEAL RIGHTS**

Non-probationary employees have the right to appeal using the grievance procedures established by the Wintergreen Police Department.

#### **1010.15 RETENTION OF PERSONNEL INVESTIGATION FILES**

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy (Va. Code § 9.1-600).

All complaint records and internal affairs investigations shall be considered confidential and secured appropriately. Internal investigation files are the property of the Department and access is restricted to those overseeing the investigation, imposing discipline or administratively processing.

#### **1010.16 PROBATIONARY EMPLOYEES AND OTHER MEMBERS**

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

In cases where an individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate, the probationary period may be extended at the discretion of the Chief of Police.

## Safety Belts

### 1011.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of safety belts and child restraints. This policy will apply to all members operating or riding in department vehicles.

#### 1011.1.1 DEFINITIONS

Definitions related to this policy include:

**Child restraint system** - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards and regulations set forth in 49 CFR 571.213 and Va. Code § 46.2-1095.

### 1011.2 POLICY

It is the policy of the Wintergreen Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle accident.

### 1011.3 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including those who are not members of the Department, are properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a safety belt would endanger the department member or the public. Members must be prepared to justify any deviation from this requirement.

### 1011.4 TRANSPORTING CHILDREN

Child passengers shall be transported using an approved child restraint system in compliance with Va. Code § 46.2-1095, Va. Code § 46.2-1096 and Va. Code § 46.2-1100.

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of safety belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible.

### 1011.5 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by safety belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.



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Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

#### **1011.6 INOPERABLE SAFETY BELTS**

Department vehicles shall not be operated when the safety belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the safety belt is inoperable.

Department vehicle safety belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

#### **1011.7 VEHICLES MANUFACTURED WITHOUT SAFETY BELTS**

Vehicles manufactured and certified for use without safety belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

#### **1011.8 VEHICLE AIRBAGS**

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

## Body Armor

### 1012.1 PURPOSE AND SCOPE

The purpose of this policy is to provide officers with guidelines for the proper use of body armor.

### 1012.2 POLICY

It is the policy of the Wintergreen Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

### 1012.3 ISSUANCE

The Field Operations Bureau Commander shall ensure that body armor is issued to all officers and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

Body armor shall be issued when an officer begins service at the Wintergreen Police Department and shall be replaced when the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

The Chief of Police may authorize issuance of body armor to uniformed, non-sworn members whose jobs may make wearing of body armor advisable.

#### 1012.3.1 USE

Generally, the required use of body armor is subject to the following:

- (a) Members shall only wear department-approved body armor.
- (b) Members shall wear body armor any time they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Members should wear body armor when working in uniform.
- (d) Members are not required to wear body armor when they are functioning primarily in an administrative or support capacity and would not reasonably be expected to take enforcement action.
- (e) Officers may be excused from wearing body armor when they are involved in undercover or plainclothes work that their supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.
  1. In those instances when body armor is not worn, officers should have reasonable access to their body armor.

#### 1012.3.2 INSPECTION

Supervisors should ensure through routine observation and periodic documented inspections that body armor is worn and maintained in accordance with this policy.

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Annual inspections of body armor should be conducted by a person trained to perform the inspection for fit, cleanliness and signs of damage, abuse and wear.

#### 1012.3.3 CARE AND MAINTENANCE

The required care and maintenance of body armor is subject to the following:

- (a) Members are responsible for inspecting their body armor for signs of damage, wear and cleanliness at the start of each shift.
  - 1. Unserviceable body armor shall be reported to the supervisor.
- (b) Members are responsible for the proper storage of their body armor.
  - 1. Body armor should not be stored for an extended period of time in an area where environmental conditions (e.g., temperature, light, humidity) could potentially degrade its effectiveness.
- (c) Members are responsible for the care and cleaning of their body armor pursuant to the manufacturer's care instructions.
  - 1. Body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer.
  - 2. Failure to follow manufacturer's care instructions may damage the ballistic performance capabilities of the body armor. If care instructions for the body armor cannot be located, the manufacturer should be contacted to request the instructions.
- (d) Body armor should be replaced in accordance with the manufacturer's recommended replacement schedule, or when its effectiveness or functionality has been compromised.

#### 1012.4 FIELD OPERATIONS BUREAU COMMANDER RESPONSIBILITIES

The responsibilities of the Field Operations Bureau Commander include, but are not limited to:

- (a) Monitoring technological advances in the body armor industry for any appropriate changes to department-approved body armor.
- (b) Assessing the level of weapons and ammunition currently utilized by the public and the suitability of approved body armor to protect against those threats.
- (c) Educating officers about the safety benefits of wearing body armor.

## Personnel Records

### 1013.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

### 1013.2 POLICY

It is the policy of this department to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of Virginia (Va. Code § 2.2-3705.1(1)).

### 1013.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

- (a) Personal data, including photographs, marital status, names of family members, educational and employment history or similar information. A photograph of the member should be permanently retained.
- (b) Election of employee benefits.
- (c) Personnel action reports reflecting assignments, promotions and other changes in employment/appointment status. These should be permanently retained.
- (d) Original performance evaluations. These should be permanently maintained.
- (e) Discipline records, including copies of sustained personnel complaints.
- (f) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment.
  - 1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment.
  - 2. Any member response shall be attached to and retained with the original adverse comment.
  - 3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file.
- (g) Commendations and awards.
- (h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

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##### **1013.4 BUREAU FILE**

Bureau files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Bureau file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

##### **1013.5 TRAINING FILE**

An individual training file shall be maintained by the Training Supervisor for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) The involved member is responsible for providing the Training Supervisor or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training Supervisor or supervisor shall ensure that copies of such training records are placed in the member's training file.

##### **1013.6 INTERNAL AFFAIRS FILE**

Internal affairs files shall be maintained under the exclusive control of the Field Operations Bureau in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Field Operations Bureau supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition. Investigations of complaints that result in the following findings shall not be placed in the member's department file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

##### **1013.7 MEDICAL FILE**

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the member's medical condition and history including, but not limited to:

- (a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).
- (b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.
- (c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.

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- (d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.
- (e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

#### **1013.8 SECURITY**

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures (Va. Code § 2.2-3705.1; Va. Code § 2.2-3706).

Nothing in this policy is intended to preclude review of personnel records by the Executive Director, Commonwealth Attorney or other attorneys or representatives of the Private Police in connection with official business.

##### **1013.8.1 REQUESTS FOR DISCLOSURE**

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made.

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

##### **1013.8.2 RELEASE OF PERSONNEL INFORMATION**

The Department may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement.

The Department should respond to a request from another law enforcement agency or jail for information related to a former officer's prior arrests, prosecutions, criminal conduct, excessive use of force, official misconduct, civil suits, or adverse employment actions, and provide the information required and permitted by law within 14 days (Va. Code § 15.2-1705).

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#### **1013.9 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS**

Any member or former employee may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files (Va. Code § 2.2-3705.1(1); Va. Code § 8.01-413.1).

Any member seeking the removal of any item from his/her personnel records shall file a written request to the Chief of Police through the chain of command. The Department shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Department shall be retained with the contested item in the member's corresponding personnel record.

Members may be restricted from accessing files containing any of the following information:

- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Criminal investigations involving the member.
- (d) Letters of reference concerning employment/appointment, licensing, or issuance of permits regarding the member.
- (e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (f) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments, or other comments or ratings used for Department planning purposes.
- (g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (h) Records relevant to any other pending claim between the Department and the member that may be discovered in a judicial proceeding.

#### **1013.10 RETENTION AND PURGING**

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

- (a) During the preparation of each member's performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.

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- (b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Chief of Police.
- (c) If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.



## Request for Change of Assignment

### 1014.1 PURPOSE AND SCOPE

This policy establishes guidelines for department members to request a change of assignment in response to an announced vacancy.

### 1014.2 POLICY

It is the policy of the Wintergreen Police Department that all requests for change of assignment be considered in an equitable and nondiscriminatory manner.

### 1014.3 REQUEST FOR CHANGE OF ASSIGNMENT

Members requesting a change of assignment shall submit a request document to their Bureau Commander.

The change of assignment request document provides members with the opportunity to list their qualifications for specific assignments. It should include:

- (a) The member's relevant experience, education and training.
- (b) All assignments in which the member is interested.

The document will remain in effect until the end of the calendar year in which it was submitted. Effective January 1 of each year, members still interested in a change of assignment should complete and submit a new request.

### 1014.4 RESPONSIBILITIES

#### 1014.4.1 BUREAU COMMANDERS

The Bureau Commander will review all change of assignment requests and submit his/her recommendation to the Chief of Police.

