

**BALSAM LAKE PROTECTION
AND REHABILITATION
DISTRICT
WATER SAFETY PATROL**

**POLICY &
PROCEDURES
MANUAL**



Introduction

The Balsam Lake Water Safety Patrol Policies and Procedures Manual is issued to the Balsam Lake Protection and Rehabilitation District Water Safety Patrol Officers at the time of employment to provide a source of guidance. This manual is designed to be an operational guide for Department personnel, serving as a source of guidance in providing fair and impartial law enforcement services to all citizens served by our Department. The policies as set forth herein are intended as guidelines for the members of the Department to assist them in fulfilling the objectives of the Balsam Lake Water Safety Patrol in an efficient and professional manner. The words and meanings in this manual are to be seen as general orders, binding on all members, except where unforeseen circumstances necessarily indicate that deviation by a member acting in good faith will be in the best interest of the Department, the Rehabilitation District and the citizens being served.

Policies and procedures are a continuous process, in which all materials are subject to review and revision. As new materials are developed or revised, they will be issued to all members for inclusion in their assigned manual. The contents of this manual are not intended to suppress ideas or initiative. Officers are not only encouraged, they are instructed, to notify me when a policy or procedure no longer fits with safe exercise of their duties, the citizens best interests, the Villages best interests, or the employees best interests.

When the Officer receives this manual it becomes part of their official property. It is to be returned by any officer separating their employment, regardless of the reason for separation. Each Officer has a duty to keep their manual up to date so that it may be utilized on a daily basis. Each Officer is responsible for the safekeeping and condition of their manual until it is returned to the Balsam Lake Water Safety Patrol.

The policies in this manual are for the use and guidance of the employees of the Balsam Lake Water Safety Patrol and are not statements that can supersede the laws of the State of Wisconsin. Officers are expected to use their best judgment in handling any situation. When the Officers judgment causes them to act outside of any of these directives, the Officer may have to explain and/or defend the Officer's actions. If an Officer acts outside of these policies and procedures, they may be subject to administrative sanctions or other disciplinary actions within the Water Safety Patrol. If an Officer is in doubt in any situation, acting consistently with these policies and procedures will be best. Officers should also realize that this manual is an important source of material for promotional interviews. Violation of these rules, policies and procedures may constitute grounds for disciplinary action.

A handwritten signature in black ink, consisting of a stylized, cursive name followed by a long horizontal line extending to the right.

LAW ENFORCEMENT CODE OF ETHICS

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve mankind; 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 people to liberty, equality, and justice.

I WILL keep my private life unsullied as an example to all; maintain courteous calm in the face of danger, scorn, or ridicule; develop self-restraint, and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my Department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I WILL never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. 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 the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession..... law enforcement.

WATER SAFETY PATROL

PURPOSE AND SCOPE

This order establishes a procedure relative to the use of the Balsam Lake Water Safety Patrol Boat as a patrol vehicle and the personnel, equipment and responsibilities as directed. The Balsam Lake Water Safety Patrol is authorized to enforce Wisconsin State Statutes 30.50 to 30.80, which all relate to boating violations. The Balsam Lake Water Safety Patrol does not respond to other issues except by a mutual aid request.

DEFINITIONS AND AUTHORITY

Deputy Conservation Wardens - WI SS. 29.941: All law enforcement officers are deputy conservation wardens and shall assist the department and its wardens in the enforcement of this chapter whenever notice of a violation is given to them by the department or its wardens.

Enforcement Powers - 30.79 (3): Officers patrolling the waters as part of a water safety patrol unit may stop and board any boat for the purpose of enforcing ss. 30.50 to 30.80 or any rules promulgated or ordinances enacted under ss. 30.50 to 30.80 and for conducting search and rescue operations, if the officers have reasonable cause to believe there is a violation of the sections, rules or ordinances or the stopping and boarding of any boat is essential to conduct a search and rescue operation.

Jurisdiction - 30.80 (4): Officers patrolling the waters as part of the water safety patrol unit shall have the powers of sheriff in enforcing ss. 30.50 to 30.80, or rules promulgated, or ordinances enacted under ss. 30.50 to 30.80 and in conducting search and rescue operations, on any of the waters so defined, whether or not the waters are within the jurisdiction of the local governmental unit for other purposes.

AUTHORIZATION

Use of the Patrol Boat is limited to the confines of Balsam Lake. Requests for using the boat outside of the confines of Balsam Lake shall require the prior approval of the Chief. This section does not preclude officers from assisting with immediate requests for mutual aid from other agencies.

The Chief shall oversee the Water Patrol.

The Chief shall ensure that the boat, and boat lift is maintained

The duties of the Chief will include, but not limited to:

1. Oversight and supervision of all boating operations for the Department.
2. Ensuring that all boat operators meet all proper training requirements.
3. Making recommendations for equipment procurement and supplies.
4. Complete monthly and annual reporting requirements for the WI DNR, and as directed.
5. Ensure all DNR annual and monthly reporting requirements are completed.
6. Work to ensure adequate boat patrol coverage.
7. Attend DNR meetings, as necessary.

AUTHORIZED PERSONNEL AND TRAINING

Boat Operators – Personnel authorized to operate the Department’s Patrol Boat will be trained and designated as a “Boat Operator”. Boat Operators will receive at a minimum the following training:

1. Wisconsin Boating Laws Training.
2. Minimum Two (2) hours of Department Boat Field Training/Orientation.
3. Additional specialized training as determined by the Department.
4. 24 hours of DOJ In-Service training to maintain Law Enforcement license (if a primary officer for Balsam Lake Water Safety Patrol).

EQUIPMENT

The Department boat shall be equipped with the appropriate emergency equipment including siren, emergency lighting, basic first aid supplies, fire extinguisher and all required boating safety equipment for legal operation.

1. The boat shall be equipped with Coast Guard approved type II/III personal flotation devices for the maximum allowed person capacity.
2. Personal flotation devices shall be worn, unless given authorization from the Chief.
3. Boats shall be equipped with the appropriate running lights.

MAINTENANCE AND INSPECTIONS

All Boat Operators shall inspect the boat and lift prior to the start and end of their tour of duty.

Inspections shall include:

1. Emergency lights and siren.
2. Radio(s).
3. Assigned Weapons.
4. Oil and gas levels.
5. Drain plug.
6. Flotation devices.
7. Anchors and line.
8. Motor and Propeller.
9. Running Lights.

Mechanical problems, damage or defects shall be reported to the Chief according to standard operating procedure. If a mechanical problem arises that would compromise operator safety, the boat shall not be placed in service. If the patrol boat is damaged during operation, immediately notify Polk County Dispatch, the Chief and complete a department memorandum detailing the incident.

OPERATION

Any use of the boat requires the prior approval of the Chief or other proper supervisory authority. Boat Operators shall always operate the boat with due regard for the safety of the community and the operator/passengers. The lake system contains many underwater hazards and can change. Familiarity is necessary for safe operation. When entering unknown and non-charted/marked waters precautions should be taken for the safety of the operators and department equipment.

1. Boat Operators shall be visible and prompt to respond to observed boating violations and complaints.
2. Boat Operators shall monitor the Polk County Sheriff Main Astro Channel.
3. Boat Operators shall activate all emergency equipment as appropriate.
4. Boat Operators shall comply with all regulations as prescribed in Wisconsin Statute Chapter 30 relative to boat operations.
5. Use of the boat is contingent upon prevailing weather conditions.
6. Uniforms for boat patrol assignment shall be consistent with Chiefs orders. Officers may also be assigned as "plain clothes" or "undercover" but will maintain professional appearance.

7. If a custodial arrest is made on the water, officers shall ensure that the prisoner is transported wearing a personal flotation device. Officers shall also ensure that the prisoner is appropriately restrained.
8. Standard communications procedure shall apply to all boat operations including reporting in and out of service and the reporting of all enforcement contacts.
9. Assigned Patrol Officers will complete the required Daily Logs.

PERSONAL FLOATATION DEVICES (PFD's)

The Balsam Lake Water Safety Patrol's general requirement is that PFD's be worn at all times while on duty on the water, unless given other permission from the Chief.

PFD's shall be zipped up and any safety straps are fastened.

PFD's are REQUIRED to be worn in the following circumstances (unless otherwise directed by the Chief):

1. When operating in or on any Police Boat on the water.
2. When working on a moored/anchored boat.
3. When possible, on any emergency run in a watercraft.
4. While engaged in rescue and / or line tending operations.
5. By any prisoner who is being transported in a Police Patrol Boat.
6. PFDs are recommended to be worn in the following circumstances:
 7. When working near the water from shore or a pier.
 8. When working on boats secured to piers.
 9. When working in an undercover/plainclothes capacity.
 10. When a PFD is not required to be worn, it shall be kept on the boat and will be readily accessible.

Care and Maintenance:

When not in use, PFD's shall be properly stored properly in the patrol boat.

1. If wet, a PFD shall be hung to dry.
2. Any defects in zippers or straps, or any tears or damage to a PFD will be reported to the Chief and the PFD will be taken out of service.
3. If dirty, PFD's should only be hand washed with a mild soap and then hung to dry.
4. If deployed, the CO2 fired PFD will be taken out of service and turned over to the Chief to be re-armed. CO2 fired PFD's, once fired, do not count as legal PFD's until such time as they can be inspected and re-armed.

ENFORCEMENT

Boat Operators will be responsible for public safety on the waterways and the enforcement of state and local boating laws and any local ordinances. Officers should be familiar with WI State Statute Chapter 30, which covers all boating laws, as well as Balsam Lake Protection and Rehabilitation District Ordinances specific to boating and public waters.

Stopping a boat – Boat Operators should ensure that care is taken when stopping a suspected boat violation. Regard should be taken for both boats. The Boat Operator should ensure that protective fenders (bumper) are deployed upon approach and should request that the boat being stopped to cease operation and allow the patrol boat to make the approach/contact to avoid unwanted contact between the vessels.

Primary levels of enforcement shall include:

1. Operating a boat while intoxicated.
2. Negligent and unsafe boat operations.
3. Alcohol and drug violations.
4. Personal Floatation Device (PFD) Violations.
5. No-Wake Violations.
6. Improper lighting equipment.
7. Registration issues.
8. Operation without Boaters Safety Certification

Deputy Conservation Warden Authority – In accordance with Chapter 29 of the Wisconsin State Statute, law enforcement officers hold the power of Deputy Conservation Wardens. Officers will assist WI DNR Conservation Wardens when available and upon their request.

Boating Crashes - Officers responding to serious boating crashes involving death, injuries, or commercial vessels will request the assistance and expertise of the WI DNR for guidance and instruction.

Operating while intoxicated processing:

Subjects suspected of operating a boat while intoxicated will be processed in accordance with the officer's training and experience.

For suspected OWI boating violations, legal blood will be the Department's primary test, unless the officer is certified to use the Intoxilyzer, then the Intoxilyzer at the Polk County Jail may be used.

1. The arresting officer must turn over the suspect to another officer for transportation to a medical facility for the blood draw and release to a responsible party. The arresting officer will be responsible for reporting, citations, and other paperwork.
2. If two officers are in the patrol boat, one officer may process the suspect intoxicated operator, while the other officer resumes boat patrol duties.

TRANSPORTING PERSONS

Citizens who are being transported on a Patrol Boat shall be required to wear a PFD. They shall also remain seated while underway.

Prisoners being transported onboard shall be required to wear a PFD and will remain seated.

Prisoners shall be searched for weapons and contraband and handcuffed in front for their safety while onboard the boat.

DNR GRANT REPORTING REQUIREMENTS

An INTENT TO PATROL Form (DNR form 8700-059) must be filed with the DNR for boating aid on or before March 1 of each patrol year. The Chief will ensure this is completed.

An ENFORCEMENT PATROL DAILY LOG (DNR form 8700-089) is completed for each day of boat patrol and/or boat training. The Enforcement Patrol Daily Logs are submitted to the Chief after each event. The Chief will review for activity and accuracy.

An ENFORCEMENT PATROL MONTHLY REPORT (DNR form 8700-090) is prepared and filed with the DNR on or before the 10th day of the following month by the Chief using the information from the daily log reports.

Claim forms for boating aid must be filed by January 31 of the year following the claim period. The Chief will complete the forms.

UNUSUAL OCCURRENCES

Towing of Boats

The Water Safety Patrol may be requested/required to tow disabled/prisoner boats to safety. Towing time is not reimbursable time under the DNR Grant. A tow should only be made from the water to shore, not from a secure point on shore to another point on shore. It is often better to tow a disabled boat to a public boat landing and arrange for transportation for the operator to be taken to their car and trailer, than to take the Patrol Boat out of service for a lengthy tow. All boat tows will be included on the Enforcement Patrol Daily Log Form 8700-089, but not included in patrol time.

All tows should be done via the 3-point system. One end of the line to a rear cleat on the Water Patrol Boat, the line threaded through the bow eye of the towed boat and connected to the other rear cleat of the Water Patrol Boat. This system places minimal strain on the Patrol Boat cleats, as well as allows the towed boat to track behind the Water Patrol Boat.

Prisoners should be asked to identify any valuables they wish to secure before leaving the prisoners boat in a secure location.

FUELING THE PATROL BOAT

The Water Safety Patrol has an account for fueling on the water at Sunnyside Marina and should be utilized.

1-200 THE USE OF DEADLY FORCE and ACT 75

Recognizing our legal and moral obligation to use force wisely and judiciously, it is the policy of the Balsam Lake Water Safety Patrol that deadly force will never be resorted to unless an officer reasonably believes that a lesser degree of force would be insufficient to defend the life of another, oneself, or in limited situations, to apprehend a dangerous felon, or control an animal.

DEFINITIONS

DEADLY FORCE

As used in this policy, deadly force refers to, *“the intentional use of a firearm or other instrument, the use of which would result in a high probability of death”*.

The definition of subject behavior that justifies an officer’s use of deadly force is any behavior: *“which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.”*

Note that this definition is not quite the same as the definition of deadly force: it includes behavior likely to cause great bodily harm as well as death. As you have learned, an officer may respond to a given level of force with a higher one, in order to control the situation.

Wisconsin law defines *“great bodily harm”* as *“bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.”* (§939.22(14) Wis. Stats.)

LAW ENFORCEMENT OFFICER

The term “law enforcement officer” is defined by incorporating the definition in Wis. Stat. § 165.85(2)(c): “Law enforcement officer” means any person employed by the state or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances that the person is employed to enforce. “Law enforcement officer” includes a university police officer, as defined in s. 175.42(1)(b).