## Commendations and Awards

### 1015.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Wintergreen Police Department and individuals from the community.

### 1015.2 POLICY

It is the policy of the Wintergreen Police Department to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations and awards.

### 1015.3 COMMENDATIONS

Commendations for members of the Department or for individuals from the community may be initiated by any department member or by any person from the community.

### 1015.4 CRITERIA

A meritorious or commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- Any action or performance that is above and beyond typical duties.

#### 1015.4.1 DEPARTMENT MEMBER DOCUMENTATION

Members of the Department should document meritorious or commendable acts. The documentation should contain:

- (a) Identifying information:
  1. For members of the Department - name, bureau and assignment at the date and time of the meritorious or commendable act
  2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the member submitting the documentation.

#### 1015.4.2 COMMUNITY MEMBER DOCUMENTATION

Documentation of a meritorious or commendable act submitted by a person from the community should be accepted in any form. However, written documentation is preferred. Department members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

- (a) Identifying information:
  1. For members of the Department - name, bureau and assignment at the date and time of the meritorious or commendable act

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2. For individuals from the community - name, address, telephone number
  - (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
  - (c) The signature of the person submitting the documentation.

#### 1015.4.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the Department should be forwarded to the appropriate Bureau Commander for his/her review. The Bureau Commander should sign and forward the documentation to the Chief of Police for his/her review.

The Chief of Police or the authorized designee will present the commendation to the department member for his/her signature. The documentation will then be returned to the Field Operations Bureau Commander for entry into the member's personnel file.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the respective Bureau Commander. The documentation will be signed by the Bureau Commander and forwarded to the Chief of Police for his/her review. An appropriate venue or ceremony to acknowledge the individual's actions should be arranged. Documentation of the commendation shall be maintained in a file designated for such records.

#### 1015.5 AWARDS

Awards may be bestowed upon members of the Department and individuals from the community. These awards include:

- Award of Valor.
- Award of Merit.
- Lifesaving Award.
- Meritorious Conduct.
- Chief's Commendation.

Criteria for each award and the selection, presentation and display of any award are determined by the Chief of Police.

## Fitness for Duty

### 1016.1 PURPOSE AND SCOPE

Monitoring members' fitness for duty is essential for the safety and welfare of the members of the Department and the community. The purpose of this policy is to ensure that all members of this department remain fit for duty and able to perform their job functions.

### 1016.2 POLICY

The Wintergreen Police Department strives to provide a safe and productive work environment and ensure that all members of this department can safely and effectively perform the essential functions of their jobs. Under limited circumstances, the Department may require at no cost to the employee a professional evaluation of a member's physical and/or mental capabilities to determine his/her ability to perform essential functions.

### 1016.3 MEMBER RESPONSIBILITIES

It is the responsibility of each member of this department to maintain physical stamina and psychological stability sufficient to safely and effectively perform the essential duties of his/her position. The Department will make available guidelines appropriate for each position.

During working hours, all members are required to be alert, attentive and capable of performing their assigned responsibilities.

Any member who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that a member believes that another department member is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

### 1016.4 SUPERVISOR RESPONSIBILITIES

All supervisors should be alert to any indication that a member may be unable to safely perform his/her duties due to an underlying physical or psychological impairment or condition.

Such indications may include:

- (a) An abrupt and negative change in the member's normal behavior.
- (b) A pattern of irrational conduct, hostility or oppositional behavior.
- (c) Personal expressions of instability.
- (d) Inappropriate use of alcohol or other substances, including prescribed medication.
- (e) A pattern of questionable judgment, impulsive behavior or the inability to manage emotions.
- (f) Any other factor or combination of factors causing a supervisor to believe the member may be suffering from an impairment or condition requiring intervention.

Supervisors shall maintain the confidentiality of any information consistent with this policy.

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##### 1016.4.1 REPORTING

A supervisor observing a member, or receiving a report of a member, who is perceived to be unable to safely or effectively perform his/her duties shall promptly document all objective information and/or observations.

The supervisor should attempt to meet with the member to inquire about the conduct or behavior giving rise to the concerns.

If a meeting does not resolve the supervisor's concerns or does not take place, the supervisor shall promptly document his/her observations and actions in a written report and inform the Chief of Police.

##### 1016.4.2 DUTY STATUS

In conjunction with the Chief of Police the respective Bureau Commander, should make a preliminary determination regarding the member's duty status.

If a determination is made that the member can safely and effectively perform the essential functions of his/her job, the member should be returned to duty and arrangements made for appropriate follow-up.

If a preliminary determination is made that the member's conduct or behavior represents an inability to safely and effectively perform the essential functions of his/her job, the member's Bureau Commander should immediately relieve the member of duty pending further evaluation.

Employees relieved of duty shall comply with the administrative leave provisions of the Personnel Complaints Policy.

The Chief of Police shall be promptly notified in the event that any member is relieved of duty.

#### **1016.5 FITNESS-FOR-DUTY EVALUATIONS**

A fitness-for-duty evaluation may be ordered whenever circumstances reasonably indicate that a member is unfit for duty or following an officer-involved shooting or death-in-custody incident.

##### 1016.5.1 PROCESS

The Chief of Police, in cooperation with the WPOA Human Resources Manager, may order the member to undergo a fitness-for-duty evaluation at no cost to the employee.

The examining practitioner will provide the Department with a report indicating whether the member is fit for duty. If the member is not fit for duty, the practitioner will include the existing restrictions or conditions in the report.

In order to facilitate the evaluation of any member, the Department will provide all appropriate documents and available information.

All reports and evaluations submitted by the examining practitioner shall be part of the member's confidential medical file.

Any member ordered to undergo a fitness-for-duty evaluation shall comply with the terms of the order and cooperate fully with the examining practitioner. Any failure to comply with such an order

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and any failure to cooperate with the practitioner may be deemed insubordination and shall subject the member to discipline, up to and including termination.

Determinations regarding duty status of members who are found to be unfit for duty or fit for duty with limitations will be made in cooperation with the WPOA Human Resources Manager.

#### **1016.6 LIMITATION ON HOURS WORKED**

Absent emergency operations, members should not work more than:

- 16 hours in a one-day (24 hours) period
- 30 hours in any two-day (48 hours) period
- 84 hours in any seven-day (168 hours) period

Except in unusual circumstances, members should have a minimum of eight hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve any member who has exceeded the above guidelines to off-duty status.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

#### **1016.7 APPEALS**

Employees disputing the application or interpretation of this policy may submit a grievance as provided in the Grievances Policy.

## Lactation Breaks

### 1017.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to members desiring to express breast milk for the member's infant child.

### 1017.2 POLICY

It is the policy of the Wintergreen Police Department to provide, in compliance with the Fair Labor Standards Act (FLSA), reasonable break time and appropriate facilities to accommodate any member desiring to express breast milk for her infant nursing child for up to one year after the child's birth (29 USC § 207).

### 1017.3 LACTATION BREAK TIME

A rest period should be permitted each time the member has the need to express breast milk (29 USC § 207). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time.

Lactation breaks, if feasible, should be taken at the same time as the member's regularly scheduled rest or meal periods. While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid.

Members desiring to take a lactation break shall notify the Field Operations Bureau Commander or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations.

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

### 1017.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate members with the use of an appropriate room or other location to express milk in private. Such room or place should be in proximity to the member's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207; Va. Code § 2.2-3904).

Members occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other members should avoid interrupting a member during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

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### **1017.5 STORAGE OF EXPRESSED MILK**

Any member storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the member's shift ends.



## Payroll Records

### 1018.1 PURPOSE AND SCOPE

This policy provides the guidelines for completing and submitting payroll records of department members who are eligible for the payment of wages.

### 1018.2 POLICY

The Wintergreen Police Department maintains timely and accurate payroll records.

### 1018.3 RESPONSIBILITIES

Members are responsible for the accurate completion and timely submission of their payroll records for the payment of wages.

The Chief of Police is responsible for approving the payroll records for all members.

### 1018.4 TIME REQUIREMENTS

Members who are eligible for the payment of wages are paid on a scheduled, periodic basis, generally on the same day or date each period, with certain exceptions, such as holidays. Payroll records shall be completed and submitted to the Chief of Police as established by payroll procedures.

### 1018.5 RECORDS

The Chief of Police shall ensure that accurate and timely payroll records are maintained as required by 29 CFR 516.2 for a minimum of three years (29 CFR 516.5).