PRIVILEGE

The Balsam Lake Water Safety Patrol recognizes Wisconsin State Statute 939.45 as the definition of privilege. The concept of privilege is very important. What it means is that as a law enforcement officer, if you are acting in good faith and seeking to achieve legitimate law enforcement objectives (including making arrests), you can legally use force that could otherwise be considered a criminal act. Naturally, if you use force for some unauthorized purpose—such as to retaliate against someone—your use of force is not privileged, and you may be subject to criminal charges. (Source: State of Wisconsin DAAT Manual)

While Wisconsin law (§939.45 Wis. Stats.) affords officers the protection of privilege “when the actor’s conduct is a reasonable accomplishment of a lawful arrest,” the conduct must be reasonable—using deadly force in the absence of significant threat would not be reasonable. Further, Wisconsin law specifically limits the use of deadly force in self-defense (§939.48 Wis. Stats.) as follows:

“The actor may not intentionally use force which is intended or likely to cause death or great bodily harm unless the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself.” (§939.48(1) Wis. Stats.)

The same limitation is extended to use of force to defend a third person, in §939.48(4) Wis. Stats.

The statutes specifically prohibit use of deadly force to prevent suicide (§939.48(5) Wis. Stats.) and solely to protect property (§939.49(1) Wis. Stats.).

Sanctity of human life

Act 75 creates Wis. Stat. § 175.44(2)(a), which reads:

The sanctity of human life. In serving the community, law enforcement officers shall make every effort to preserve and protect human life and the safety of all persons. Law enforcement officers shall also respect and uphold the dignity of all persons at all times in a nondiscriminatory manner.

Standards for use of force by law enforcement officers

Act 75 creates Wis. Stat. § 175.44(2)(b), which reads:

Use of force. When using force, a law enforcement officer is required to act in good faith to achieve a legitimate law enforcement objective. A law enforcement officer is authorized to use force that is objectively reasonable based on the totality of the circumstances, including:

1. The severity of the alleged crime at issue.
2. Whether the suspect poses an imminent threat to the safety of law enforcement officers or others.
3. Whether the suspect is actively resisting or attempting to evade arrest by flight.

Standards for use of deadly force by law enforcement officers

Act 75 creates Wis. Stat. § 175.44(2)(c), which reads:

Deadly force. A law enforcement officer may use deadly force only as a last resort when the law enforcement officer reasonably believes that all other options have been exhausted or would be ineffective. A law enforcement officer may use deadly force only to stop behavior that has caused or imminently threatens to cause death or great bodily harm to the law enforcement officer or another person. If both practicable and feasible, a law enforcement officer shall give a verbal warning before using deadly force.

Duty To Report Noncompliant Use of Force

Act 75 creates Wis. Stat. § 175.44(3), which reads:

DUTY TO REPORT NONCOMPLIANT USE OF FORCE. (a) A law enforcement officer who, in the course of his or her law enforcement duties, witnesses another law enforcement officer use force that does not comply with the standards under sub. (2) (b) or (c) in the course of that law enforcement officer's official duties shall report the noncompliant use of force as soon as is practicable after the occurrence of the use of such force.

(b) A person who intentionally fails to report a noncompliant use of force as required under par. (a) may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

When a Balsam Lake Water Safety Patrol Officer observes a violation, the officer shall notify a Polk County Sheriff's Department Supervisor (unless that supervisor is the alleged violator) or shall as soon as possible notify the Polk County Dispatch Center of the violation.

The Balsam Lake Water Safety Patrol Officer shall write a report whenever they are involved in an incident where use of force is used by any officer on scene. If a violation is observed, that violation shall be described in the officers written report. The report will accurately describe the facts of the incident. The officer will fully and accurately describe the actions of all observations. The officer does not have to make subjective conclusions in the report, they must fully and accurately describe what was observed. Reports are to be completed before the end of the shift, unless specific permission is granted by the Balsam Lake Water Safety Patrol Chief. Any notifications of suspected violations shall be made prior to the end of the officers shift.

Duty To Intervene

Act 75 creates Wis. Stat. § 175.44(4), which reads:

DUTY TO INTERVENE. (a) A law enforcement officer shall, without regard for chain of command, intervene to prevent or stop another law enforcement officer from using force that does not comply with the standards under sub. (2) (b) or (c) in the course of that law enforcement officer's official duties if all of the following apply:

1. The law enforcement officer observes the use of force that does not comply with the standards under sub. (2) (b) or (c).
2. The circumstances are such that it is safe for the law enforcement officer to intervene.

(b) A law enforcement officer who intervenes as required under par. (a) shall report the intervention to his or her immediate supervisor as soon as is practicable after the occurrence of the use of such force.

(c) A person who intentionally fails to intervene as required under par. (a) or intentionally fails to report an intervention as required under par. (b) may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

A law enforcement officer's duty to intervene is not a new concept. "The responsibility to intervene applies equally to supervisory and nonsupervisory officers." *Yang v. Hardin*, 37 F.3d 282, 285 (7th Cir. 1994).

An officer who is present and fails to intervene to prevent other law enforcement officers from infringing the constitutional rights of citizens is liable under § 1983 if that officer had reason to know: (1) that excessive force was being used, (2) that a citizen has been unjustifiably arrested, or (3) that any constitutional violation has been committed by a law enforcement official; and the officer had a realistic opportunity to intervene to prevent the harm from occurring. This Court has implied that a "realistic opportunity to intervene" may exist whenever an officer could have called for a backup, called for help, or at least cautioned [the excessive force defendant] to stop.

1. Act 75 applies the duty to intervene to "law enforcement officers." Notably, it does not limit the duty to on-duty officers; it applies to officers regardless of duty status or location.
2. However, Act 75 imposes the duty "only if the circumstances are such that it is safe for the law enforcement officer to intervene." Some factors for the officer to consider if it is safe:
 - a. If out of your jurisdiction and/or not in uniform, and/or without proper law enforcement identification, where other officers may not know you, make notifications as quickly as possible through 911, identifying yourself and what you are observing.
 - b. If your intervention could escalate the situation, do not physically intervene but make contact as quickly as possible through 911, identifying yourself and what you are observing.

Whistleblower Protections

Act 75 creates Wis. Stat. § 175.44(4), which reads:

WHISTLEBLOWER PROTECTIONS. No law enforcement officer may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer reported, or is believed to have reported, any noncompliant use of force as required under sub. (3) or (4); intervened to prevent or stop a noncompliant use of force as required under sub. (4); initiated, participated in, or testified in, or is believed to have initiated, participated in, or testified in, any action or proceeding regarding a noncompliant use of force; or provided any information, or is believed to have provided any information, about noncompliant use of force as required under sub. (3) or (4).

DEADLY FORCE AUTHORIZED

The use of deadly force is only authorized when, under any of the following circumstances, an officer reasonably believes a lesser degree of force would be insufficient:

1. In the defense of another person who the officer has reasonable cause to believe is in imminent danger of death or great bodily harm;
2. In defense of one's self, when there is reasonable cause to believe one is in imminent danger of death or great bodily harm;
3. to effect the arrest or prevent the escape of a suspect who the officer has reasonable cause to believe has committed, or attempted to commit, a felony involving the use or threatened use of deadly force, when a high probability exists that the suspect, if not immediately apprehended, may cause death or great bodily harm;
4. to protect one's self or another from an animal which an officer reasonably believes may cause great bodily harm if not immediately controlled, or to end the suffering of an animal gravely injured or diseased after considering public view, safety, and other reasonable dispositions.

IMMINENT THREAT

An officer intending to use deadly force must reasonably believe all of the following criteria of "imminent threat" is present

- INTENT: The displayed or indicated intent to cause great bodily harm or death to you or another person, and;
- WEAPON: A weapon capable of inflicting great bodily harm or death (conventional or unconventional weapon), and;
- DELIVERY SYSTEM: The delivery system for utilization of that weapon. The subject must have a means of using the weapon to inflict harm.

DEADLY FORCE IS NOT AUTHORIZED FOR:

1. Warning shots will not be fired.
2. From a moving vehicle, unless an officer has reasonable cause to believe that one's self or another is in imminent danger of death or great bodily harm.
3. At a moving vehicle unless an officer has reasonable cause to believe that one's self or another is in imminent danger of death or great bodily harm; or Deadly Force Authorized, paragraph 3, regarding certain felons applies.
4. Officers shall not use deadly force when its use unreasonably risks the lives of innocent bystanders.

USE OF FORCE TECHNIQUES/INSTRUMENTS

1. The intentional punching, striking, or grabbing the throat (trachea) or blocking or restricting the carotid neck arteries creates a substantial likelihood of death or great bodily harm and is therefore considered deadly force and shall be used only in accordance with this policy.
2. Members of the department are permitted to carry folding knives with a blade no longer than 4 inches for utility purposes while on duty.

TARGET REQUIREMENTS

When an officer has determined that deadly force is necessary and all other reasonable alternatives having been precluded, the officer must fulfill certain "target requirements." These include the following:

- **TARGET ACQUISITION:** Does the officer have a target?
- **TARGET IDENTIFICATION:** Even if the target has been "acquired," the officer cannot shoot until the target has been identified as an individual placing the officer and/or others in "imminent danger", and;
- **TARGET ISOLATION:** The officer must make every reasonable effort to isolate the target from other innocent persons. An exception to the target isolation requirement arises when withholding the application of deadly force results in a greater danger than the use of deadly force itself.

VERBAL WARNING

Before using deadly force, officers shall, if reasonably possible, identify themselves, order the suspect to desist from unlawful activity, and threaten to use deadly force if the lawful order is not obeyed.

INVESTIGATION OF THE USE OF DEADLY FORCE

2013 Wisconsin Act 348 became effective on April 25, 2014, setting forth new requirements for law enforcement agencies if one of its officers is involved in an officer-involved death.

I. OFFICER-INVOLVED DEATH DEFINED:

An officer-involved death is defined by law as a death of an individual that results directly from an action or an omission of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off duty but performing activities that are within the scope of his or her law enforcement duties. See Wis. Stat. § 175.47(1)(c).

II. IF A BALSAM LAKE WATER SAFETY PATROL OFFICER IS INVOLVED IN AN OFFICER-INVOLVED DEATH:

It is the policy of the Balsam Lake Water Safety Patrol that at least two investigators, who are not employed by the Balsam Lake Water Safety Patrol, will conduct the officer-involved death investigation. See Wis. Stats. § 175.47(2) and Wis. Stat. § 175.47(3)(a) and (b).

III. THE OBLIGATION OF INVESTIGATORS THAT INVESTIGATE AN OFFICER-INVOLVED DEATH:

The investigators from the outside agency/agencies must provide a complete report in an expeditious manner to the district attorney of the county in which the officer-involved death occurred. See Wis. Stat. § 175.47(5)(a).

IV. INTERNAL INVESTIGATION OF AN OFFICER-INVOLVED DEATH:

The Balsam Lake Water Safety Patrol will conduct an internal investigation of any officer-involved death, but this does not replace the external investigation and it must not interfere with the required outside investigation, described above. See Wis. Stat. § 175.47(3)(c).

V. INFORMATION AVAILABLE TO THE PUBLIC:

1. There are many factors which could affect the type of information that can be shared, at what stage in the investigation it can be shared, and with whom it can be shared. For example, if there was some type of incident or crime that led to the officer-involved death, those circumstances must be investigated. It may not be clear in the beginning stages of these investigations if a crime was committed and if so, by whom; or, if there are any victims who are entitled to special rights and services by statute.
2. The agency that has custody of a record has a responsibility to determine, according to Wisconsin's public records law, whether a record is released entirely, released with redaction, or withheld. The release of information will be determined on a case-by-case basis.
3. If the district attorney determines there is no basis to charge the officer(s) with a crime after receiving the investigators' report of the officer-involved death, the investigators shall release the investigative report. See Wis. Stat. § 175.47(5)(b).
 - The lead investigator with the responsibility to release the investigative report should do so through his or her agency's public information office/ record's custodian to ensure compliance with Wisconsin's public records law.
 - The agency with custody of the report will determine what information is released, released with redaction, or withheld. This determination is made using the 'balancing test' which is a fact-intensive analysis that must be performed on a case-by-case basis.
 - The records custodian must consider all relevant factors to determine whether permitting access to the record, or portions of the record, would result in harm to the public interest that outweighs the strong public interest in allowing access. See Wis. Stat. § 19.35(1)(a).

VI. THE ROLE OF THE DISTRICT ATTORNEY:

1. The investigators investigating the officer-involved death shall present their report to the district attorney of the county in which the death occurred. The district attorney must determine whether

the officer(s) involved in the death acted legally. If the district attorney determines there is no basis to charge the officer(s) with a crime, the investigators shall release the investigative report.

See Wis. Stat. § 175.47(5)(b).

2. If the district attorney determines the officer(s) involved in the death did not act legally, the case will proceed through the criminal justice process when the district attorney files charges against the officer(s).

VII. POSSIBLE OPTIONS IF A DISTRICT ATTORNEY DECLINES TO ISSUE CRIMINAL CHARGES:

In Wisconsin, the district attorney of the county in which the crime is alleged to have occurred is primarily responsible for the decision of whether to charge someone with a crime. There are many factors that go into that decision and they are generally given great latitude. Generally these decisions are not subject to review by any other agency or authority. There are, however, some limited exceptions to that process under Wisconsin law. In addition to the written notice of their rights as crime victims, as required under Wis. Stat. § 950.08 (2g), victims of an officer-involved death must be provided with information about such exceptions pursuant to Wis. Stat. § 950.08 (2g)(h). Providing the following information satisfies that duty.

1. Complaint Filed by a Circuit Judge Under Wis. Stat. § 968.02

If a district attorney refuses or is unavailable to issue a complaint, a circuit judge may permit the filing of a complaint, if after holding a hearing; he or she finds there is probable cause to believe that the person to be charged has committed an offense.

If the district attorney has refused to issue a complaint, he or she shall be informed of the hearing and may attend.

See Wis. Stat. § 968.02(3).

Although a judge may issue a criminal complaint a special prosecutor would need to be appointed to actually prosecute the case. The special prosecutor is not bound by the decision of the judge and may decline to prosecute the matter.

2. Complaint Filed Under a John Doe Proceeding Wis. Stat. § 968.26(2)

If a person who is not a district attorney complains to a judge that he or she has reason to believe that a crime has been committed within the judge's jurisdiction, the judge shall

Refer the complaint to the district attorney or, if the complaint may relate to the conduct of the district attorney, to another prosecutor. See Wis. Stat. § 968.26(2)(am).

The district attorney to whom the judge refers the complaint is required to issue charges or refuse to issue charges within 90 days of receiving the referral. If the district attorney

refuses to issue charges, he or she must give the judge all law enforcement investigative reports on the matter in the district attorney's custody, his or her records and case files on the matter, and a written explanation why he or she refused to issue charges.

See Wis. Stat. § 968.26(2)(b).

The judge may require that a law enforcement agency provide him or her any investigative reports that the law enforcement agency has on the matter. The judge may consider the law enforcement investigative reports, the records and case files of the district attorney, and any other written records that the judge finds relevant when determining if a proceeding is necessary to determine if a crime has been committed.

See Wis. Stat. § 968.26(2)(b).

In a proceeding convened by the judge to determine if a crime has been committed, he or she shall subpoena and examine under oath the complainant and any witnesses that the judge determines to be necessary and appropriate to ascertain whether a crime has been committed and by whom committed.

See Wis. Stat. § 968.26(2)(c).

The judge may issue a criminal complaint if the judge finds sufficient credible evidence to warrant a prosecution of the complaint.

See Wis. Stat. § 968.26(2)(d).

Although a judge may issue a criminal complaint a special prosecutor would need to be appointed to actually prosecute the case. The special prosecutor is not bound by the decision of the judge and may decline to prosecute the matter.

3. Complaint Filed Under Wis. Stat. § 979.05 – Inquest

An inquest is conducted to inquire and determine when and in what manner and means a person died.

An inquest is conducted by a circuit judge or a circuit court commissioner before a jury, unless the district attorney, coroner, or medical examiner requests that the inquest be conducted before the judge or circuit court commissioner only.

See Wis. Stat. §979.05(1) and (2).

The judge or circuit court commissioner conducting the inquest may order those proceedings be secret if the district attorney so requests or concurs.

See Wis. Stat. §979.05(6).

The inquest jury's verdict shall be in a form to permit the following findings:

- a) Whether the deceased came to his or her death by criminal means and, if so, the specific crimes committed and the name of the person or persons, if known, having committed the crimes.
- b) Whether the deceased came to his or her death by natural causes, accident, suicide or an act privileged by law.

See Wis. Stat. §979.08(3)(a) and (b).

An inquest verdict, with the record of the inquest, is sent to the district attorney after being signed by the judge or circuit court commissioner.

See Wis. Stat. §979.08(6).

The verdict delivered by the inquest jury is advisory and does not preclude or require the issuance of any criminal charges by the district attorney.

See Wis. Stat. §979.08(5).

IN-CUSTODY DEATH INVESTIGATIONS

Facts that are germane to investigations of in-custody deaths include, but are not limited to, the following:

1. Information noted by the dispatcher from background noises during the call, as well as information provided by the reporting party that may be related to the subject's behavior, use of drugs or alcohol, previous law enforcement encounters, presence of weapons, and mental health concerns.
2. Officer observations of the subject's behavior in the course of making the arrest, for example, was the person
 - a. calm or emotionally charged,
 - b. rational or confused,
 - c. able to communicate or difficult to engage in conversation,
 - d. experiencing hallucinations or delusions,
 - e. perspiring heavily,
 - f. wearing inappropriate clothing or in a state of undress,
 - g. exhibiting a high tolerance for pain, or
 - h. engaging in a protracted physical encounter with officers?
3. Whether family or friends indicate that the subject had been drinking heavily, using drugs, or both; whether the subject had been involved with the police on prior occasions; any other relevant

- information provided; and whether the subject was threatening anyone or in possession of a weapon.
4. Whether the subject was visibly injured in any way when the police arrived and what, if any injuries were sustained prior to death.
 5. What measures the officer(s) took to gain control and custody, such as;
 - a. attempting to calmly “talk the person down,”
 - b. maintaining distance,
 - c. reducing noise by turning off sirens,
 - d. reassuring the subject,
 - e. buying time,
 - f. asking simple questions to determine the subject’s level of coherence,
 - g. attempting to deescalate the situation or other actions, and
 - h. directing others at the scene to move away?
 6. Whether custody was required.
 7. The length of time it took to gain control of the subject. Whether there was a protracted struggle or the subject was subdued quickly.
 8. The means used to restrain the subject.
 9. When in custody, where and how the individual was situated (e.g., placed facedown on the ground, in a seated position, in a police vehicle sitting or lying down).
 10. The physical reactions of the subject once arrested. For example, did he or she become calm or continue to struggle and act physically and verbally combative?
 11. Whether EMS was called and, if so, at what point during the confrontation.
 12. Whether the subject’s condition (such as breathing and consciousness) was monitored after arrest. Whether the subject became unresponsive, who was present at the time, and what steps were taken by the officer(s).
 13. When death was pronounced and by whom and the results of the autopsy.
 14. The information provided in the subject’s medical history and lifestyle.
 15. If the subject did not die but was seriously injured or admitted to a medical facility, discover the answers to these questions:

- a. What were the nature and severity of the injuries?
- b. Were the injuries consistent with the use of force described by the officer(s)?

SERIOUS INJURY

Where serious injury is reported, investigators shall gather relevant information and take actions deemed appropriate from the foregoing section of this policy in addition to collecting information on the following:

1. Conduct and behavior of the subject being confronted as perceived by the officer at the time of the incident
2. The relative age, size, strength, and physical ability of the officer to the subject
3. Experience of the officer
4. The number of officers present
5. Potential influence of alcohol or drugs
6. Subject's proximity to weapons
7. Weapons used or threatened to be used by the subject
8. Force options available to the officer
9. Seriousness of the offense, basis for subject contact, and information known about the subject by the officer
10. Potential for injury to the public, officer, or subject
11. Risk of escape
12. Degree of subject resistance
13. Use of restraints
14. Other exigent circumstances

INVESTIGATIVE PROCESS

The investigation of officer-involved shootings should normally be conducted in two separate parts and by separate authorities—a criminal investigation and an administrative investigation. The criminal investigation is completed by at least 2 investigators not employed by the Balsam Lake Water Safety Patrol, prior to the internal Balsam Lake Water Safety Patrol administrative investigation.

1. Criminal Investigation Phase: It is the policy of the Balsam Lake Water Safety Patrol that at least two investigators, who are not employed by the Balsam Lake Water Safety Patrol, will conduct the officer- involved death investigation.

2. Administrative Investigation Phase: This investigation, undertaken by the Balsam Lake Water Safety Patrol's authority, must be kept separate and apart from the criminal investigation. It is intended to determine whether violations of departmental policy, procedures, rules, or training have occurred and, if so, whether disciplinary action should be recommended or modifications to policy, procedures, or training considered.
3. Criminal investigators may not be present during internal affairs questioning nor may information gained as a result of administrative interviews be shared with criminal investigators.
4. All interviews shall be audio and videotaped in order to provide evidentiary record of statements.
5. Investigators shall be cognizant of symptoms of post-traumatic stress during officer interviews, such as time and space distortions, confusion, hearing and visual distortions associated with recalling details of the incident, as well as emotional impairment during questioning.
6. Officers shall file individual use of force reports. The OIC shall prepare a separate over- all use of force report and attach the individual reports for submission to the chief executive officers and the office of the district attorney.

ADMINISTRATIVE INVESTIGATOR'S RESPONSIBILITIES

1. The lead internal investigator whenever possible shall do the following:
 - a. Receive a briefing from the IC including details of the incident as available, a summary of all actions completed or in progress and be provided a walk-through of the incident scene.
 - b. Ensure that all items of potential evidentiary value are identified and properly collected.
 - c. Obtain audio-taped preliminary statements from suspects and witnesses.
 - d. Ensure that efforts are under way to collect and compile information on the suspect(s).
2. Consult with the coroner or medical examiner at the scene and at, or subsequent to, the autopsy, and compile information as available, such as, entrance and exit wounds, estimates of shooters' positions, the presence of alcohol or controlled substances in the suspect's body, and any other facts that may be deemed relevant.
3. Canvas the immediate area for potential witnesses who have not come forth and obtain information or statements as available.
4. Where possible, tape record interviews with EMTs, fire department personnel, and first responding officers regarding conditions at the shooting scene when they arrived to include any action that may have been taken to move or otherwise alter persons or objects of potential evidentiary value.
5. Develop a summary of preliminary information concerning the shooting for the chief executive

1-300 THE USE OF NON-DEADLY FORCE AND INTERVENTION

Recognizing our legal and moral responsibility to use force wisely and judiciously, it is the policy of this Department that force shall never be resorted to until officers reasonably believe it is necessary in the performance of legal duties.

NON-DEADLY FORCE DEFINED

As used in this policy, non-deadly force means the use of any weapon or instrument, or any physical action taken by an officer which is not likely to cause death.

NON-DEADLY FORCE AUTHORIZED

Non-deadly force is only authorized when an officer reasonably believes it is necessary to control a person under any of the following circumstances:

1. Detaining a person reasonably suspected of unlawful behavior.
2. Effecting an arrest.
3. Overcoming resistance.
4. Preventing escape.
5. Protecting oneself or another.
6. Maintaining order.

DEGREES OF NON-DEADLY FORCE

Officers shall only use the degree of force reasonably believed to be necessary to control a situation considering the following factors:

1. The existence of alternative methods of control.
2. Physical size, strength and weaponry of the person as compared to the officer.
3. The nature of the encounter.
4. Actions of the person.
5. Exigent conditions (i.e., availability of backup, number of persons involved, etc.).
6. The severity of the offense.
7. Whether the suspect poses a threat to the safety of officers or citizens.
8. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

Control of a person through verbal commands shall always be the preferred method of control. Because verbal commands are not always effective or appropriate in gaining compliance, officers may escalate the degree of force based on the actions of the person they are attempting to control.

The concept of escalating/de-escalating degrees of force is based on an officer's reaction to a specific action of the person s/he is attempting to control. Officers are not required to begin a confrontation with dialogue and escalate step by step until control is gained if it is reasonably believed that the reaction would be ineffective or inappropriate based on the actions of the person they are attempting to control. Once a person is under control, officers are required to revert to the lowest degree of force necessary to maintain that control.

STATE OF WISCONSIN INTERVENTION OPTIONS

Mode	Tactic	Purpose
A. Presence	Professional Presence	To present a visible display of authority
B. Dialog	Tactical Communication	To verbally persuade
C. Empty Hand Control	Escort Holds	To safely initiate contact
	Compliance Holds	To overcome passive resistance
D. Control Devices	Oleoresin Capsicum (O.C.) Aerosol Spray	To overcome active resistance or its threat
	Electronic Control Device (ECD)	***
	Passive Countermeasures	To decentralize
	Active Countermeasures	To create dysfunction
	Incapacitating Techniques	To cause the immediate, temporary cessation of violent behavior
E. Intermediate Weapon	Intermediate Weapons	To impede a subject
F. Deadly Force	Firearm	To stop the threat

*** ECD use is not authorized by the Balsam Lake Water Safety Patrol.

The Intervention Options matrix reflects an option that an officer may choose in order to deal with a particular situation. Note that each Mode contains a series of sub-steps, reflecting increasingly more intrusive force options. Several different Modes may be used to establish control in any given situation, and force options within different Modes may be appropriate in any given situation. Presence and Dialog will commonly occur throughout the duration of any confrontation.

Whatever situation an officer faces, the officer assesses the totality of the circumstances in light of his or her training and experience. The officer chooses the intervention Mode and Tactic that he or she feels is reasonably necessary to gain control (the objective for any police use of force). Anytime that a given force option fails to result in control, the officer has the option of disengaging or escalating to a higher level of force (within that Mode or in another Mode) in order to attain Control.

THE USE OF OLEORESIN CAPSICUM SPRAY (O.C. SPRAY)

1. Officers may use OC Spray when they reasonably believe they are facing active resistance, or its threat, from the subject. OC Spray is not to be used against subjects who are offering passive resistance.
3. Oleoresin capsicum (O.C.) Spray shall not be used once an individual is subdued and under control.
4. If practical, the individual should be provided with an opportunity to eliminate the effects of the irritant by washing and flushing the affected areas with water.

Officers shall attempt to discharge chemical agents only in a manner as prescribed through Law Enforcement Standards Board (LESB) Defense and Arrest Tactics (DAAT) training.

ELECTRONIC CONTROL DEVICE USE

The Balsam Lake Water Safety Patrol does not issue nor authorize the use of Electronic Control Devices (Taser's) while on duty.

BATON USE

1. A baton may be used only when an officer reasonably believes a lesser degree of force would be insufficient to control the situation.
2. An officer shall never strike a person's head with a baton unless such an action is justified under the use of deadly force. This section is not intended to apply to an accidental strike to the head as a result of resistance; a dynamic application of a trained procedure.
3. Department-approved batons are the only authorized impact weapons. Flashlights, radios, firearms, etc., are not recommended as impact weapons; however, the Department recognizes that emergency self-defense situations involving other objects and instruments may occur.
 - a. Collapsible metal baton

- b. Standard wood baton

USE OF RESTRAINING DEVICES

The Balsam Lake Water Safety Patrol authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy, Prisoner Transport policy and training. Restraint devices shall not be used to punish, to display authority or as a show of force.

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.

Restraint Of Detainees

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

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.

No person who is in labor shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary to prevent escape or injury.

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

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

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

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.

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

Guidelines For Use of Leg Restraints

When applying leg restraints the following guidelines should be followed:

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

USE OF FORCE REPORTING REQUIRED

1. It is the responsibility of any officer who uses physical force, or any of the following enumerated weapons, items or devices, to complete an original Incident Report or supplementary report on the incident involved, and to specifically note the circumstances necessitating and manner of such use:
 - a. Firearms (e.g., striking with or pointing of any firearm),
 - b. Baton (e.g., the striking, blocking or pushing of any person),
 - c. Chemical Agents,
 - d. Handcuffs or other restraining devices,

- e. Physical force (e.g., striking, punching, pushing or restraining any person).

Duty To Report Noncompliant Use of Force

Act 75 creates Wis. Stat. § 175.44(3), which reads:

DUTY TO REPORT NONCOMPLIANT USE OF FORCE. (a) A law enforcement officer who, in the course of his or her law enforcement duties, witnesses another law enforcement officer use force that does not comply with the standards under sub. (2) (b) or (c) in the course of that law enforcement officer's official duties shall report the noncompliant use of force as soon as is practicable after the occurrence of the use of such force.

(b) A person who intentionally fails to report a noncompliant use of force as required under par. (a) may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

When a Balsam Lake Water Safety Patrol Officer observes a violation, the officer shall notify a Polk County Sheriff's Department Supervisor (unless that supervisor is the alleged violator) or shall as soon as possible notify the Polk County Dispatch Center of the violation.

The Balsam Lake Water Safety Patrol Officer shall write a report whenever they are involved in an incident where use of force is used by any officer on scene. If a violation is observed, that violation shall be described in the officers written report. The report will accurately describe the facts of the incident. The officer will fully and accurately describe the actions of all observations. The officer does not have to make subjective conclusions in the report, they must fully and accurately describe what was observed. Reports are to be completed before the end of the shift, unless specific permission is granted by the Balsam Lake Water Safety Patrol Chief. Any notifications of suspected violations shall be made prior to the end of the officers shift.