## Overtime Compensation

### 1019.1 PURPOSE AND SCOPE

This policy establishes guidelines and procedures regarding overtime for employees, in conformance with the Fair Labor Standards Act (FLSA) (29 USC § 201 et seq.).

### 1019.2 POLICY

The Wintergreen Police Department will compensate nonexempt employees who work authorized overtime either by payment of wages or by the accrual of compensatory time (29 CFR 553.22). Employees who are salary exempt from FLSA are not compensated for overtime worked.

### 1019.3 COMPENSATION

Payment of wages to nonexempt employees for overtime, or accrual of compensatory time in lieu of compensation for overtime worked, shall be at the rate of not less than one and one-half hours for each hour of employment for which overtime compensation is required (29 USC § 207(k)(2); 29 USC § 207(o)(1); Va. Code § 9.1-701; Va. Code § 40.1-29.2).

Short periods of overtime worked at the end of the normal duty day (e.g., less than one hour in duration) may be handled informally by an agreement between the supervisor and the employee. In such cases, the supervisor shall document the overtime worked and schedule a subsequent shift adjustment within the same work period that the overtime was worked, rather than submit a request for overtime compensation (29 USC § 207(k)).

Salary exempt employees may be eligible for administrative leave, which may be granted at the discretion of the exempt employee's immediate supervisor.

### 1019.4 REQUESTS FOR OVERTIME COMPENSATION

#### 1019.4.1 EMPLOYEE RESPONSIBILITIES

Generally, no employee is authorized to work overtime without the prior approval of a supervisor. If circumstances do not permit prior approval, approval shall be sought as soon as practicable during the overtime shift and in no case later than the end of the shift in which the overtime is worked.

Nonexempt employees shall:

- (a) Obtain supervisory approval, verbal or written.
- (b) Not work in excess of 16 hours, including regularly scheduled work time, overtime and extra-duty time, in any consecutive 24-hour period without supervisory approval.
- (c) Record the actual time worked in an overtime status using the department-approved form or method. Informal notations on reports, logs or other forms not approved for overtime recording are not acceptable.
- (d) Submit the request for overtime compensation to their supervisors by the end of shift or no later than the next calendar day.

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#### *Overtime Compensation*

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##### 1019.4.2 SUPERVISOR RESPONSIBILITIES

Supervisors shall:

- (a) Prior to authorizing an employee to work overtime, evaluate the need for the overtime.
  1. Supervisors should not authorize any request to work overtime if the overtime would not be an appropriate use of department resources.
- (b) Upon receipt of a request for overtime compensation, confirm that the overtime was authorized and then verify the actual time worked.
  1. Supervisors identifying any unauthorized overtime or discrepancy shall initiate an investigation consistent with the Personnel Complaints Policy.
- (c) After verifying and approving the overtime amount, promptly forward the request for compensation to the employee's Bureau Commander for final approval.
  1. After the Bureau Commander has authorized compensation, the request shall be submitted to Chief of Police as soon as practicable.

Supervisors may not authorize or approve their own overtime.

##### 1019.5 ACCOUNTING FOR PORTIONS OF AN HOUR

Authorized overtime work shall be accounted in the increments as listed:

TIME WORKED	INDICATE ON CARD
Up to 15 minutes	.25 hour
16 to 30 minutes	.50 hour
31 to 45 minutes	.75 hour
46 to 60 minutes	1 hour

##### 1019.5.1 VARIATION IN TIME REPORTED

When two or more employees are assigned to the same activity, case or court trial, and the amount of time for which overtime compensation is requested varies among the officers, the approving supervisor may require each employee to include the reason for the variation on the overtime compensation request.

## Outside Employment and Outside Overtime

### 1020.1 PURPOSE AND SCOPE

This policy provides guidelines for department members who seek to engage in authorized outside employment or outside overtime.

#### 1020.1.1 DEFINITIONS

Definitions related to this policy include:

**Outside employment** - Duties or services performed by members of this department for another employer, organization or individual who is not affiliated directly with this department when wages, compensation or other consideration for such duties or services is received. Outside employment also includes duties or services performed by those members who are self-employed and receive compensation or other consideration for services, products or benefits rendered.

**Outside overtime** - Duties or services performed by members of this department for a private organization, entity or individual, that are requested and scheduled directly through the Department. Member compensation, benefits and costs for such outside services are reimbursed to the Department.

### 1020.2 POLICY

Members of the Wintergreen Police Department shall obtain written approval from the Chief of Police or the authorized designee prior to engaging in any outside employment or outside overtime. Approval of outside employment or overtime shall be at the discretion of the Chief of Police in accordance with the provisions of this policy. Failure to obtain prior written approval for outside employment or overtime, or engaging in outside employment or overtime that is prohibited by this policy, may lead to disciplinary action.

#### 1020.2.1 POINT OF COORDINATION

The Chief of Police or the authorized designee will act as the point of coordination for outside employment and outside overtime to oversee adherence to department policies and procedures.

### 1020.3 OUTSIDE EMPLOYMENT

#### 1020.3.1 REQUEST AND APPROVAL

Members must submit the designated outside employment request form to his/her immediate supervisors. The request form will then be forwarded through the chain of command to the Chief of Police for consideration.

If approved, the member will be provided with a copy of the approved request form. Unless otherwise indicated in writing on the request form, approval for outside employment will be valid through the end of the calendar year in which the request is approved. Members seeking to continue outside employment must submit a new request form at the start of each calendar year.

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#### *Outside Employment and Outside Overtime*

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##### 1020.3.1 DENIAL

Any member whose request for outside employment has been denied should be provided with a written notification of the reason at the time of the denial.

##### 1020.3.2 REVOCATION OR SUSPENSION

Any member whose approval for outside employment is revoked or suspended should be provided with a written notification of the reason for revocation or suspension.

Approval for outside employment may be revoked or suspended:

- (a) When a supervisor determines the member's performance is failing to meet standards and the outside employment may be related to the deficient performance.
  - 1. Approval for the outside employment may be reestablished when the member's performance has reached a satisfactory level and with his/her supervisor's authorization.
- (b) When a member's conduct or outside employment conflicts with department policy or any law.
- (c) When the outside employment creates an actual or apparent conflict of interest with the Department.

##### 1020.3.3 APPEAL

If a member's request for outside employment is denied or if previous approval is revoked or suspended, the member may file a written notice of appeal with the Chief of Police within 10 days of receiving notice of the denial, revocation or suspension.

A revocation or suspension will only be implemented after the member has completed the appeal process.

If the member's appeal is denied, he/she may file a grievance as provided in the Grievances Policy.

#### **1020.4 REQUIREMENTS**

##### 1020.4.1 PROHIBITED OUTSIDE EMPLOYMENT

The Department reserves the right to deny any request for outside employment that involves:

- (a) The use of department time, facilities, equipment or supplies.
- (b) The use of the Wintergreen Police Department badge, uniform or influence for private gain or advantage.
- (c) The member's receipt or acceptance of any money or other consideration for the performance of duties or services that he/she would be required or expected to render in the course or hours of his/her employment, appointment or as a part of his/her regular duties.
- (d) The performance of duties or services that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other member of this department.

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#### *Outside Employment and Outside Overtime*

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- (e) Demands upon the member's time that would render the performance of his/her duties for this department deficient or substandard.
- (f) Activities that may conflict with any other policy or rule of the Department (Va. Code § 15.2-1712).
- (g) Activities which may occasionally require the use of the member's police powers in the performance of such employment that are not authorized by local ordinance (Va. Code § 15.2-1712).

#### 1020.4.2 SECURITY AND LAW ENFORCEMENT OFFICER OUTSIDE EMPLOYMENT

No member of this department may engage in any outside employment as a law enforcement officer, private security guard, private investigator or other similar private security position.

#### 1020.4.3 DEPARTMENT RESOURCES

Members are prohibited from using any department equipment or resources in the course of, or for the benefit of, any outside employment. This shall include the prohibition against any member using his/her position with this department to gain access to official records or databases of this department or other agencies.

#### 1020.4.4 REVIEW OF FINANCIAL RECORDS

Prior to approving outside employment, the Department may request that a member provide his/her personal financial records for review if the Chief of Police determines that a conflict of interest may exist. Failure or refusal by the member to provide such records may result in denial of the outside employment.

If, after approving a request for outside employment, the Department obtains information that a financial conflict of interest exists, the Department may request that the member provide his/her personal financial records for review. Failure or refusal by the member to provide such records may result in revocation or suspension of approval of the outside employment pursuant to this policy.

#### 1020.4.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If a member terminates his/her outside employment, the member shall promptly submit written notification of such termination to the Chief of Police through the chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through the procedures set forth in this policy.

Members shall also promptly submit in writing to the Chief of Police any material changes in outside employment, including any change in the number of hours, type of duties or the demands of any approved outside employment. Members who are uncertain whether a change in outside employment is material are advised to report the change.

#### 1020.4.6 LEAVE OR RESTRICTED DUTY STATUS

Members who are placed on leave or other restricted duty status shall inform their immediate supervisors in writing within five days as to whether they intend to continue their outside employment while on such leave or restricted status. The immediate supervisor shall review the

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#### *Outside Employment and Outside Overtime*

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duties of the outside employment, along with any related orders (e.g., administrative, medical), and make a recommendation to the Chief of Police regarding whether such employment should continue.

In the event that the Chief of Police determines that the outside employment should be discontinued, or if the member fails to promptly notify his/her supervisor of his/her intention regarding outside employment, a notice revoking approval of the outside employment will be forwarded to the member and a copy attached to the original outside employment request form.

Criteria for revoking approval due to leave or restricted duty status include, but are not limited to:

- (a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the Private Police's medical professional advisers.
- (b) The outside employment requires performance of the same or similar physical ability as would be required of an on-duty member.
- (c) The member's failure to make timely notice of his/her intention to the supervisor.

When the member returns to full duty with the Wintergreen Police Department, a written request may be submitted to the Chief of Police to approve the outside employment request.

#### **1020.5 OUTSIDE OVERTIME**

##### 1020.5.1 REQUESTS FOR SPECIAL SERVICES

Any private organization, entity, or individual seeking special services (e.g., security, traffic control) from members of this department must submit a written request to the Chief of Police in advance of the desired service. Such services will be assigned, monitored, and compensated through the Department as outside overtime assignments.

- (a) A request for special services during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute will not be approved.
- (b) The requester will be required to provide a description of the responsibilities of each member requested for special services.
- (c) The requester will be required to enter into an agreement that includes indemnification with the Department prior to approval.
- (d) The requester will be required to reimburse the Department for the members' compensation, benefits, and costs (e.g., court time) associated with such outside services.
- (e) Should such a request be approved, any member working outside overtime shall be subject to the following conditions:
  - 1. The member shall wear the department uniform and carry department identification.
  - 2. The member shall be subject to the rules and regulations of this department.

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#### *Outside Employment and Outside Overtime*

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3. Compensation for such approved outside overtime shall be pursuant to normal overtime procedures (see the Overtime Compensation Policy).
  4. Outside overtime shall not be subject to the employment agreement.
- (f) Outside overtime shall be assigned at the discretion of the Chief of Police or as directed by private police rule or policy.

#### 1020.5.2 ARREST AND REPORTING PROCEDURE

Any officer making an arrest or taking other official law enforcement action while working in an outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to the Report Preparation Policy. Time spent on the completion of such reports shall be considered part of the outside overtime assignment.

#### 1020.5.3 REVOCATION OF OUTSIDE OVERTIME

In the event that the Chief of Police determines that a member's participation in outside overtime should be discontinued, a notice will be forwarded to the member.



# Work-Related Disease, Injury, and Death Reporting

## 1021.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding timely reporting of work-related injuries, mental health issues, occupational diseases, and death.

### 1021.1.1 DEFINITIONS

Definitions related to this policy include:

**Work-related injury** - An accidental injury, occupational disease, or mental health issue arising out of and in the course of employment with the Wintergreen Police Department. An occupational disease does not include an ordinary disease of life to which the general public is exposed outside of the employment with the Wintergreen Police Department (Va. Code § 65.2-101; Va. Code § 65.2-107; Va. Code § 65.2-400).

## 1021.2 POLICY

The Wintergreen Police Department will address work-related injuries, occupational diseases and deaths appropriately, and will comply with applicable state workers' compensation requirements (Va. Code § 65.2-100 et seq.).

## 1021.3 RESPONSIBILITIES

### 1021.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or work-related injury shall report such event as soon as practicable, but within 24 hours to a supervisor, and shall seek medical care when appropriate.

### 1021.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any work-related injury or occupational disease should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related Department-wide injury- or illness-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

### 1021.3.3 BUREAU COMMANDER RESPONSIBILITIES

The Bureau Commander who receives a report of an occupational disease or work-related injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief of Police to ensure any required Virginia Occupational

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Safety and Health (VOSH) Program reporting is made as required in the illness and injury prevention plan identified in the Illness and Injury Prevention Policy.

##### **1021.3.4 CHIEF OF POLICE RESPONSIBILITIES**

The Chief of Police shall review and forward copies of the report to the Human Resources. Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

##### **1021.3.5 PEER SUPPORT AND MENTAL HEALTH PROFESSIONALS**

The Department should make peer support available for officers whether or not there is a specific incident and should also refer officers seeking services for mental health to an appropriate mental health professional, as required by Va. Code § 65.2-107.

##### **1021.4 OTHER DISEASE OR INJURY**

Diseases and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the Chief of Police.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

##### **1021.5 SETTLEMENT OFFERS**

When a member sustains an occupational disease or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

###### **1021.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL**

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational disease or work-related injury, the member shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief of Police.

## Personal Appearance Standards

### 1022.1 PURPOSE AND SCOPE

This policy provides guidelines for the personal appearance of members of the Wintergreen Police Department.

Requirements for department uniforms and civilian attire are addressed in the Uniforms and Civilian Attire Policy.

### 1022.2 POLICY

Wintergreen Police Department members shall maintain their personal hygiene and appearance to project a professional image that is appropriate for this department and for their assignments. Department personal appearance standards are primarily based on safety requirements, appearance conformity and the social norms of the community served, while considering matters important to members of the Department.

### 1022.3 GROOMING

Unless otherwise stated and because deviations from these standards may present officer safety issues, the following appearance standards shall apply to all members, except those whose current assignments would deem them not applicable, and where the Chief of Police has granted an exception.

#### 1022.3.1 PERSONAL HYGIENE

All members must maintain proper personal hygiene. Examples of improper personal hygiene include, but are not limited to, dirty fingernails, bad breath, body odor and dirty or unkempt hair. Any member who has a condition due to a protected category (e.g., race, physical disability) that affects any aspect of personal hygiene covered by this policy may qualify for an accommodation and should report any need for an accommodation to the Chief of Police.

#### 1022.3.2 HAIR

Hair shall be clean, neatly trimmed or arranged, and of a natural hair color. Hairstyles with shaved designs in the scalp are prohibited. Hair adornments shall be primarily for the purpose of securing the hair and must present a professional image.

Hairstyles for male department members must not extend below the top edge of a uniform or dress shirt collar while assuming a normal stance.

When working a field assignment, hairstyles for female department members must not extend below the bottom edge of a uniform or dress shirt collar while assuming a normal stance. Longer hair shall be worn up or in a tightly wrapped braid or ponytail that is secured to the head above the bottom edge of the shirt collar.

#### 1022.3.3 MUSTACHES

Mustaches shall not extend below the corners of the mouth or beyond the natural hairline of the upper lip and shall be short and neatly trimmed.

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#### *Personal Appearance Standards*

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##### 1022.3.4 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

##### 1022.3.5 FACIAL HAIR

Facial hair, other than sideburns, mustaches and eyebrows, is prohibited, unless authorized by the Chief of Police or the authorized designee.

##### 1022.3.6 FINGERNAILS

Fingernails shall be clean and neatly trimmed to a length that will not present a safety concern. The color of fingernail polish shall present a professional image.

#### **1022.4 APPEARANCE**

##### 1022.4.1 JEWELRY

For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety concern for the department member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related or obscene language is not allowed. See the Uniforms and Civilian Attire Policy for jewelry specifications that apply while wearing the department uniform.

- (a) Necklaces shall not be visible above the shirt collar.
- (b) Earrings shall be small, worn only in or on the earlobe and only by female department members. Earrings shall be limited to no more than two earrings per ear.
- (c) One ring or ring set may be worn on each hand of the department member. No rings should be of the type that would cut or pose an unreasonable safety risk to the member or others during a physical altercation, if the member is assigned to a position where that may occur.
- (d) One small bracelet, including a bracelet identifying a medical condition, may be worn on one arm.
- (e) Wristwatches shall be conservative and present a professional image.
- (f) Tie tacks or tie bars worn with civilian attire shall be conservative and present a professional image.