Duty To Intervene

Act 75 creates Wis. Stat. § 175.44(4), which reads:

DUTY TO INTERVENE. (a) A law enforcement officer shall, without regard for chain of command, intervene to prevent or stop another law enforcement officer from using force that does not comply with the standards under sub. (2) (b) or (c) in the course of that law enforcement officer's official duties if all of the following apply:

1. The law enforcement officer observes the use of force that does not comply with the standards under sub. (2) (b) or (c).
2. The circumstances are such that it is safe for the law enforcement officer to intervene.

(b) A law enforcement officer who intervenes as required under par. (a) shall report the intervention to his or her immediate supervisor as soon as is practicable after the occurrence of the use of such force.

(c) A person who intentionally fails to intervene as required under par. (a) or intentionally fails to report an intervention as required under par. (b) may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

A law enforcement officer's duty to intervene is not a new concept. "The responsibility to intervene applies equally to supervisory and nonsupervisory officers." *Yang v. Hardin*, 37 F.3d 282, 285 (7th Cir. 1994).

An officer who is present and fails to intervene to prevent other law enforcement officers from infringing the constitutional rights of citizens is liable under § 1983 if that officer had reason to know: (1) that excessive force was being used, (2) that a citizen has been unjustifiably arrested, or (3) that any constitutional violation has been committed by a law enforcement official; and the officer had a realistic opportunity to intervene to prevent the harm from occurring. This Court has implied that a "realistic opportunity to intervene" may exist whenever an officer could have called for a backup, called for help, or at least cautioned [the excessive force defendant] to stop.

1. Act 75 applies the duty to intervene to "law enforcement officers." Notably, it does not limit the duty to on-duty officers; it applies to officers regardless of duty status or location.
2. However, Act 75 imposes the duty "only if the circumstances are such that it is safe for the law enforcement officer to intervene." Some factors for the officer to consider if it is safe:
 - a. If out of your jurisdiction and/or not in uniform, and/or without proper law enforcement identification, where other officers may not know you, make notifications as quickly as possible through 911, identifying yourself and what you are observing.
 - b. If your intervention could escalate the situation, do not physically intervene but make contact as quickly as possible through 911, identifying yourself and what you are observing.

Whistleblower Protections

Act 75 creates Wis. Stat. § 175.44(4), which reads:

WHISTLEBLOWER PROTECTIONS. No law enforcement officer may be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against in regard to employment, or threatened with any such treatment, because the law enforcement officer reported, or is believed to have reported, any noncompliant use of force as required under sub. (3) or (4); intervened to prevent or stop a noncompliant use of force as required under sub. (4); initiated, participated in, or testified in, or is believed to have initiated, participated in, or testified in, any action or proceeding regarding a noncompliant use of force; or provided any information, or is believed to have provided any information, about noncompliant use of force as required under sub. (3) or (4).

1-400 EMERGENCY VEHICLE OPERATIONS AND PURSUIT

The Balsam Lake Water Safety Patrol is authorized to enforce Wisconsin State Statutes 30.50 to 30.80, which all relate to boating violations. The Balsam Lake Water Safety Patrol does not authorize or have motor vehicles (other than a patrol boat) for on or off highway operation. Balsam Lake Water Safety Patrol Officers will not operate any vehicle or vessel, outside of the patrol boat, except in a mutual aid response. In the event of a Mutual Aid request, Balsam Lake Water Safety Patrol Officers will utilize the following procedures.

Members of the department shall at all times operate police vehicles with due regard for the safety of all persons. When operating under emergency conditions, officers shall carefully balance the risks involved against the public interests, recognizing always that the exemptions provided by law to authorized emergency vehicles do not protect an operator from the consequences of reckless disregard for the safety of others.

The primary purpose of this policy is to provide officers with guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law (Wis. Stat. § 346.03(6); Wis. Admin. Code LES § 3.07).

In many situations, several emergency vehicles may be responding to the scene at the same time. Officers shall be especially alert in these situations to insure the safe arrival of all emergency vehicles responding.

Intersections present a special hazard to emergency vehicles. Officers should always slow the speed of their vehicles when approaching an intersection and be able to stop, if necessary.

AUTHORIZED EMERGENCY VEHICLE SITUATIONS

1. In response to calls of an emergency nature;
2. In pursuit of an actual or suspected violator of the law; or
3. While obtaining evidence of a speeding violation. (See below: Use of Warning Devices, Paragraph 3.)

USE OF WARNING DEVICES

1. The red and blue lights shall be activated whenever an officer, in the course of duty, stops, stands or parks an assigned vehicle contrary to the rules of the road. Officers may, however, elect to only use vehicle hazard flashers, rather than the red and blue lights on their vehicles, whenever it is necessary to stop, stand or park in a space adjacent to a curb, which is not a legal parking space, as long as the vehicle does not obstruct a traffic lane.
2. The red and blue lights and siren shall be used whenever an officer, in the course of duty, passes through a stop sign or signal, operates contrary to regulations governing direction of movement or turning, or exceeds the speed limit, except for below #3 or #4.

3. An officer may exceed the speed limit without giving audible and visual signal, if the officer is obtaining evidence of a speeding violation; however, the officer shall activate this equipment and attempt to stop the violator once sufficient evidence is obtained for the violation.
4. Officers responding to a call which is reasonably believed to be a felony in progress, may exceed the speed limit without giving audible signal but should give visual signal when doing so will not

compromise a tactical response. When not giving a signal, the officer must reasonably believe that one of the following exists:

- a. Knowledge of the officer's presence may endanger the safety of a victim or other person.
- b. Knowledge of the officer's presence may cause the suspected violator to evade apprehension.
- c. Knowledge of the officer's presence may cause the suspected violator to destroy evidence of a suspected felony, or may otherwise result in the loss of evidence of a suspected felony.
- d. Knowledge of the officer's presence may cause the suspected violator to cease the commission of a suspected felony before the officer obtains sufficient evidence to establish grounds for arrest.

USE OF OTHER SAFETY EQUIPMENT

Safety belts will be used in accordance with the Safety Belt Policy.

DEFINITIONS related to this policy include:

Vehicle pursuit - An event involving one or more peace officers attempting to apprehend a suspect who is attempting to avoid arrest while operating a motor vehicle by using high speed or other evasive tactics, such as increasing the speed of the vehicle, extinguishing the lights of the vehicle, disregarding traffic warning signs, stop signs, red lights, driving off a roadway, turning suddenly or driving in a legal manner but willfully failing to yield to an officer's signal to stop (Wis. Stat. § 85.07(8)(a)).

Blocking or vehicle intercept - A slow-speed coordinated maneuver where two or more law enforcement 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 violator's vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

Pursuit Intervention Technique (PIT) - A low-speed maneuver intended to terminate the pursuit by causing the violator's vehicle to spin out and come to a stop.

Ramming - The deliberate act of impacting a violator's vehicle with another vehicle to functionally damage or otherwise force the violator's vehicle to stop.

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

Tire deflation device, spikes or tack strips - A device that extends across the roadway and is designed to puncture the tires of the pursued vehicle.

Gravity of Offense vs. Public Safety

The department recognizes that decisions to initiate and continue the pursuit of vehicles and suspects who are attempting to elude the police in a vehicle must, as a matter of public policy, reflect a balance of the public interests in the apprehension of violators of the law, and in insuring the safety of all persons who might potentially be endangered by the pursuit. The propriety of any pursuit depends on the specifics of each particular situation, and officers must be prepared to articulate the conditions which existed at the time of their decision. Consideration must be given not only to the nature and gravity of the offense(s) involved, but also to the degree of danger to the safety of members of our community which may inadvertently arise as a result of a pursuit. The policies reflected in the guidelines which follow are based on the belief that responsible policing may, of necessity, require that the apprehension of a suspect be postponed, even in potentially serious situations. This is particularly true when, at the time of a decision to pursue or to discontinue pursuit, a situation of unreasonable danger to officers and/or other persons exists which outweighs the competing public interests involved in the apprehension of the violator.

WHEN TO INITIATE A PURSUIT

In making the initial decision to pursue, and while in pursuit, officers and supervisors must continually evaluate a variety of information to determine whether the pursuit of an eluding vehicle presents an unreasonable danger of death or great bodily harm which outweighs the public interest involved in apprehension. The conditions identified below are among those which must receive consideration. Although they are identified individually, each can have an effect on another. Their value for decision-making purposes is enhanced when considered in combination.

It is the policy of this department that a vehicle pursuit shall be conducted with the visible signal of at least one flashing, oscillating or rotating red light, or a blue and red light, and also an audible signal by means of a siren or exhaust whistle activated on an authorized emergency vehicle (Wis. Stat. § 346.03(3)).

The following policy is established to provide officers with guidelines for driving with due regard and caution for the safety of all persons using the highway (Wis. Stat. § 346.03(5)).

Officers are authorized to initiate a pursuit when it is reasonable to believe that a suspect is attempting to evade arrest or detention by fleeing in a vehicle that has been given a signal to stop by a peace officer (Wis. Stat. § 346.03; Wis. Admin. Code LES § 3.07(1)(a)).

The following factors individually and collectively shall be considered in deciding whether to initiate or continue a pursuit (Wis. Stat. § 346.03(6)):

1. Type, actions and speed of the vehicle being pursued;
2. Geographic area of pursuit and its population density;
3. Time of day/day of week;
4. Vehicular and pedestrian traffic present in area;

5. Road and weather conditions;
6. Officer's familiarity with the area of pursuit;
7. Severity of crime for which offending driver is a suspect and the risk the suspect represent to public safety;
8. Necessity of pursuit by vehicle;
9. Type of squad being operated by pursuing officer.
10. The identity of the suspect has been verified and there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.
11. Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).
12. The availability of other resources.
13. The police unit is carrying passengers other than on-duty police officers. Pursuits should not be undertaken with a prisoner in the pursuit vehicle unless exigent circumstances exist, after receiving supervisor approval, and then only after the need to apprehend the suspect is weighed against the safety of the prisoner in transport. A unit containing more than a single prisoner should not participate in a pursuit.

WHEN TO TERMINATE A PURSUIT

Pursuits should be discontinued 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 risk of continuing the pursuit reasonably appears to outweigh the risk resulting from the suspect's escape (Wis. Admin. Code LES § 3.07(1)(c)).

Operating an emergency vehicle in a pursuit with emergency lights and siren does not relieve the operator of an authorized emergency vehicle of the duty to drive with due regard for the safety of all persons and does not protect the driver from the consequences of reckless disregard for the safety of others (Wis. Stat. § 346.03(5)).

The above factors on when to initiate a pursuit are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate 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 the context of this policy, the term "terminate" shall be construed to mean to discontinue or to stop chasing the fleeing vehicle.

In addition to the factors listed above, the following factors should be considered when deciding whether to terminate a pursuit:

1. The distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.
2. The pursued vehicle's location is no longer definitely known.
3. The officer's pursuit vehicle sustains damage or a mechanical failure that renders it unsafe to drive.
4. The pursuit vehicle has an emergency equipment failure that causes the vehicle to no longer qualify for use in emergency operations (Wis. Stat. § 346.03(3)).
5. Extended pursuits of violators for misdemeanors not involving abuse or risk of serious harm (independent of the pursuit) are discouraged.
6. The hazards to uninvolved bystanders or motorists.
7. When the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, officers should strongly consider discontinuing the pursuit and apprehending the offender at a later time (Wis. Stat. § 346.175(3)(a)).
8. When directed to terminate the pursuit by a senior officer.
9. When it is necessary to stop to render aid to an injured person and no other officer is available to do so (Wis. Admin. Code LES § 3.07(1)(c)5).

STEPS TO TERMINATE A PURSUIT

Termination of a pursuit needs to include all of the following:

1. All emergency equipment will be turned off unless safety considerations dictate otherwise.
2. Pull off to the side of the road and come to a complete stop.
3. Communications center will be advised of the termination of the pursuit.

4. The specific location of the termination point will be given to the communications center.

SPEED LIMITS

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the officer and supervisor. Vehicle speeds shall be taken into consideration to prevent endangering public safety, officer safety and the safety of the occupants of the fleeing vehicle (Wis. Stat. § 346.03(6)).

Should high vehicle speeds be reached during a pursuit, officers and supervisors shall also consider these factors when determining the reasonableness of the speed of the pursuit.

1. Pursuit speeds have become unreasonably unsafe for the surrounding conditions.
2. Pursuit speeds have exceeded the driving ability of the officer.
3. Pursuit speeds are beyond the capabilities of the pursuit vehicle, thus making its operation unsafe.

UNMARKED SQUADS

Vehicles not equipped with a red or blue emergency light and siren are prohibited from initiating or joining in any pursuit. Officers in such vehicles may provide support to pursuing units as long as the vehicle is operated in compliance with all traffic laws.

A full internal light package is defined as follows:

1. Showing to the front of the vehicle: multiple red/blue flashing or rotating lights; and
2. Showing to the rear of the vehicle: multiple red/blue flashing or rotating lights or 360 degree view.

PRIMARY OFFICER RESPONSIBILITY

The responsibility for the decision to pursue, the methods to be employed, and the continuation of pursuit rests with the primary officer involved, until a supervisor provides direction or otherwise assumes responsibility for the situation.

PURSUIT DRIVING RESPONSIBILITY

The decision to use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. The following are tactics for units involved in the pursuit:

1. 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 maneuvers by the fleeing vehicle.

2. Officers may proceed past a red or stop signal or stop sign but only after slowing down as may be necessary for safe operation (Wis. Stat § 346.03(2)(a)).
3. Because intersections can present increased risks, the following tactics should be considered:
 - A. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
 - B. Pursuing units shall exercise due caution and slow down as may be necessary for safe operation when proceeding through controlled intersections.
4. As a general rule, officers should not pursue a vehicle driving the wrong way on a roadway, highway or freeway. In the event the pursued vehicle does so, the following tactics should be considered:
 - A. Maintaining visual contact with the pursued vehicle by paralleling on the correct side of the roadway.
 - B. Requesting other units to observe exits available to the suspect.
5. Notifying the Wisconsin State Patrol or other law enforcement agency if it appears the pursuit may enter their jurisdiction.
6. Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit and a clear understanding of the maneuver process exists between the involved officers.