##### 1022.4.2 TATTOOS

While on-duty or representing the Wintergreen Police Department in any official capacity, members should make every reasonable effort to conceal tattoos or other body art. At no time while the member is on-duty or representing the Department in any official capacity shall any offensive tattoo or body art be visible. Examples of offensive tattoos include but are not limited to those that exhibit or advocate discrimination; those that exhibit gang, supremacist, or extremist group affiliation; and those that depict or promote drug use, sexually explicit acts, or other obscene material.

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##### 1022.4.3 BODY PIERCING OR ALTERATION

Body piercing (other than earlobes) or alteration to any area of the body that is visible while on-duty or while representing the Wintergreen Police Department in any official capacity, that is a deviation from normal anatomical features and that is not medically required, is prohibited. Such body alteration includes, but is not limited to:

- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement (i.e., foreign objects inserted under the skin to create a design or pattern).
- (c) Abnormal shaping of the ears, eyes, nose or teeth (i.e., enlarged or stretched out holes in the earlobes).
- (d) Branding, scarification or burning to create a design or pattern.

##### 1022.4.4 DENTAL ORNAMENTATION

Dental ornamentation that is for decorative purposes and that is not medically required is prohibited while on-duty or while representing the Wintergreen Police Department in any official capacity. Such ornamentation includes, but is not limited to:

- (a) Objects that are bonded to front teeth.
- (b) Gold, platinum or other veneers or caps used for decorative purposes.
- (c) Orthodontic appliances that are colored for decorative purposes.

##### 1022.4.5 GLASSES AND CONTACT LENSES

Eyeglasses and sunglasses shall be conservative and present a professional image. Contact lenses with designs that change the normal appearance of the eye and that are not medically required are prohibited while on-duty or while representing the Wintergreen Police Department in any official capacity.

##### 1022.4.6 COSMETICS AND FRAGRANCES

Cosmetics shall be conservative and present a professional image. Use of cologne, perfume, aftershave lotion and other items used for body fragrance shall be kept to a minimum.

##### 1022.4.7 UNDERGARMENTS

Proper undergarments shall be worn as necessary for reasons of hygiene and general appearance standards.

#### **1022.5 RELIGIOUS ACCOMMODATION**

The religious beliefs and needs of department members should be reasonably accommodated. Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The Chief of Police should be advised any time a request for religious accommodation is denied.

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Those who request to wear headscarves, simple head coverings, certain hairstyles or facial hair for religious reasons should generally be accommodated absent unusual circumstances.

## Uniforms and Civilian Attire

### 1023.1 PURPOSE AND SCOPE

This policy provides guidelines for Wintergreen Police Department-authorized uniforms and civilian attire regulations. It is established to ensure that uniformed members will be readily identifiable to the public through the proper use and wearing of department uniforms, and that the appearance of members who wear civilian attire reflects favorably on the Department.

This policy addresses the wearing and maintenance of department uniforms, accessories, insignia, patches and badge; the requirements for members who wear civilian attire; and the authorized use of optional equipment and accessories by members of the Department.

Other related topics are addressed in the Badges, Patches and Identification, Department-Owned and Personal Property, and Personal Appearance Standards policies.

### 1023.2 POLICY

The Wintergreen Police Department will provide uniforms for all employees who are required to wear them in the manner, quantity and frequency as determined by the Chief of Police or the authorized designee. The Department may provide other department members with uniforms at the direction of the Chief of Police.

All uniforms and equipment issued to department members shall be returned to the Department upon termination or resignation.

### 1023.3 UNIFORMS

The Chief of Police or the authorized designee shall maintain and update uniform and equipment specifications. A list of issued clothing/equipment will be maintained by the Field Operations Bureau Commander. Uniforms shall be worn as described therein and as specified in this policy and in compliance with Va. Code § 19.2-78 and Va. Code § 46.2-102.

The following shall apply to those assigned to wear department-issued uniforms:

- (a) Uniforms and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean and appear professionally pressed.
- (b) Officers in a non-uniformed assignment shall possess and maintain at all times a serviceable uniform and the necessary equipment to perform uniformed field duty.
- (c) Uniforms shall be worn in compliance with any applicable department specifications.
- (d) Members shall wear only the uniforms specified for their ranks and assignments.
- (e) Civilian attire shall not be worn in combination with any distinguishable part of a uniform.
- (f) Uniforms are only to be worn while on-duty, for court, at official department functions or events, while in transit to or from work, or when authorized by the Chief of Police or the authorized designee.

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#### *Uniforms and Civilian Attire*

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1. When the uniform is worn while in transit, a non-uniform outer garment shall be worn over the uniform shirt to avoid bringing attention to the member while he/she is off-duty.
- (g) Members are not to purchase or drink alcoholic beverages while wearing any part of department-issued uniforms, including the uniform pants.
- (h) All supervisors will perform periodic inspections of members under their commands to ensure conformance to this policy.

#### 1023.3.1 ACCESSORIES

Members shall adhere to the following when wearing department uniforms:

- (a) Mirrored sunglasses will not be worn.
- (b) Jewelry shall be in accordance with the specifications in the Personal Appearance Standards Policy.

#### 1023.3.2 INSIGNIA, PATCHES AND BADGE

Only the following elements may be affixed to department uniforms unless an exception is authorized by the Chief of Police:

- (a) Shoulder patch - The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all uniform shirts and jackets.
- (b) Badge - The department-issued badge, or an authorized sewn-on cloth replica, must be worn and visible at all times while in uniform.
- (c) Nameplate - The regulation nameplate, or an authorized sewn-on cloth nameplate, shall be worn at all times while in uniform.
  1. When a jacket is worn, the nameplate, or an authorized sewn-on cloth nameplate, shall be affixed to the jacket in the same manner as the uniform.
- (d) Rank insignia - The designated insignia indicating the member's rank must be worn at all times while in uniform.
- (e) Service insignia - The designated insignia indicating the member's length of service may be worn on long-sleeve shirts and jackets. The insignia shall be machine stitched to the left sleeve of the uniform.
- (f) Assignment insignias - Assignment insignias (e.g., State Police ERT, Field Training Officer (FTO)) may be worn as designated by the Chief of Police.
- (g) American flag pin - An American flag pin may be worn, centered above the nameplate.
- (h) Award/commendation insignia - Insignia representing an award or commendation received under the Commendations and Awards Policy, or other recognition authorized by the Chief of Police, may be worn, centered above the nameplate. If more than one award is worn, or an American flag pin is worn, the insignia shall be equally



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spaced in one or two horizontal rows centered above the nameplate in a manner that provides a balanced appearance.

#### 1023.3.3 MOURNING BAND

Uniformed members shall wear a black mourning band across the department badge whenever a law enforcement officer is killed in the line of duty or as directed by the Chief of Police. The following mourning periods will be observed:

- (a) Wintergreen Police Department officer - From the time of death until midnight on the 14th day after the death.
- (b) An officer from this or an adjacent county - From the time of death until midnight on the day of the funeral.
- (c) Funeral attendee - While attending the funeral of an out-of-region fallen officer.
- (d) National Peace Officers' Memorial Day (May 15) - From 0001 hours until 2359 hours.
- (e) As directed by the Chief of Police.

#### 1023.4 UNIFORM CLASSES

The Chief of Police or the authorized designee shall determine the uniform to be worn by each department member or any deviations that may be authorized.

Uniforms are classified as follows:

- (a) Class A - Full dress uniform to be worn by designated department members on special occasions, such as funerals, graduations, ceremonies, or as directed by the Chief of Police or the authorized designee.
- (b) Class B - Standard issue uniform to be worn daily by designated department members.
- (c) Class C - General utility uniform to be worn by designated Department members.
- (d) Specialized assignment - Specific uniforms to be worn by members in special assignments or bureaus.

#### 1023.4.1 CLASS A UNIFORM

The Class A uniform consists of the following:

- (a) Dress hat
- (b) Long-sleeve shirt
- (c) Tie tack or tie bar
- (d) Trousers or skirt
- (e) Black belt
  - 1. Belts shall be equipped as needed for the member's assignment.
- (f) Dark blue or black socks

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1. Natural colored hose must be worn with the skirt.
- (g) Black polished dress shoes
1. Boots with pointed toes are not permitted.

#### 1023.4.2 CLASS B UNIFORM

The Class B uniform consists of the following:

- (a) Long- or short-sleeve shirt with the collar open and no tie
1. A crew neck t-shirt must be worn under the uniform shirt.
  2. All shirt buttons must remain buttoned except for the top button at the neck.
  3. Long sleeves must be buttoned at the cuff.
- (b) Trousers or skirt
- (c) Black belt
1. Belts shall be equipped as needed for the member's assignment.
- (d) Dark blue or black socks
1. Natural colored hose must be worn with the skirt.
- (e) Black polished dress shoes
1. Approved black unpolished shoes may be worn.
  2. Boots with pointed toes are not permitted.
  3. Decorative stitching or adornment is not permitted.
- (f) Weather-appropriate items
1. Hat
  2. Dark blue or black mock turtleneck may be worn under the long-sleeve uniform shirt
  3. Jacket
  4. Rain gear

#### 1023.4.3 CLASS C UNIFORM

The Chief of Police or the authorized designee will establish the specifications, regulations and conditions for wearing the Class C uniform.

#### 1023.4.4 SPECIALIZED ASSIGNMENT UNIFORM

The Chief of Police or the authorized designee may authorize certain uniforms to be worn by members in specialized assignments.

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#### *Uniforms and Civilian Attire*

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#### **1023.5 CIVILIAN ATTIRE**

There are assignments within the Department that do not require a uniform because recognition and authority are not essential to their functions. There are also assignments for which civilian attire is necessary.

- (a) Civilian attire shall fit properly, be clean and free of stains, and not be damaged or excessively worn.
- (b) Members assigned to administrative, investigative and support positions shall wear business-appropriate clothing that is conservative in style.
- (c) Variations from this policy are allowed at the discretion of the Chief of Police or the authorized designee when the member's assignment or current task is not conducive to wearing such clothing.
- (d) No item of civilian attire may be worn while on-duty that would adversely affect the reputation of the Wintergreen Police Department or the morale of the members.
- (e) The following items shall not be worn while on-duty or when representing the Department in any official capacity:
  - 1. Clothing that reveals cleavage, the back, chest, stomach or buttocks
  - 2. T-shirt alone or exposed undergarments
  - 3. Swimsuits, tank tops, tube tops or halter tops
  - 4. Sweatshirts, sweatpants or similar exercise clothing
  - 5. Spandex-type pants or transparent clothing
  - 6. Denim pants of any color
  - 7. Shorts
  - 8. Open-toed shoes
  - 9. Clothing, buttons or pins displaying racial, sexual, discriminatory, gang-related or obscene language

#### **1023.6 OPTIONAL EQUIPMENT**

Any items that are allowed by the Wintergreen Police Department but that have been identified as optional shall be purchased entirely at the expense of the member. No part of the purchase cost shall be offset by the Department.

Maintenance of optional items shall be the financial responsibility of the purchasing member (e.g., repairs due to normal wear and tear).

Replacement of items listed in this policy as optional shall be managed as follows:

- (a) When the item is no longer functional because of normal wear and tear, the member bears the full cost of replacement.

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#### *Uniforms and Civilian Attire*

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- (b) When the item is no longer functional because of damage in the course of the member's duties, it shall be replaced in accordance with the Department-Owned and Personal Property Policy.

#### **1023.7 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES**

Wintergreen Police Department members may not wear any uniform item, accessory or attachment unless specifically authorized by the Chief of Police or the authorized designee.

Department members may not use or carry any safety item, tool or other piece of equipment unless specifically authorized by the Chief of Police or the authorized designee.

## Conflict of Interest

### 1024.1 PURPOSE AND SCOPE

The purpose of this policy is to assist members in recognizing and avoiding potential conflicts of interest, thereby ensuring effective and ethical operating practices on the part of the Wintergreen Police Department.

#### 1024.1.1 DEFINITIONS

Definitions related to this policy include:

**Conflict of interest** - Any actual, perceived or potential conflict, in which it reasonably appears that a member's action, inaction or decisions are or may be influenced by a personal or business relationship.

### 1024.2 POLICY

Members of the Wintergreen Police Department are expected to conduct themselves with the utmost professional integrity and objectivity. Members will guard against actual or perceived conflicts of interest in order to ensure the fair and equitable treatment of department members and the public, and thereby maintain the trust of the public and department members.

### 1024.3 PROHIBITIONS

The Department prohibits the following types of personal or business relationships among members:

- (a) Members are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other member who is a relative or with whom they are involved in a personal or business relationship.
  - 1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved member to an uninvolved supervisor.
  - 2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing members in such supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any member to another position within the same classification in order to avoid conflicts with any provision of this policy.
- (b) Members are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting a member who is a relative or with whom they are involved in a personal or business relationship.
- (c) Whenever possible, field training officers (FTOs) and other trainers will not be assigned to train relatives. Department FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any member they

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#### *Conflict of Interest*

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are assigned to train until such time as the training has been successfully completed and the person is off probation.

#### **1024.4 MEMBER RESPONSIBILITIES**

Members shall avoid situations that create a conflict of interest. Members should take reasonable steps to address a perception of a conflict of interest when such a perception is reasonably foreseeable and avoidable (e.g., deferring a decision to an uninvolved member) (Va. Code § 2.2-3103).

Whenever any member is placed in circumstances that would require him/her to take enforcement action or to provide official information or services to any relative or individual with whom the member is involved in a personal or business relationship, that member shall promptly notify his/her uninvolved, immediate supervisor.

In the event that no uninvolved supervisor is immediately available, the member shall promptly notify the dispatcher to have another uninvolved member either relieve the involved member or, minimally, remain present to witness the action.

#### **1024.5 SUPERVISOR RESPONSIBILITIES**

Upon being notified of or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief of Police or the authorized designee of such actual or potential violations through the chain of command.

## Badges, Patches, and Identification

### 1025.1 PURPOSE AND SCOPE

The Wintergreen Police Department (WPD) badge, patch, and identification card, as well as the likeness of these items and the name of the Department, are property of the Department. Their use shall be restricted as set forth in this policy.

### 1025.2 POLICY

The Wintergreen Police Department issues each member appropriate identification, which may include a badge, patch, and/or identification card, depending on the member's position within the Department.

### 1025.3 MEMBER RESPONSIBILITIES

Members of the Wintergreen Police Department will use the WPD badge, patch, and identification card, as well as the likeness of these items, appropriately and professionally. The WPD badge, patch, and identification card shall only be displayed or used by a member when acting in an official or authorized capacity.

Department members shall not:

- (a) Display or use the WPD badge, patch, or identification card for personal gain or benefit.
- (b) Loan the WPD badge, patch, or identification card to others or permit these items to be reproduced or duplicated.
- (c) Use images of the WPD badge, patch, or identification card, or the likeness thereof, or the Wintergreen Police Department name, for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications, such as email, blogs, social networking, or websites.

### 1025.4 BADGES

The Chief of Police shall determine the number and form of badges authorized for use by department members.

Only badges issued by this department are authorized to be used, displayed, carried, or worn by members while on-duty or otherwise acting in an official or authorized capacity.

The placement and manner of display of the issued badge is addressed in the Uniforms and Civilian Attire Policy.

#### 1025.4.1 RETIREE BADGES

The Chief of Police or the authorized designee should provide retired officers with their badge or other insignia, upon request, and issue it mounted in a manner that it cannot be displayed on the retired officer (Va. Code § 9.1-1000).

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#### *Badges, Patches, and Identification*

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##### **1025.4.2 PERMITTED USE BY EMPLOYEE GROUPS**

The likeness of the WPD badge shall not be used for any purpose without the express authorization of the Chief of Police and shall be subject to the following:

- (a) An authorized employee group may use the likeness of the WPD badge for merchandise and official employee group business provided it is used in a clear representation of the employee group and not the Wintergreen Police Department. The following modification shall be included:
  1. Any text identifying the Wintergreen Police Department is replaced with the name of the employee group.
  2. A badge number is not included. That portion of the badge may display the acronym of the employee group.

##### **1025.5 IDENTIFICATION CARDS**

All members will be issued an official WPD identification card bearing the member's name, full-face photograph, member identification number, member's signature and signature of the Chief of Police or the official seal of the Department. All members shall be in possession of their department-issued identification cards at all times while on-duty or in department facilities.

- (a) Whenever on-duty or acting in an official capacity representing the Department, members shall display their department-issued identification cards in a courteous manner to any person upon request and as soon as practicable.
- (b) Officers or other members working specialized assignments may be excused from the possession and display requirements when directed by their Bureau Commanders.

##### **1025.6 BUSINESS CARDS**

The Department will supply business cards to those members whose assignments involve frequent interaction with the public or who may require the use of a business card. The only authorized business cards are those issued or approved by the Department and should contain identifying information including, but not limited to, the member's name, bureau, badge or other identification number and contact information (e.g., telephone number, email address).

Members should provide a business card to any member of the public who requests one.