PURSUIT PROCEDURES

Officers shall adhere to the following procedures in all pursuit situations:

1. Promptly inform the Dispatch Center of your call number, and the fact that you are in pursuit.
2. Reasonably attempt to inform the Dispatch Center of the following:
 - A. Location and direction of pursuit;
 - B. Description of vehicle being pursued, license number, number of occupants, and, if possible, description of occupants;
 - C. Reason for pursuit (e.g., traffic, armed felon, etc.);
 - D. Estimated speed of vehicle being pursued.
3. Maintain contact with the Dispatch Center and reasonably attempt to inform them of:

- A. Changes of direction;
 - B. Speed of vehicles involved;
 - C. Action of vehicle being pursued (e.g., driving reckless, no lights, etc.).
4. The Dispatch Center, after being notified of a pursuit, shall promptly restrict the channel to emergency transmissions.
 5. The Dispatch Center shall, as soon as possible, replace primary unmarked pursuit unit with a marked unit.
 6. Whenever possible, a specific unit should be assigned as a secondary officer by the Dispatch Center.
 7. The secondary unit shall remain a safe distance in back of the pursuit unit and be ready to assist when the violator's vehicle is stopped.
 8. Secondary back-up police vehicles shall not attempt to pass or caravan with the primary pursuit unit. All police vehicles – those directly involved in the pursuit, those paralleling the pursuit, and those responding to assist with a pursuit – shall be operated with due regard at all times.
 9. Pursuits should be accomplished with a minimum number of vehicles and normally be limited to the primary pursuit vehicle and two additional vehicles. Additional vehicles should maintain a safe distance from the primary pursuit vehicles. The number of units directly involved may be adjusted to fit the severity of the situation.
 10. As a pursuit proceeds through adjoining patrol districts, officers in these areas may parallel the pursuit course so as to be available in the event their assistance is needed.
 11. The primary pursuit unit shall promptly inform the Dispatch Center of the termination location of the pursuit and will retain responsibility for maintaining control and adherence to department policy and procedure at the scene until the arrival of a supervisor.
 12. Upon notification of the apprehension of the vehicle and/or suspect, the Dispatch Center shall insure:
 - A. Secondary units are informed of the termination point;
 - B. Adequate assistance is on the scene or enroute;
 - C. A supervisor is assigned and dispatched to the scene.

EMERGENCY STATIONARY ROADBLOCKS

1. Emergency stationary roadblocks are those which, due to the urgency of the situation, must be set up with a minimum amount of notice and preparation for the purpose of stopping a vehicle which

is actively attempting to elude the police. Stationary emergency roadblocks will be set up, controlled and/or authorized whenever possible, by a commissioned supervisor or commanding officer. Emergency stationary roadblocks are only authorized if approved by a supervisor/Chief.

2. Whenever possible, an emergency roadblock should be set in a well- lighted area, using all emergency visual aid equipment to further light up the roadblock such as:
 - A. Rotating top red and blue lights;
 - B. Headlights aimed away from the path of the eluder;
 - C. Spotlights.
 - D. Takedown and alley lights (aimed away from path of the eluder).
 - E. All officers at the scene of an authorized stationary emergency roadblock, shall position themselves outside of their vehicles and at a safe distance from the block so as to protect themselves from injury in the event the fleeing vehicle(s) attempts to run through or around the blockade. This does not apply to a pursuit squad positioned in a safe and strategic location.
 - F. Officers at the scene of an authorized stationary emergency roadblock shall attempt to remove and/or isolate all non- involved persons from the danger area of the roadblock.
3. An emergency stationary roadblock should never be set up in a dark or blind area, such as just over hills, or around curves, etc. The roadblock must offer an alternative path (other than certain crash) for the pursued vehicle.

Emergency Moving Roadblocks

Although the use of an emergency moving roadblock is discouraged as a tactical response in pursuit situations, it may, if authorized by a supervisor/Chief, be used to stop an eluding, provided that doing so would not create an unreasonable risk of harm to uninvolved motorists or pedestrians.

Pursuit Intervention Technique (PIT)

1. The pursuit intervention technique may be used under circumstances involving a type 1 pursuit if:
 - A. The suspect's vehicle is traveling less than 35 miles per hour
 - B. Doing so would not create an unreasonable risk of harm to uninvolved motorists or pedestrians
 - C. A supervisor has approved of using the technique, unless it is unsafe or impracticable to do so.
 - D. The officer performing the PIT has been trained in the technique.

2. Use of the pursuit intervention technique at speeds greater than 35 miles per hour is considered deadly force and shall only be used under authorized deadly force circumstances.
3. Use of any other ramming technique to contact a suspect vehicle and/or force it off a road is considered deadly force and shall only be used under authorized deadly force circumstances.
4. The pursuit intervention technique will not be used on a motorcycle, or similar 2 wheeled vehicle, unless deadly force is justified.

USE OF TIRE DEFLATION DEVICES

1. Tire deflation devices will only be deployed by officers trained in their use. Prior to beginning each tour of duty, trained officers will determine if their squad is equipped with a tire deflation device. If the vehicle is equipped with a tire deflation device, the officer shall do a brief inspection of the unit to verify that it is in proper working order.
2. The use of tire deflation devices in accordance with this policy and departmental training does not constitute deadly force. However, tire deflation devices may only be used to stop motorcycles, mopeds or other two-wheeled vehicles when the use of deadly force is justified.
3. Tire deflation devices may be deployed during active pursuits, or to stop vehicles not actively fleeing but refusing to stop. Any other use of tire deflation devices may only be done with a supervisor's approval, unless it is impractical to obtain such approval.
4. The method and technique of deploying tire deflation devices will be in accordance with departmental training.
5. When evaluating the appropriateness of continuing or terminating pursuits, the availability of tire deflation devices can only be considered in conjunction with the factors outlined in "Assessment or Unreasonable Danger" of the Pursuit of Vehicles policy.
6. Reporting Requirements
 - A. Officers deploying tire deflation devices will complete a supplemental report including all pertinent facts surrounding the deployment.
7. Officers equipped with tire deflation devices may continue monitoring a Balsam Lake Police Department pursuit that continues into another jurisdiction, and may deploy tire deflation devices in accordance with this policy.
8. Involvement in the Pursuit of Another Jurisdiction

- A. Officers may assist in the pursuits of other agencies that have entered the Village of Balsam Lake in accordance with the “Involvement in the Pursuit of Another Jurisdiction” policy below, and may deploy tire deflation devices in such instances in accordance with this policy.
- B. Notwithstanding the requirements of the “Involvement in the Pursuit of Another Jurisdiction” policy below, Balsam Lake officers may deploy tire deflation devices to stop vehicles fleeing from another agency that have entered the Village of Balsam Lake without a specific request from the primary pursuing agency. Deployment in these instances will only be done with a supervisor’s approval. Outside agency officers involved in the pursuit will be notified prior to deployment if possible.

PURSUIT INTO ANOTHER JURISDICTION

When acting in accordance with the provisions of this policy, officers may pursue vehicles into adjoining jurisdictions. In this event, the jurisdiction involved should be notified by the Polk County Dispatch Center of the pursuit, the reason for it, and whether direct assistance with the pursuit is requested.

INVOLVEMENT IN THE PURSUIT OF ANOTHER JURISDICTION

Balsam Lake police officers, as a practice, will not become involved in another jurisdiction’s vehicle pursuit unless specifically requested to do so by the agency involved. Balsam Lake Police involvement in the pursuit will proceed thereafter in accordance with the provisions of this policy.

If the circumstances of another jurisdiction’s pursuit dictate that a Balsam Lake police officer become involved prior to a request for assistance, the Balsam Lake police officer must be able to clearly articulate the immediate need for their actions.

Loss Of Pursued Vehicle

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

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. 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.

Intervention Standards

Any pursuit 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 deadly force and are subject to the requirements for such use. Officers shall consider these facts and requirements prior to deciding how, when, where and if an intervention tactic should be employed.

1. Blocking or vehicle intercept should only be considered in cases involving felony suspects or impaired drivers who pose a threat to public 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 risk involved, this technique should only be employed by officers who have received training in such tactics and after giving consideration to the following:
 - A. 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 other members of the public.
 - B. All other reasonable intervention techniques have failed or reasonably appear ineffective.
 - C. Employing the blocking maneuver does not unreasonably increase the risk to officer safety.
 - D. The target vehicle is stopped or traveling at a low speed.
 - E. At no time should civilian vehicles be used to deploy this technique.
2. Ramming a fleeing vehicle should be done only after other reasonable tactical means at the officer's disposal have been exhausted. This tactic should be reserved for situations where there does not appear to be another reasonable alternative method. When ramming is used as a means to stop a fleeing vehicle, the following factors should be present:
 - A. The suspect is an actual or suspected felon who reasonably appears to represent a serious threat to the public if not apprehended.
 - B. 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. 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.
3. As with all intervention techniques, pursuing officers should obtain supervisor approval whenever possible before attempting to box in a suspect vehicle during a pursuit. The use of such a technique must be carefully coordinated with all involved units, 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.

4. Tire deflation devices should be deployed only when it is reasonably apparent that only the pursued vehicle will be affected by their use. Prior to the deployment of stop sticks, the officer shall notify pursuing units and the supervisor of the intent and location. Officers should carefully consider the limitations of such devices as well as the potential risk to officers, the public and occupants of the pursued vehicle. If the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials or a school bus transporting children, officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.
5. Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in the direct path of a

pursued vehicle is generally discouraged and should not be deployed without prior approval of a supervisor, and only then under extraordinary conditions when all other reasonable intervention techniques have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risk of injury or death to occupants of the pursued vehicle, officers or other members of the public.

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 under the circumstances to properly perform their lawful duties.

Unless relieved by a supervisor, the primary 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 to contain and capture the suspect.

REPORTING AND REVIEW REQUIREMENTS

All appropriate reports shall be completed to comply with local and state regulations (Wis. Stat. § 85.07(8)(b)).

1. The primary officer shall complete appropriate crime/arrest reports.
2. After first obtaining available information, the officer shall promptly complete a report. This report should minimally contain the following information:
 - A. Date and time of pursuit
 - B. Length of pursuit in distance and time
 - C. Involved units and officers

- D. Initial reason and circumstances surrounding the pursuit
 - E. Starting and termination points/mileage
 - F. Alleged offense, charges filed or disposition: arrest, citation or other release
 - G. Arrestee information should be provided if applicable
 - H. Injuries and/or property damage
 - I. Medical treatment
 - J. The outcome of the pursuit
 - K. Name of supervisor handling at the scene

 - L. A preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted
4. After receiving copies of reports, logs and other pertinent information, the Chief or the authorized designee shall conduct or assign the completion of a post-pursuit review as appropriate to the circumstances.
5. At least annually, but no later than June 30th of every even-numbered year, the Chief or the authorized designee shall direct a documented review and analysis of department vehicle pursuits to minimally include policy suitability, policy compliance, policy modification and training needs (Wis. Stat. § 346.03(6)).
6. The Chief shall compile and report information on vehicle pursuits engaged in during the previous 12 months to the Wisconsin State Patrol/ Department of Transportation via WisDOJ WILENET system's Law Enforcement Pursuit Report. The report shall be filed as quickly as possible.(Wis. Stat. § 85.07(8)(b)): or, before 8/15 of the year after the pursuit.
- A. The circumstances of the vehicle pursuit, including the distance, location and maximum speed.
 - B. The reasons for initiating the vehicle pursuit.
 - C. The outcome of the vehicle pursuit, including the number of deaths or great bodily injuries and an estimate of the value of any property damage.

REQUIRED TRAINING

In addition to initial and supplementary training on pursuits, all certified sworn employees will participate, no less than biennially, in at least four hours of training addressing this policy, pursuit guidelines, driving techniques, new technology and the importance of vehicle safety and protecting the public at all times.

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. At least four hours of the training curriculum will be based on the model standards promulgated by the Law Enforcement Standards Board (LESB) and shall be delivered by a LESB-certified Emergency Vehicle Operations and Control (EVOC) instructor (Wis. Stat. § 165.85(4)(bn)1m; Wis. Admin.

1-500**EXPANDER OF JURISDICTION****POLICY**

Initiating law enforcement action while off-duty or outside of an officer's jurisdictional area is generally discouraged and an officer's authority is limited by the State of Wisconsin. Officers. Wis. Stat. § 175.40 (6)(a)1-3, and 175.40(6m)(a)1-3 allow officers to provide assistance and take enforcement action based upon what they are authorized to do in their jurisdiction. The Balsam Lake Water Safety Patrol is only authorized to enforce Wisconsin State Statutes 30.50 to 30.80, which all relate to boating violations. Balsam Lake Water Safety Patrol Officers cannot take other action outside of their original jurisdictional authority Wis. Stat. 175.40(6)(a)(2) and 175.40(6m)(a)(2).

Off-Duty Limitations

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

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

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

Incidents Of Personal Interest

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

Civilian Responsibilities

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

Other Considerations

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she needs to maintain an undercover capability.

REPORTING

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

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

1-600 EYEWITNESS IDENTIFICATION

The Balsam Lake Water Safety Patrol is authorized to enforce Wisconsin State Statutes 30.50 to 30.80, which all relate to boating violations.

These guidelines are for the use of eyewitness identification procedures involving photo arrays, live lineups, show-ups, & facial composites. Further, to reduce the risk of wrongful conviction of innocent persons while increasing the probability of convicting the guilty persons.

Eyewitness identification has always been a powerful tool for investigating and prosecuting cases. Eyewitness evidence can be the most important and convincing evidence in a case. Research and nationwide experience suggest that eyewitness evidence can be fragile, and that eyewitnesses can be mistaken. Eyewitnesses can make identification errors, but those errors may be difficult to detect, because the witnesses are sincere and have no motive to lie. When wrong, they usually are not being deceitful, but are simply mistaken. To reduce the risk of wrongful conviction and aid in the detection and apprehension of the guilty, officers should adhere to procedures set forth here in order to maximize the reliability of identifications, minimize unjust accusations of innocent persons and to establish evidence that is reliable and conforms to established legal procedure.

DEFINITIONS

1. Photo Array:
 - a. The sequential showing of multiple photographs to an eyewitness for the purpose of obtaining an identification.
2. Live Lineup:
 - a. The presentation of a number of individuals, including a suspect, sequentially before an eyewitness.
3. Show-up:
 - a. The presentation of one suspect to an eyewitness within a short time following commission of a crime.

PROCEDURES

Photo Arrays & Live Lineups General Considerations

Prepare before any photo array or line-up. There should be some credible and/or verifiable indication that the suspect is actually the perpetrator before placement in an identification procedure.

1. Choose non-suspect fillers that fit the witness's description and that minimize any suggestiveness that might point toward a suspect;
2. Use 'double blind' procedures, in which the administrator is not in a position to unintentionally influence the witness's selection;
3. Specifically instruct eyewitnesses that the real perpetrator may or may not be present and that the administrator does not know which person is the suspect;

4. Present the suspects and fillers sequentially (one at a time) rather than simultaneously (all at once.) This encourages absolute judgments of each person presented, because eyewitnesses are unable to see the subjects all at once and are unable to know when they have seen the last subject;
5. Assess eyewitness confidence immediately following an identification. Carefully document a witness's response before any feedback from law enforcement;
6. Avoid multiple identification procedures in which the same witness views the same suspect more than once.

Show-ups General Considerations

Some courts have suppressed identification evidence based on the use of show-ups due to inherent suggestiveness of the practice. Therefore, the use of show-ups should be secondary in preference to the use of photo arrays or lineups when possible. However, when exigent circumstance requires the use of a show-up, the following guidelines should be considered:

1. Document the eyewitness's description carefully prior to the show-up.
2. Whenever practical, transport the eyewitness to the location of the suspect. Show-ups should not be conducted at law enforcement headquarters or other public safety buildings.
3. Specifically instruct eyewitnesses that the real perpetrator may or may not be present.
4. Show-ups should not be conducted with more than one witness present at a time. If identification is conducted separately for more than one witness, witnesses should not be permitted to communicate before or after any procedures regarding the identification of the suspect.
5. The same suspect should not be presented to the same witness more than once.
6. Show-up suspects should not be required to put on clothing worn by the perpetrator. They may be asked to speak words uttered by the perpetrator or to perform other actions of the perpetrator.
7. Words or conduct of any type by officers that may suggest to the witness that the individual is or may be the perpetrator should be scrupulously avoided.
8. Assess eyewitness confidence immediately following an identification.

Facial Composite General Considerations

Inaccurate information from outside an eyewitness's memory can taint development of a composite. As with photo arrays, live lineups, and show-ups, composites can be compromised if the witness's description relies on information learned from external sources after the crime or if the person administering the procedure either unintentionally supplies the witness with information or unintentionally incorporates

outside knowledge of the case into the production of the composite. For this reason, when a composite is used, double-blind concepts & principles in which both the witness and the person making the composite are unaware of external information about the case may be helpful. It may not be feasible to conduct a completely double-blind procedure for a variety of reasons, in which case witnesses should be told to rely on their independent recollection of the event - not information learned from other sources - and administrators must be mindful of any natural tendency to incorporate prior knowledge into the process.

DOCUMENTATION

A thorough description of the eyewitness process and the results of any eyewitness identification should be documented in the incident report. Witness comments of how certain he/she is of the identification or non-identification should be quoted in the report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the incident report. In addition, the order in which the photographs were presented to the witness should be documented in the incident report.

POLICY REVIEW

At a minimum, the Department shall biennially review the Eyewitness Identification of Suspects section in this policy. In developing and revising the Eyewitness Identification of Suspects section, the Department shall consider model policies and policies adopted by other jurisdictions (Wis. Stat. § 175.50).

1-700**SEARCHES**

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

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

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

The Balsam Lake Water Safety Patrol is authorized to enforce Wisconsin State Statutes 30.50 to 30.80, which all relate to boating violations.

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 the following:

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

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

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

SEARCHES OF PERSONS

A full search of an individual may only be performed under the following circumstances:

1. Incident to any lawful, custodial arrest authorized by Balsam Lake Water Safety Patrol policy;
2. When a search of the person is authorized by a valid search warrant;
3. When the person has consented to a search of their person, and articulable reasons for the search exists. Whenever an officer requests consent to search, the officer shall document the articulable reasons in a police report;

Definition of a Strip Search

For purposes of this policy, a strip search is defined as; *any search in which a person's genitals, pubic area buttock or anus, or an arrested female's breast, is uncovered and either is exposed to view or is touched by a person conducting the search.*

Strip Searches And Body Cavity Searches

The Balsam Lake Water Safety Patrol is authorized to enforce Wisconsin State Statutes 30.50 to 30.80, which all relate to boating violations. The Balsam Lake Water Safety Patrol does not authorize employees to use Strip Searches or Body Cavity Searches.

1-800 FIREARMS AND QUALIFICATIONS

This order requires that sworn personnel, both on and off duty, may use only weapons authorized by the Department. Only sworn personnel demonstrating proficiency in the use of authorized weapons are approved to carry such weapons.

POLICY

Officers shall only use firearms approved for use, mechanically sound and properly maintained. Only firearms that are registered with the Department, inspected for use and which an officer demonstrates proficiency with may be used, on/off duty, by officers pursuant to their authority as a police officer.

DEFINITIONS

- A. Duty firearm: a primary firearm authorized for use and registered with the Department; must be qualified with the gun.
- B. Specialized firearms: authorized specialized firearms include shotguns, carbines, semi-auto rifles, automatic rifles, marksman rifles and chemical munitions launchers.
- C. Special assignment firearms: easily concealed handgun owned by an officer, carried as a duty firearm under unusual circumstances or during undercover operations. Such firearms may be authorized on a case by case basis. Officers shall submit requests to use a special firearm through the Chief. The request will contain the reason, type of firearm, and time period to be used. Officers must qualify with the firearm and have the weapon authorized prior to use.

PROCEDURES

- A. All weapons carried on duty must be registered and approved by the Chief.
- B. Off-Duty Firearms.
 - 1. Officers may carry their approved duty firearm or a secondary firearm while off-duty. Calibers/brands not found on the list below must be submitted to the Chief for approval.
 - Beretta
 - Browning
 - Colt
 - Dan Wesson
 - Glock
 - H&K (Heckler & Koch)
 - Kimber
 - Ruger
 - Sig Sauer

Springfield Armory
Smith & Wesson
Walther

1. Off-duty officers are not required to go armed off-duty but may do so in accordance with policy, state and federal law. The decision to go armed off-duty will be based on the officer's personal evaluation of their expected activity. Officers are prohibited from carrying firearms when the officer's mental/physical abilities are or may be anticipated to be impaired by use of alcohol, drugs, medications or a combination thereof. Officers should carry their police identification and badge.
- C. An LESB certified Firearms Instructor will oversee annual qualification for sworn personnel for handguns. Rifles and shotguns are not issued or used by the Balsam Lake Water Safety Patrol.
1. Sworn personnel must demonstrate proficiency by qualifying with each firearm they are required or elect to use on or off-duty according to the following:
 - a. Duty Firearm: annually, non-uniformed personnel who elect to carry a different firearm as their primary firearm will qualify with that firearm annually
 - b. Off-Duty Firearms: officers wishing to qualify with and be authorized to use a different off-duty firearm are required to register and qualify with the weapon annually
- D. 2013 Wisconsin Act 214 created Wis. Stat. §165.85(4)(a) that requires every police officer to complete a qualification course with an LESB certified firearms instructor, once per year.
- “165.85(4)(a)7.c. c. Each officer who is subject to this subdivision shall annually complete a handgun qualification course from curricula based upon model standards established by the board under par. (e). Hours of training completed under this subd. 7. c. shall count toward the hours of training required under subd. 7. a.”*
- E. Knowledge of Applicable Laws.
- During firearms training, the instructor will review applicable local, state and federal law and current police practices with those persons attending such training/certification.
- F. Certified Weapons Instructor.

During annual weapons qualifications, an LESB certified weapons instructor must be present.

1-900 CITIZEN COMPLAINT AND INVESTIGATION

General Purpose

Because it is essential that public and employee confidence be maintained in the ability of the Department to investigate and properly resolve complaints against its employees, policies or procedures, and that the rights of the employee, as well as those of the public, be preserved, the Balsam Lake Water Safety Patrol is committed to investigating complaints in an open and fair manner with the truth as its primary objective. Therefore, the Department will accept complaints against its employees, policies or procedures, and will investigate all such complaints to the appropriate disposition.

Employee's Responsibility

When involved in an investigation, employees are required to cooperate fully, answer questions truthfully, and to render material and relevant statements to the investigating officer.

Supervisors assigned to investigate a complaint against an employee are responsible for conducting a thorough and fair investigation, and for respecting the dignity of all persons involved. Persons making a written complaint will be informed that the written complaint, including their name, may be subject to public disclosure unless they request in their complaint that their name be kept confidential.

Guideline for Complaint Acceptance

Citizen complaints will not be investigated if the complaint is received more than 90 days after the alleged incident, unless the complaint involves an alleged criminal violation or the complainant can show good cause for not making the complaint within the specified time limit.

Prompt Disposition of Complaints

Investigations against employees of the Department will be prompt, and disposition will be within 60 days of the assignment of the complaint. An extension of this time limit may be granted by the Chief of Police.

ACCEPTING/REFERRING COMPLAINTS

Every employee of the Department has the responsibility to insure that a citizen complaint is received and referred to the Chief.

The Balsam Lake Water Safety Patrol will not accept complaints that stem from a disagreement between the officer and complaints over the merits of an arrest or citation. The appropriate forum for such argument is in the courts. Obvious exceptions would include allegations of fabricated evidence, excessive force, et cetera. There are three options open to you;

1. You may inform a department supervisor (Chief) either verbally or in writing of your complaint and allow the supervisor (Chief) to address the situation through whatever means he/she deems appropriate. In this case you need not do anything further.

2. You may request that the Balsam Lake Water Safety Patrol conduct a formal investigation. This requires a signed "*Citizen Complaint Against an Employee*" form.
 - a. In this case, you must provide the department with a written statement. Include the date, time of the incident, detailed facts of the incident, and witnesses, if any, including their full names, address, work and home phones. The statement must state specifically what you feel the officer did wrong; and what rule, regulation or law you believe the officer violated.
 - b. Attach any documents or present any evidence you feel corroborates your allegation. False statements made either verbally, in writing, or in sworn testimony may be subject to criminal and/or civil proceedings, per Wis Statute 946.66. Sign the statement in the presence of a Balsam Lake Protection and Rehabilitation District employee receiving your complaint, or have the complaint notarized.
 - c. You and the witness(es) may be required to appear and give testimony, if necessary. You have a right to be represented by an attorney at any time, at your own expense.
3. If you are not satisfied with the results of the department's investigation and conclusions, or the complaint is against the Chief of Police; you may file your complaint with the President of the Balsam Lake Protection and Rehabilitation District. This could go to the Balsam Lake Water Safety Patrol Review Board for disciplinary actions under State Statute 62.13(5). You must provide the same information and documents alluded to in the above paragraphs.
 - a. You and the witnesses may be required to give sworn testimony. You may be represented by an attorney at any time, at your own expense. The Balsam Lake Water Safety Patrol Police Review Board has the power to subpoena witnesses. Depending on the seriousness of the allegation, you could be subpoenaed to testify before the Review Board, even if you later decide not to pursue the complaint.
 - b. Testimony before the Review Board carries the same responsibility as testifying in a court of law: statements must be truthful. False statements made either verbally, in writing, or in sworn testimony are subject to criminal and/or civil proceedings.

INVESTIGATION RESPONSIBILITY

Investigators are responsible for the following:

1. Being familiar with and conducting investigations in accordance with Balsam Lake policy and procedure, and with chapter 164 of the Wisconsin Statutes.
2. Conducting thorough and fair investigations.
3. Respecting the dignity of all persons involved in an investigation.
4. Separating witnesses, when appropriate, while conducting an investigation. Employees may be ordered to not discuss their involvement in an investigation with others. Such an order should only

be imposed for the length of time reasonably necessary. It is not the Department's intent to restrict employee's rights to prepare a defense to a complaint filed against them.

5. Advising a complainant who is not satisfied that they have the option to pursue their complaint to the Balsam Lake Police Review Committee.
6. Conducting a predetermination hearing, when a complaint is sustained and might result in disciplinary action.

RESPONSIBILITY OF THE INVESTIGATOR

1. The Balsam Lake Water Safety Patrol will investigate allegations of criminal conduct by employees, allegations of excessive use of force by employees, and other serious matters, as determined by the Chief of Police.
2. The department will document, classify and assign all incoming citizen complaints.
3. Notification of the involved employee(s) will be completed at the discretion of the investigator in order to preserve the integrity of the investigation.
4. In cases where citizen complaints are filed against arresting officers, the investigation may be suspended, at the direction of the Chief of Police, until the court proceedings are completed.
5. The Chief or Police or his designee will be responsible for the investigation.
6. The department will audit and report to the Chief of Police the results of each investigation to insure that:
 - a. The investigation was conducted in a fair and thorough manner in accordance with chapter 164 of the Wisconsin Statutes.
 - b. A representative was present, if requested by the employee.
 - c. The investigation was completed within the allowable time period.

COMPLAINT DISPOSITION

Upon completion of an investigation, the department will make a conclusion for each allegation from among the following dispositions:

1. Exonerated: The alleged incident occurred, but was lawful and in accordance with policy.
2. Unfounded: The evidence shows that the allegation was false.
3. Not Sustained: The allegation is not supported by a preponderance of evidence.

4. Sustained: A preponderance of evidence shows that the action of the employee was not consistent with Department policy.
5. No Finding: Circumstances dictate a disposition of no finding. These can include: a complaint received outside of the 90 day time limit; a complainant wishing to withdraw the complaint; a complainant no longer available or not cooperating with the investigation; a complaint received on a retired employee, or on a person not employed by Balsam Lake Police Department; or a minor complaint informally resolved to the satisfaction of the complainant.

ALLEGATIONS OF CRIMINAL ACTIVITY, SERIOUS MISCONDUCT AND CRITICAL INCIDENTS

1. In all cases where a felony or other serious misconduct is alleged, the following will be contacted as soon as possible:
 - a. The employee's supervisor
 - b. The Chief of Police
2. When the investigating officer determines that there may be probable cause for a criminal violation the case shall be forwarded to the District Attorney's office for review. This does not preclude an immediate physical arrest if there is a threat to public safety.
3. Allegations of criminal conduct that are not clearly unfounded may be taken to the District Attorney's Office for informal review at the investigator's discretion.
4. The same legal standards regarding Miranda warnings shall be applied to employees as would be applied to individuals not employed by the Department.

NOTIFICATION OF DECISION

Following completion of a complaint investigation, the employee(s) who are the subject of the complaint shall be informed of the disposition by the Chief of Police. This notification should be made as soon as possible, but not later than 10 days following completion of the investigation and command review procedure.

MANAGEMENT PREROGATIVE

Nothing in this policy shall be construed to limit the management prerogative of the Chief of Police, nor any other supervisory officer, to take corrective action whenever appropriate. The Chief of Police may file formal charges against an employee, with the appropriate authorities, irrespective of a citizen or internal complaint.

1-1000 DOMESTIC ABUSE and OFFICER INVOLVED DOMESTICS

The Balsam Lake Water Safety Patrol is authorized to enforce Wisconsin State Statutes 30.50 to 30.80, which all relate to boating violations. The Balsam Lake Water Safety Patrol does not respond to Domestic situations, except in a mutual aid response.