##### **1025.7 LOST BADGE, PATCH, OR IDENTIFICATION CARD**

Department members shall promptly notify their supervisors whenever their WPD badges, patches, or identification cards are lost, damaged, or are otherwise removed from their control.

##### **1025.8 PATCHES**

The Chief of Police shall determine the form of patches authorized for use by the Department. Any request to modify the authorized patches for specialty divisions (e.g., canine, SWAT) should be submitted to the Chief of Police in writing.

Only patches issued by this department are authorized to be displayed or worn by members while on-duty or otherwise acting in an official or authorized capacity.



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The placement and manner of display of the department-issued patch is addressed in the Uniforms and Civilian Attire Policy.

Members, with the written approval of the Chief of Police, may request additional patches, at their own expense.

## Temporary Modified-Duty Assignments

### 1026.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, Private Police rules or policy. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

### 1026.2 POLICY

Subject to operational considerations, the Wintergreen Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

### 1026.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the Virginians with Disabilities Act shall be treated equally, without regard to any preference for a work-related injury.

No position in the Wintergreen Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle or engaging in outside employment, or may otherwise limit them in employing their law enforcement officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

### 1026.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

Employees seeking a temporary modified-duty assignment should submit a written request to their Bureau Commander or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.

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#### *Temporary Modified-Duty Assignments*

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- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Bureau Commander will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Human Resources Manager or the Executive Director as appropriate.

#### **1026.5 ACCOUNTABILITY**

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with the Bureau Commander.

##### **1026.5.1 EMPLOYEE RESPONSIBILITIES**

The responsibilities of employees assigned to temporary modified duty shall include, but are not limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to their Bureau Commander that contains a status update and anticipated date of return to full duty when a temporary modified-duty assignment extends beyond 60 days.

##### **1026.5.2 SUPERVISOR RESPONSIBILITIES**

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

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

- (a) Periodically apprising the Chief of Police of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Chief of Police and ensuring that the required documentation facilitating a return to full duty is received from the employee.

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#### *Temporary Modified-Duty Assignments*

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- (c) Ensuring that employees returning to full duty have completed any required training and certification.

#### **1026.6 MEDICAL EXAMINATIONS**

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

#### **1026.7 PREGNANCY**

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment.

##### **1026.7.1 NOTIFICATION**

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the Department's personnel rules and regulations regarding family and medical care leave.

#### **1026.8 PROBATIONARY EMPLOYEES**

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

#### **1026.9 MAINTENANCE OF CERTIFICATION AND TRAINING**

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

## Speech, Expression and Social Networking

### 1027.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with the use of social networking sites, and provides guidelines for the regulation and balancing of member speech and expression with the needs of the Wintergreen Police Department.

This policy applies to all forms of communication including, but not limited to, film, video, print media, public or private speech and use of all Internet services, including the Web, email, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file-sharing sites.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws.

Members are encouraged to consult with their supervisors regarding any questions arising from the application or potential application of this policy.

### 1027.2 POLICY

Members of public entities occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of the Wintergreen Police Department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that members of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Department will carefully balance the individual member's rights against the needs and interests of the Department when exercising a reasonable degree of control over its members' speech and expression.

### 1027.3 SAFETY

Members should carefully consider the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of Wintergreen Police Department members, such as posting personal information in a public forum or posting a photograph taken with a GPS-enabled camera, can result in compromising a member's home address or family ties. Members should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any member, a member's family or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow department member.
- Otherwise disclosing where another officer can be located off-duty.

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#### *Speech, Expression and Social Networking*

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#### **1027.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the safety, performance and public-trust needs of the Wintergreen Police Department, the following are prohibited unless the speech is otherwise protected (for example, a member speaking as a private citizen on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Department or its members.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Department and tends to compromise or damage the mission, function, reputation or professionalism of the Department or its members. Examples may include:
  - 1. Statements that indicate disregard for the law or the state or U.S. Constitutions.
  - 2. Expression that demonstrates support for criminal activity.
  - 3. Participation in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the member as a witness. For example, posting to a website statements or expressions that glorifies or endorses dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the members of the Department (e.g., a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape).
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Department.
- (f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment or appointment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.
- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Wintergreen Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.

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Members must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

##### **1027.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS**

While members are not restricted from engaging in the following activities as private citizens, members may not represent the Wintergreen Police Department or identify themselves in any way that could be reasonably perceived as representing the Department in order to do any of the following, unless specifically authorized by the Chief of Police:

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video or public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization, is affiliated with this department, the member shall give a specific disclaiming statement that any such speech or expression is not representative of the Wintergreen Police Department.

Members retain their rights to vote as they choose, to support candidates of their choice and to express their opinions as private citizens on political subjects and candidates at all times while off-duty. However, members may not use their official authority or influence to interfere with or affect the result of elections or nominations for office. Members are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502; Va. Code § 15.2-1512.2).

##### **1027.5 PRIVACY EXPECTATION**

Members forfeit any expectation of privacy with regard to emails, texts or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

##### **1027.6 CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or the authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.

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#### *Speech, Expression and Social Networking*

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- (c) Whether the speech or conduct would reflect unfavorably upon the Department.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

#### **1027.7 TRAINING**

Subject to available resources, the Department should provide training regarding the limitations on speech, expression and use of social networking to all members of the Department.



## Line-of-Duty Deaths

### 1028.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Wintergreen Police Department in the event of the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member's survivors.

The Chief of Police may also apply some or all of this policy in situations where members are injured in the line of duty and the injuries are life-threatening.

#### 1028.1.1 DEFINITIONS

Definitions related to this policy include:

**Line-of-duty death** - The death of a sworn member during the course of performing law enforcement-related functions while on- or off-duty, or a non-sworn member during the course of performing their assigned duties.

**Survivors** - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

### 1028.2 POLICY

It is the policy of the Wintergreen Police Department to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this department to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

### 1028.3 INITIAL ACTIONS BY COMMAND STAFF

- (a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Chief of Police.
  1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Chief of Police section of this policy).
- (b) The Field Operations Bureau Commander should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.
- (c) If the member has been transported to the hospital, the Field Operations Bureau Commander or the authorized designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.

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#### *Line-of-Duty Deaths*

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- (d) The Chief of Police or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve the temporary Hospital Liaison) and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

#### **1028.4 NOTIFYING SUPERVISORS**

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

The Chief of Police or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Chief of Police, Bureau Commander or the authorized designee should select at least two members to conduct notification of survivors, one of which may be the Department Chaplain.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of survivors or language barriers.
- (d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in department vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital and should remain at the hospital while the survivors are present.
- (e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.
- (f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.
- (g) Offer to call other survivors, friends or clergy to support the survivors and to avoid leaving survivors alone after notification.
- (h) Assist the survivors with meeting childcare or other immediate needs.

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#### *Line-of-Duty Deaths*

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- (i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.
- (j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Department Liaison.
- (k) Provide their contact information to the survivors before departing.
- (l) Document the survivor's names and contact information, as well as the time and location of notification. This information should be forwarded to the Department Liaison.
- (m) Inform the Chief of Police or the authorized designee once survivor notifications have been made so that other Wintergreen Police Department members may be apprised that survivor notifications are complete.

#### 1028.4.1 OUT-OF-AREA NOTIFICATIONS

The Department Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

- The Department Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the department member that the survivors can call for more information following the notification by the assisting agency.
- The Department Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the Department to pay travel expenses without the authorization of the Chief of Police.

#### 1028.5 NOTIFYING DEPARTMENT MEMBERS

Supervisors or members designated by the Chief of Police are responsible for notifying department members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shift. Members reporting for duty from their residence should be instructed to contact their supervisor as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.

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##### **1028.6 CHIEF OF POLICE**

In the event of a line-of-duty death, the department's Chief of Police should be the department's contact point for the media. As such, the Chief of Police should coordinate with the Department Liaison to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Ensure that department members are instructed to direct any media inquiries to the Chief of Police.
- (c) Prepare necessary press releases.
  1. Ensure coordination with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
  2. Ensure that important public information is disseminated, such as information on how the public can show support for the department and deceased member's survivors.
- (d) Arrange for community and media briefings by the Chief of Police or the authorized designee as appropriate.
- (e) Respond, or coordinate the response, to media inquiries.
- (f) If requested, assist the member's survivors with media inquiries.
  1. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.
- (g) Release information regarding memorial services and funeral arrangements to department members, other agencies and the media as appropriate.
- (h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

The identity of deceased members should be withheld until the member's survivors have been notified. If the media has obtained identifying information for the deceased member prior to survivor notification, the Chief of Police should request that the media withhold the information from release until proper notification can be made to survivors. The Chief of Police should ensure that media are notified when survivor notifications have been made.