This department's official response to cases of domestic violence will stress the protection of victim(s), enforcement of the laws, and emphasize the attitude that violent behavior is neither excused nor tolerated. Furthermore, criminal laws will be enforced without regard to the relationship of the parties involved. In this section, "Domestic Abuse" means any of the following, engaged in by a person over 17 years of age against his or her spouse, former spouse, an adult with whom the person has created a child in common, or against an adult with whom the person resides or formerly resided:

1. Intentional infliction of physical pain, physical injury or illness.
2. Intentional impairment of physical condition.
3. A violation of law amounting to first, second or third degree sexual assault.
4. A physical act or threat that may cause the other person reasonably to fear imminent engagement in the conduct described under subdivisions 1, 2, or 3.

ARREST DISPOSITION - MANDATORY ARREST

1. The officer will arrest and take a person into custody if ALL of the following apply:
 - a. The officer, after investigating the incident, has probable cause to believe that the person is committing or has committed domestic abuse and that the person's actions constitute the commission of a crime, and
 - b. Either or both of the following circumstances are present and the officer is in a position to legally make an arrest:
 - i. The officer has a reasonable basis for believing that continued domestic abuse against the alleged victim(s) is likely, or
 - ii. There is evidence of physical injury to the alleged victim(s).
 - c. The parties involved are in a domestic relationship as defined by State Statute.
 - d. The report is made within 28 days of the incident.
2. An arrest will be made under the above requirements even though the victim expressly indicates a desire not to prosecute, or indicates an unwillingness to cooperate if the officer reasonably believes that the victim will suffer further injury if an arrest is not made.

3. This decision to arrest will not be affected by the relationship of the parties. Note: marriage is not a bar to prosecution for sexual assault.
4. If the above circumstances exist, and the suspect is not present, a reasonable effort will be made to locate and take the suspect into custody.
5. If an officer is acting on the basis of a domestic abuse report which is received more than twenty-eight days after the alleged incident occurred (excluding the date of the incident), the provisions mandating an arrest do not apply. However, all other provisions would still apply. For instance, if the officer makes an arrest, though not mandated to do so, the no contact provisions would apply.

ARREST DISPOSITION - DISCRETIONARY ARREST (PRO-ARREST)

1. In most circumstances, which do not meet MANDATORY arrest requirements, an officer should arrest and take a person into custody if the officer has probable cause to believe that the person is committing or has committed domestic abuse and the person's actions constitute the commission of a crime.
2. An officer's decision not to arrest under this section may not be based solely upon the absence of visible indications of injury or impairment.

REPORT REQUIRED WHERE NO ARREST

1. The domestic abuse arrest law requires a law enforcement officer who does not make an arrest in a domestic abuse incident, to prepare a written report *prior to the end of his or her tour of duty* stating why the person was not arrested.
2. The report will be sent to the District Attorney's Office for review to determine whether the person involved in the incident should be charged with the commission of a crime.
3. While Statute 968.075 (Domestic Abuse Incidents) compels reasonable efforts to locate and arrest suspects who have committed acts of domestic abuse, there will be limited instances when this is not possible. (Hence, the need to forward a copy of the officer's incident report to the District Attorney's Office.) Examples where an arrest may not be immediately plausible:
 - a. Reasonable efforts to locate and arrest the suspect are unsuccessful.
 - b. The suspect is located but due to incapacitation from alcohol and/or drug use, the suspect is placed under protective custody and conveyed to Detox.
 - c. The suspect has been committed under the standard for an emergency detention.
 - d. The suspect has received injuries necessitating an overnight admission to a hospital. Consult with the Chief to determine whether a guard should be posted.

4. When probable cause exists to arrest a domestic abuse suspect who is at large, the reporting officer will:
 - a. Notify the Polk County Dispatch center to let other officers/agencies know
 - b. Probable cause affidavit will be completed.

MUTUAL DOMESTIC ABUSE

When the officer has probable cause to believe that persons in a domestic relationship are committing or have committed domestic abuse against each other, the officer does not have to arrest both persons, but should arrest the person whom the officer believes to be the “predominant aggressor.” In determining who the predominant aggressor is, an officer should consider:

1. The intent of the law to protect victims of domestic violence;
2. The relative degree of injury or fear inflicted on the persons involved; and
3. Any history of domestic abuse between these persons, if that history can reasonably be ascertained by the officer.
4. Statements of witnesses.
5. Whether either party acted in self-defense or in defense of any other person.

TEMPORARY RESTRAINING ORDERS AND INJUNCTIONS

Knowingly violating a Temporary Restraining Order (TRO) or Interlocutory Injunction is a misdemeanor under Wisconsin law and the Police Officer should:

1. Contact Polk County Dispatch to determine that the TRO/injunction exists.
2. Determine whether the TRO/injunction has been served and its specific contents.
3. Serve the TRO/injunction to the suspect if it has not been served, noting date, time of service, and officer name on the back of the TRO copy (includes Xerox, facsimile). Additionally, notify dispatch of the date and time of service. Attach a copy of this form to your report. The victim’s copy of the TRO/Injunction can be used to serve notice to the suspect.
4. When the order has been served, the suspect should be advised to obey the order. Failure to comply with the order will result in the arrest of the suspect for the violation of the order.
5. The officer will make an arrest for a violation of the order when there is an order in existence, the order has been served, and there is probable cause to believe that it was knowingly violated.

CHILDREN

1. Note the names and ages of children and whether they were present when the domestic incident occurred.
2. Children should be interviewed about the current incident, history of abuse and abuse toward any other members of the household.
3. If the disposition of a dispute leaves minors in the home without a responsible adult, the officers are to contact the Polk County Juvenile Intake for temporary arrangements.
4. In the event that a minor child appears to be the victim of physical and/or sexual abuse, it is the responsibility of the officer to take immediate action, including notifying the Polk County Juvenile Intake within 12 hours of report of the incident per Wisconsin Statute 48.981(3).

CONTACT PROHIBITION; WAIVER

1. Under the domestic abuse arrest law, unless there is a waiver by the alleged victim, during the 72 hours immediately following an arrest for a domestic abuse incident, the arrested person is required to:
 - a. Avoid the residence of the alleged victim of the domestic abuse incident and, if applicable, any premises temporarily occupied by the alleged victim; and
 - b. Avoid contacting or causing any person, other than law enforcement officers and attorneys for the arrested person and alleged victim, to contact the alleged victim.
2. A law enforcement officer is required to arrest and take a person into custody, if the officer has probable cause to believe that the person has violated the "no contact" requirements.
3. Regardless of whether or not there has been a signed 72-hour no-contact provision, if the arrested person commits an act of domestic abuse during this 72-hour period, and the act constitutes commission of a crime, the penalty increases to a felony.
4. At any time during the 72-hour period specified above, the alleged victim may sign a written waiver of the 72-hour no-contact provision. The department will have waiver forms available for this purpose. If a waiver of the no-contact provision has been signed by the victim, the officer will provide one copy of this waiver to the victim, one copy is provided to the suspect (if located) and the remaining copies are forwarded with the officer's incident report.
5. The officer responsible for the arrest of a person for a domestic abuse incident will ensure that the alleged victim is notified of the no-contact provision.

RESPONDING OFFICER PROCEDURES**A. When responding to a family violence call, the officers shall**

1. Physically separate parties involved in domestic violence.
2. Restore order by gaining control of the situation.
3. Take control of all weapons used or threatened to be used in the crime.
4. Assess the need for medical attention and call for medical assistance if indicated.
5. Interview all parties.
6. Collect and record evidence and, where appropriate, take color photographs of injuries and property damage.
7. Complete appropriate crime or incident reports necessary to fully document the officer's response, whether or not a crime was committed or an arrest made.
8. Give the victim a copy of the incident report number.
9. If the offender has left the scene and a crime has been committed, the officers will do the following:
 - a. Search the immediate area if potentially worthwhile,
 - b. Obtain information from victims and witnesses as to where the offender might be,

B. Victim Assistance/Crime Prevention

Many victims of domestic violence feel trapped in violent relationships because they are unaware that domestic violence is a crime or that resources are available to help them. Also, the offenders may have threatened further violence if the victim attempts to leave or seek assistance. Therefore, officers are required to provide the following assistance to victims, batterers, and, where appropriate, the children of these individuals:

1. Advise all parties about the criminal nature of family violence, its potential for escalation, and that help is available.
2. Secure medical treatment for victims.
3. Ensure the safety of the children.
4. Remain on the scene until satisfied that there is no threat to the victim.
5. Remain on the scene to preserve the peace if one person needs to remove personal (not joint) property.

6. Provide the victim with a referral information packet for legal or social assistance and support.
7. Where necessary, transport the victim to an available shelter or suitable alternative safe haven.
8. If children need to be removed from the home, contact a supervisor.

FORMS

1. Information for Victims of Crime
2. Victim Worksheet
3. Officer Worksheet
4. 72 hour no contact form
5. Bodily Harm/Lack of Consent
6. Voluntary Statement

OFFICER-INVOLVED DOMESTIC ABUSE

The purpose of this policy is to establish procedures for handling matters of domestic violence and abuse involving law enforcement officers and for implementing prevention strategies. This policy will provide law enforcement executives and department employees guidance in reporting and responding to, and investigating domestic violence incidents involving agency employees and law enforcement officers, thereby discouraging and reducing acts of domestic violence by employees of law enforcement agencies.

This agency will not tolerate domestic violence by its employees. Understanding that enforcing any actions against fellow officers can be complex and uncomfortable; this policy lays out procedures to help reduce the intimidation felt by responding officers. Responding officers are expected to handle these incidents in accordance with the training guide accompanying this policy and could face disciplinary actions if they do not report, investigate, or follow procedures correctly. Moreover, this agency will not tolerate any retaliation against responding officers or anyone who reports an incident of officer-involved domestic violence.

This policy, offers a comprehensive approach towards officer-involved domestic violence. The procedures seek to educate officers at all phases of their career and use early intervention and awareness strategies as well as disciplinary measures, when necessary, to reduce victimization and increase the chances of officer career stability. Furthermore, whenever incidents of domestic violence are alleged to have occurred the department will act quickly to protect the victim, investigate the allegations, arrest the perpetrator, and conduct parallel administrative and criminal investigations.

Finally, federal law prohibits police officers convicted of qualifying misdemeanor domestic violence crimes from possessing firearms. Officers found guilty of a qualifying domestic violence crime through criminal proceedings shall be terminated as an officer. Once implemented, the policy will apply to past convictions, pending or existing domestic violence cases/crimes, and future police officer domestic violence crimes.

This policy applies to all agency employees, whether sworn or not.

DEFINITIONS

A. Domestic Abuse: Section 968.075(1)(a) of the Wisconsin Statutes defines domestic abuse as any of the following engaged in by an adult (17 years of age and older), against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided, or against an adult with whom the person has a child in common:

1. Intentional infliction of physical pain, physical injury or illness.
2. Intentional impairment of physical condition.
3. Violations of Wis. Stats. 940.225(1), (2), or (3) (sexual assault).
4. A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described under subs. (1), (2), or (3).

B. Qualifying Misdemeanor Crime of Domestic Violence: Must include:

1. A state or federal misdemeanor crime that has as an element of use or attempted use of physical force or threatened use of a deadly weapon.
2. Right to counsel or knowing and intelligent waiver.
3. Applies to convictions occurring prior to and after September 30, 1996.
4. Excludes convictions that have been expunged, set aside, or person has been pardoned or has had his/her civil rights restored

PROCEDURES

A. Procedures for early warning and intervention: The department will implement pre-hire screening and post-conditional employment procedures to screen out candidates with a history of domestic violence. Throughout an officer's career, the department, supervisors, and officers will attempt to identify warning signs of domestic violence and intervene prior to an incident happening.

B. Procedures for prevention through education and training: The department will collaborate with advocacy groups on ways to educate officers and their families and conduct periodic training on domestic violence issues throughout officers' careers. The advocacy groups will help evaluate the domestic violence training program and collaborate with the department to improve the program and prevent domestic violence.

- C. Incident response procedures: Critical elements in responding to an officer-involved domestic violence incident include specific procedures for a department response, communications response, patrol response and on-scene supervisor response. The department will follow specific procedures to respond to officer-involved incidents, ensure victim safety, for seizing and removing weapons from the officer involved, and for conducting a department follow-up.
- D. Procedures for post-incident administrative and criminal decisions: After an officer-involved domestic violence incident, the department will conduct two separate investigations. The administrative investigation will determine if the officer violated any departmental policies and procedures and the criminal investigation will determine if the officer violated any laws. If the officer is convicted of a criminal violation, he/she may be terminated from the department.
- E. Victim safety and protection procedures: The department will work to ensure victim safety and confidentiality. A lethality assessment/safety plan will be created and any perception of victim or witness intimidation/coercion will be investigated.
- F. Collaboration with victim advocacy agencies: The department will continually foster relationships with local advocacy groups and include those advocacy groups in planning and offering training and in responding to domestic violence incidents.

IMPLEMENTATION PROCEDURES

Once implemented, the policy will apply to past convictions, pending or existing domestic violence cases/crimes, and future police officer domestic violence crimes.

1-1100**TRESPASSING**

The Balsam Lake Water Safety Patrol is authorized to enforce Wisconsin State Statutes 30.50 to 30.80, which all relate to boating violations. The Balsam Lake Water Safety Patrol does not respond to Trespass situations, except in a mutual aid response.

TRESPASS TO DWELLING (WISCONSIN STATUTE, SECTION 943.14)

To arrest for this violation, probable cause must exist to believe that the person involved:

1. intentionally entered the dwelling of another;
2. did so without consent of some person lawfully on the premises, and;
3. did so under circumstances tending to create or provoke a breach of the peace. Officers should arrest the person involved if probable cause exists. The decision to charge under ordinance or as a crime is up to the officer's assessment of the circumstances.

DWELLING DEFINED

A dwelling is defined as all residential buildings, including the common halls, porches, passageways, and shared areas of apartments and other residential buildings, as well as individual units within residential buildings.

1-1200**REPORTING CHILD ABUSE**

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Balsam Lake Water Safety Patrol members are required to notify the appropriate county department or licensed child welfare agency of suspected child abuse. The Balsam Lake Water Safety Patrol is authorized to enforce Wisconsin State Statutes 30.50 to 30.80, which all relate to boating violations. The Balsam Lake Water Safety Patrol does not respond to child abuse situations, except in a mutual aid response.

The Balsam Lake Water Safety Patrol will notify Polk County Social Services and/or the Polk County Sheriff's Department for all observed or reported incidents of alleged criminal child abuse.

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 or law enforcement (Wis. Stat. § 48.981).