##### **1028.7 INVESTIGATION OF THE INCIDENT**

The Chief of Police shall ensure that line-of-duty deaths are investigated thoroughly and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

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Involved department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

#### **1028.8 NON-LINE-OF-DUTY DEATH**

The Chief of Police may authorize certain support services for the death of a member not occurring in the line of duty.

#### **1028.9 TRAINING**

The Training Supervisor should ensure that members are provided training on line-of-duty death benefits within 30 days of employment and every two years thereafter (Va. Code § 9.1-407).

#### **1028.10 LIAISONS AND COORDINATORS**

The Chief of Police or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including, but not limited to:

- (a) Department Liaison.
- (b) Hospital Liaison.
- (c) Survivor Support Liaison.
- (d) Wellness Support Liaison.
- (e) Funeral Liaison.
- (f) Mutual aid coordinator.
- (g) Benefits Liaison.
- (h) Finance coordinator.

Liaisons and coordinators will be directed by the Department Liaison and should be given sufficient duty time to complete their assignments. Members may be assigned responsibilities of more than one liaison or coordinator position depending on available department resources. The Department Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed.

##### **1028.10.1 DEPARTMENT LIAISON**

The Department Liaison should be a Bureau Commander or of sufficient rank to effectively coordinate department resources, and should serve as a facilitator between the deceased member's survivors and the Department. The Department Liaison reports directly to the Chief of Police. The Department Liaison's responsibilities include, but are not limited to:

- (a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests. Consideration should be given to organizing the effort using the National Incident Management System (NIMS).
- (b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.
- (c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.

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- (d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.
- (e) Coordinating all official law enforcement notifications and arrangements.
- (f) Making necessary contacts for authorization to display flags at half-mast.
- (g) Ensuring that department members are reminded of appropriate information-sharing restrictions regarding the release of information that could undermine future legal proceedings.
- (h) Coordinating security checks of the member's residence as necessary and reasonable.
- (i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

#### 1028.10.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

- (a) Arrange for appropriate and separate waiting areas for:
  - 1. The survivors and others whose presence is requested by the survivors.
  - 2. Department members and friends of the deceased member.
  - 3. Media personnel.
- (b) Ensure, as much as practicable, that any suspects who are in the hospital and their families or friends are not in close proximity to the member's survivors or Wintergreen Police Department members (except for members who may be guarding the suspect).
- (c) Ensure that survivors receive timely updates regarding the member before information is released to others.
- (d) Arrange for survivors to have private time with the member, if requested.
  - 1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
  - 2. The Hospital Liaison should accompany the survivors into the room, if requested.
- (e) Stay with survivors and ensure that they are provided with other assistance as needed at the hospital.
- (f) If applicable, explain to the survivors why an autopsy may be needed.
- (g) Ensure hospital bills are directed to the Department, that the survivors are not asked to sign as guarantor of payment for any hospital treatment and that the member's residence address, insurance information and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include, but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.

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- Documenting his/her actions at the conclusion of his/her duties.

#### 1028.10.3 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Department Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term department contact for survivors. The Survivor Support Liaison should be selected by the deceased member's Bureau Commander. The following should be considered when selecting the Survivor Support Liaison:

- The liaison should be an individual the survivors know and with whom they are comfortable working.
- If the survivors have no preference, the selection may be made from names recommended by the deceased member's supervisor and/or coworkers. The deceased member's partner or close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.
- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include but are not limited to:

- (a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes, and other locations, as appropriate.
- (b) Communicating with the Department Liaison regarding appropriate security measures for the family residence, as needed.
- (c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
- (d) Providing assistance with travel and lodging arrangements for out-of-town survivors.
- (e) Returning the deceased member's personal effects from the Department and the hospital to the survivors. The following should be considered when returning the personal effects:
  1. Items should not be delivered to the survivors until they are ready to receive the items.
  2. Items not retained as evidence should be delivered in a clean, unmarked box.
  3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
  4. The return of some personal effects may be delayed due to ongoing investigations.
- (f) Assisting with the return of department-issued equipment that may be at the deceased member's residence.
  1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.

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- (g) Working with the Wellness Support Liaison to ensure that survivors have access to available counseling services.
- (h) Coordinating with the department's Chief of Police (Chief of Police) to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes (see the Chief of Police section of this policy).
- (i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal, and administrative investigations.
- (j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.
- (k) Introducing survivors to prosecutors, victim's assistance personnel, and other involved personnel as appropriate.
- (l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).
- (m) Inviting survivors to department activities, memorial services, or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Department recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

If needed, the Survivor Support Liaison should be issued a personal communication device (PCD) owned by the Department to facilitate communications necessary to the assignment. The department-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

#### 1028.10.4 WELLNESS SUPPORT LIAISON

The Wellness Support Liaison should work with the department wellness coordinator or the authorized designee and other liaisons and coordinators to make wellness support and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the Wellness Support Liaison include but are not limited to:

- (a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for wellness support and counseling services, including:
  1. Members involved in the incident.
  2. Members who witnessed the incident.
  3. Members who worked closely with the deceased member but were not involved in the incident.



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- (b) Ensuring that members who were involved in or witnessed the incident are relieved of department responsibilities until they can receive wellness support.
- (c) Ensuring that wellness support and counseling resources (e.g., peer support, Critical Incident Stress Debriefing) are available to members as soon as reasonably practicable following the line-of-duty death.
- (d) Coordinating with the Survivor Support Liaison to ensure survivors are aware of available wellness support and counseling services and assisting with arrangements as needed.
- (e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional wellness support or counseling services are needed.

#### 1028.10.5 FUNERAL HOME LIAISON

The Funeral Liaison should work with the Department Liaison, Survivor Support Liaison and survivors to coordinate funeral arrangements to the extent the survivors wish. The Funeral Liaison's responsibilities include, but are not limited to:

- (a) Assisting survivors in working with the funeral director regarding funeral arrangements and briefing them on law enforcement funeral procedures.
- (b) Completing funeral notification to other law enforcement agencies.
- (c) Coordinating the funeral activities of the Department, including, but not limited to the following:
  - 1. Honor Guard
    - (a) Casket watch
    - (b) Color guard
    - (c) Pallbearers
    - (d) Bell/rifle salute
  - 2. Bagpipers/bugler
  - 3. Uniform for burial
  - 4. Flag presentation
  - 5. Last radio call
- (d) Briefing the Chief of Police and command staff concerning funeral arrangements.
- (e) Assigning an officer to remain at the family home during the viewing and funeral.
- (f) Arranging for transportation of the survivors to and from the funeral home and interment site using department vehicles and drivers.

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##### 1028.10.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the Department Liaison and the Funeral Liaison to request and coordinate any assistance from outside law enforcement agencies needed for, but not limited to:

- (a) Traffic control during the deceased member's funeral.
- (b) Area coverage so that as many Wintergreen Police Department members can attend funeral services as possible.

The mutual aid coordinator should perform his/her duties in accordance with the Outside Agency Assistance Policy.

##### 1028.10.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and will assist them in applying for benefits. Responsibilities of the Benefits Liaison include, but are not limited to:

- (a) Confirming the filing of workers' compensation claims and related paperwork (see the Work-Related Disease, Injury and Death Reporting Policy).
- (b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the:
  - 1. Public Safety Officers' Educational Assistance (PSOEA) Program.
  - 2. Social Security Administration.
  - 3. Department of Veterans Affairs.
- (c) Researching and assisting survivors with application for state and local government survivor benefits.
  - 1. Surviving spouse and children benefit (Va. Code § 51.1-815).
  - 2. Virginia Line of Duty Act (Va. Code § 9.1-400 et seq.). Information about the benefits available under this Act should be provided to the survivors within 10 days.
- (d) Researching and assisting survivors with application for other survivor benefits such as:
  - 1. Private foundation survivor benefits programs.
  - 2. Survivor scholarship programs.
- (e) Researching and informing survivors of support programs sponsored by police associations and other organizations.
- (f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.
  - 1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.

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- (g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.
- (h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

#### 1028.10.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief of Police and the Department Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

- (a) Establishing methods for purchasing and monitoring costs related to the incident.
- (b) Providing information on finance-related issues, such as:
  - 1. Paying survivors' travel costs if authorized.
  - 2. Transportation costs for the deceased.
  - 3. Funeral and memorial costs.
  - 4. Related funding or accounting questions and issues.
- (c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.
- (d) Providing accounting and cost information as needed.

## Attachments



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