MANDATORY NOTIFICATION

Members of the Balsam Lake Water Safety Patrol shall notify the appropriate Polk County department and/or the Polk County Sheriff's Department when, during the course of their duties, they have reasonable cause to suspect that a child has been abused or neglected; when they have reason to believe that a child has been threatened with abuse or neglect that will occur; or when they receive a report of such abuse or neglect. This applies in circumstances that include (Wis. Stat. § 48.02; Wis. Stat. § 48.981):

1. Cases in which a caregiver is suspected of abuse, or neglect, or of threatened abuse, or neglect of a child.
2. Cases in which a caregiver is suspected of facilitating or failing to take action to prevent the suspected or threatened abuse or neglect of a child.
3. Cases in which it cannot be determined who abused or neglected or threatened to abuse or neglect a child.
4. Cases in which there is reason to suspect that an unborn child has been abused or there is reason to believe that an unborn child is at substantial risk of abuse.

For purposes of notification, abuse includes, but is not limited to, non-accidental physical injuries, sexual offenses, emotional damage and any other act as described in Wis. Stat. § 48.02(1).

Neglect includes, but is not limited to, failure to provide necessary care, food and clothing so as to seriously endanger the physical health of the child, and any other act as described in Wis. Stat. § 48.02(12g).

Notification Procedure

Notification should occur as follows (Wis. Stat. § 48.981):

1. The handling officer should immediately make the notification to Polk County Juvenile Intake or licensed child welfare agency by telephone or in person but in all cases before completing his/her shift and no later than 12 hours, exclusive of Saturdays, Sundays or legal holidays.
2. Notification, when possible, shall contain at a minimum:
 - A. The name, address, age, sex and race of the child.
 - B. The nature and extent of the child's injuries, including any evidence of previous cases of known or suspected abuse or neglect of the child or the child's siblings.
 - C. The names and addresses of the persons responsible for the suspected abuse or neglect, if known.
 - D. The family composition.
 - E. The source of the report and the name, address and occupation of the person making the report.
 - F. Any action taken by the reporting source.
8. Any other information that the person making the report believes may be helpful in establishing the cause of the child abuse, physical injury or neglect.
3. If there is reasonable cause to suspect that a child died as a result of abuse or neglect, the appropriate Medical Examiner shall also be notified (Wis. Stat. § 48.981(5)).

INVESTIGATIONS AND REPORTING

In all reported or suspected cases of child abuse, an Incident Report will be written. 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:

1. 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.
2. The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.

3. Any relevant statements the child may have made and to whom he/she made the statements.
4. 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.
5. Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
6. Whether the child victim was transported for medical treatment or a medical examination.
7. 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.
8. Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
9. Previous addresses of the victim and suspect.
10. Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.
11. Where a child or unborn child is believed or reported to be in immediate danger, the assigned officer shall begin the investigation immediately and take any necessary action to protect the child or unborn child (Wis. Stat. § 48.981(3)).
12. Medical records of the victim as necessary (Wis. Stat. § 146.82(2)(a)11).

1-1300 OPEN RECORDS RELEASE

The purpose of this policy is to establish a reference and procedure for the security and release of department public records in accordance with the Wisconsin Public Records Laws (Wis. Stat. § 19.31).

This policy does not prevent the Department from voluntarily making part or all of specific records available to the subject of the record or to the public unless disclosure is expressly prohibited by law or the information is classified as confidential or private (Wis. Stat. § 19.36(1)).

The Federal Freedom of Information Act (FOIA) does not apply to state or local records.

Definitions related to this policy include:

Legal custodian of records - The person designated by the Department as the legal custodian of records to fulfill all duties required by law, if no designation is made the legal custodian of records shall be the Chief of Police (Wis. Stat. § 19.21(1); Wis. Stat. § 19.33(4)).

Public records - Records that are not classified, restricted, confidential or private, and may be released by law, upon request.

Record - Any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created by or is being kept by an authority (Wis. Stat. § 19.32(2)).

Record subject - An individual about whom personally identifiable information is contained in a record (Wis. Stat. § 19.32(2g)).

PUBLIC REQUESTS FOR RECORDS

Wisconsin Public Records Laws (Wis. Stat. §§ 19.31-19.39) provides that records created by a public agency shall be subject to inspection and release pursuant to request, except pursuant to exemptions established by statute.

The Department will prominently display a sign that describes the rights of a person who requests public information, the responsibilities of the Department and the procedure to request information. It also should include the cost of inspecting or obtaining copies. Access to view or obtain copies of public records shall be made available by e-mail to thomas.thompson@balsamlakepolice.org (Wis. Stat. §19.34(1); Wis. Stat. § 19.34(2)(a)).

Processing Of Requests

Any member of the public, including the media and elected officials may request to inspect records of this department by submitting a request for each record sought and paying any associated fees (Wis. Stat. § 19.35(3)).

The processing of requests is subject to the following:

1. The member processing the request shall determine if the requested record is available and, if so, whether the record is exempt from disclosure. Either the requested record or the reason for non-disclosure will be provided as soon as practicable and without delay (Wis. Stat. § 19.35(4)).
2. If the request cannot be completed within 10 days from the initial date of request and unless unusual circumstances preclude doing so, the requestor shall be notified in writing of the delay.
3. In accordance with Wis. Stat. § 19.35(1)(L), the Department is not required to create records that do not otherwise exist in order to accommodate a public records request (Wis. Stat. § 19.35(1)(L)).
4. Requests by elected officials or other government agencies for records that are not open to public inspection should be referred to the Chief or his/her designee for a determination as to whether the records will be released.

Records Involving The Requester

If a request is received from an individual or a person authorized by the individual who identifies him/herself and states that the purpose of the request is to inspect or copy a record containing personally identifiable information, the request shall be granted or denied access in accordance with Wis. Stat. § 19.35(4)(c).

Separation Of Information

If a record contains both public and non-public information, the public information that is subject to disclosure shall be provided and the non-public information not subject to disclosure shall be deleted from the record before release (Wis. Stat. § 19.36(6)).

Non-Public Records

Grounds for denying public access to a record may include but is not limited to (Wis. Stat. § 19.35(1)(am)):

1. Any record containing personally identifiable information that is collected or maintained in connection with a complaint, investigation or other circumstance and that may lead to an enforcement action, administrative proceeding, arbitration proceeding or court proceeding. This includes any record that is collected or maintained in connection with such an action or proceeding.
2. Any record containing personally identifiable information that, if disclosed, could result in:
 - A. Endangering an individual's life or safety.

- B. Identifying a confidential informant (Wis. Stat. § 19.36(8)).
 - C. Endangering security, including that of the staff or population of a detention facility.
 - D. Any record that is part of a records series that is not indexed, arranged or automated in a way that the record can be retrieved by use of an individual's name, address or other identifier.
- 3. Except as otherwise provided by law, whenever federal law or regulations require or as a condition to receipt of aids by this state require that any record relating to investigative information obtained for law enforcement purposes be withheld from public access, then that information is exempt from disclosure (Wis. Stat. § 19.36(2)).
 - 4. Requests for information that the Department believes is classified, restricted, confidential or private and wishes to withhold from the public and that is not specifically allowed by statute or judicial decision may be sent to the Village Attorney for a decision.

Denied Requests

If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. The denial shall inform the requester that the written request for the record release determination is subject to review by a court or upon application to the attorney general or a district attorney (Wis. Stat. § 19.35(4)(b)).

If a record is withheld, the requestor may pursue and bring an action for mandamus either through the court or the district attorney or attorney general to require production of the records sought (Wis. Stat. § 19.37(1)).

Records Destruction

No record shall be destroyed at any time after the receipt of a request for inspection or copying of the record until after the request is granted or until at least 60 days after the date that the request is denied or, if the requester is a committed or incarcerated person, until at least 90 days after the date that the request is denied.

If the Department receives written notice that an action relating to a record has been commenced in court, the record may not be destroyed until after the order of the court is issued and the deadline for appealing that order has passed, or, if appealed, until after the order of the court hearing the appeal is issued. If the court orders the production of any record, and the order is not appealed, the record may not be destroyed until after the request for inspection or copying is granted (Wis. Stat. § 19.35(5)).

REPORT RELEASE RESTRICTIONS

Absent a valid court order or other statutory authority, records or unrestricted portions of such records of this department may be made public subject to the following restrictions.

General Case And Crime Reports

Reports containing any of the items listed below will not be released:

1. Confidential information - Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved or information that would endanger the successful completion of the investigation or a related investigation shall not be made public (Wis. Stat. § 19.36(8)):
 - A. Analysis and conclusions of investigating officers may also be exempt from disclosure.
 - B. If it has been noted in any report that an individual wishes to protect his/her right to privacy under the Wisconsin Constitution, such information may not be subject to public disclosure.
2. Specific crimes - Certain types of reports involving, but not limited to, the records of children and juveniles who are subjects of investigations or other proceedings pursuant to Wis. Stat. Chapter 48 and Chapter 938 except as provided in Wis. Stat. § 48.396(1), Wis. Stat. § 48.396(1b), Wis. Stat. § 48.396(1d), Wis. Stat. § 48.396(5), Wis. Stat. § 48.396(6), Wis. Stat. § 938.396(1), Wis. Stat. § 938.396(1j) and Wis. Stat. § 938.396(10).
3. General Information - Absent statutory exemption to the contrary or other lawful reason to deem data from reports confidential, information from unrestricted agency reports shall be made public upon proper request.

Arrest Reports

Arrestee information shall be subject to release in the same manner as information contained in other reports as set forth above.

Local criminal history information including, but not limited to, arrest history and disposition, fingerprints and booking photos shall only be subject to release to those agencies and individuals as prescribed by law.

Boat Crash Reports

Boat crash reports and related supplemental reports shall be subject to release to those persons authorized.

Personnel Records

Personnel records, medical records and similar records that would involve personal privacy shall not be made public (Wis. Stat. § 19.36(10)).

If a personnel record, or any portion thereof, containing personal information is released, the Department shall notify the affected member before access is granted and within three days after making the decision to grant access (Wis. Stat. § 19.356(2)(a)).

Within five days after receipt of notice by the Department, a member may provide written notification of his/her intent to seek a court order restraining the Department from providing access to the requested record (Wis. Stat. § 19.356(3)).

Within 10 days after receipt of a notice by the Department a member may commence an action seeking a court order to restrain the Department from providing access to the requested record (Wis. Stat. § 19.356(4)).

The Department shall not provide access to the requested record within 12 days of sending a notice to a member pertaining to that record. In addition, if the member commences a court action, the Department shall not provide access to the requested record during pendency of the action. The Department shall not provide access to the requested record until any appeal is decided, until the period for appealing or petitioning for review expires, until a petition for review is denied, or until the Department receives written notice from the member that an appeal or petition for review will not be filed, whichever occurs first (Wis. Stat. § 19.356(5)).

SEARCH WARRANT RECORDS

Search warrants are confidential and shall be kept confidential until their execution (Wis. Stat. § 968.21).

OTHER RECORDS

Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including, but not limited to provisions of the court or evidentiary rules relating to privilege or to the security of the electronic technology systems used by the Department.

The Department maintains the right to refuse to disclose or release any other record when it would appear that the public's interest in accessing such record is outweighed by the need for nondisclosure.

Any record created exclusively in anticipation of potential litigation involving this department shall not be subject to public disclosure.

Personal Identifying Information

Members shall not access, use or disclose personal identifying information, including an individual's photograph, Social Security number, driver identification number, name, address, telephone number and the individual's medical or disability information, which is contained in any driver's license record, motor vehicle record or any department record 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).

SUBPOENA DUCES TECUM

Any subpoena duces tecum or discovery request should be promptly provided to the Chief 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.

All questions regarding compliance with any subpoena duces tecum should be promptly referred to the Village Attorney or other legal counsel for the Department so that a timely response can be prepared.



Balsam Lake Water Safety Patrol

P.O. Box 202
Balsam Lake, WI 54810

Thomas J Thompson
Chief

thomas.thompson@balsamlakepolice.org

CITIZEN COMPLAINT AGAINST AN EMPLOYEE

This is to inform you of your rights and responsibilities with respect to filing a complaint against an employee of the Balsam Lake Water Safety Patrol

The Balsam Lake Water Safety Patrol will not accept complaints that stem from a disagreement between the officer and complaints over the merits of an arrest or citation. The appropriate forum for such argument is in the courts. Obvious exceptions would include allegations of fabricated evidence, excessive force, et cetera. There are three options open to you;

1. You may inform a department supervisor (Chief) either verbally or in writing of your complaint and allow the supervisor (Chief) to address the situation through whatever means he/she deems appropriate. In this case you need not do anything further.
2. You may request that the Balsam Lake Water Safety Patrol conduct a formal investigation.
 - a. In this case, you must provide the department with a written statement. Include the date, time of the incident, detailed facts of the incident, and witnesses, if any, including their full names, address, work and home phones. The statement must state specifically what you feel the officer did wrong; and what rule, regulation or law you believe the officer violated.
 - b. Attach any documents or present any evidence you feel corroborates your allegation. False statements made either verbally, in writing, or in sworn testimony may be subject to criminal and/or civil proceedings. **Sign the statement in the presence of the person receiving your complaint.**
 - c. You and the witnesses may be required to appear and give testimony, if necessary. You have a right to be represented by an attorney at any time, at your own expense.
3. If you are not satisfied with the results of the department's investigation and conclusions, or the complaint is against the Chief; you may file your complaint with the President of the Balsam Lake Protection and Rehabilitation District. This could go to a Police Review Board for disciplinary actions under State Statute 62.13(5). You must provide the same information and documents alluded to in the above paragraphs.
 - a. You and the witnesses may be required to give sworn testimony. You may be represented by an attorney at any time, at your own expense. The Police Review Board has the power to subpoena witnesses. Depending on the seriousness of the allegation, you could be subpoenaed to testify before the Review Board, even if you later decide not to pursue the complaint.
 - b. Testimony before the Review Board carries the same responsibility as testifying in a court of law: statements must be truthful. False statements made either verbally, in writing, or in sworn testimony are subject to criminal and/or civil proceedings.

NOTICE

On May 12, 1998, Wisconsin State Statute, 66.312(3), was amended to require that notice be given to any person who makes a complaint against a law enforcement officer, that under Sec 946.66, WI Statutes states: ***"Whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a class A Forfeiture."*** A class A Forfeiture can be up to \$10,000

BALSAM LAKE WATER SAFETY PATROL

P.O. Box 202

Balsam Lake, WI 54810

CITIZEN COMPLAINT AGAINST AN EMPLOYEE

This form must be written in ink or typed and **signed in the presence of the person receiving the complaint.**

Today's Date _____

Name of Complaining Person _____
First Name Middle Name Last Name

Date of Birth ____/____/____

Address: _____
Street Address City State Zip Code

Home Phone (____) _____ Cell Phone (____) _____

If you have witnesses, include them/their information, in the body of this statement with exactly the same information as above.

Date of Incident _____ Time of Incident _____ am pm

Location of Incident _____

Balsam Lake Water Safety Patrol employees name _____

Briefly state the nature of the complaint: (use additional sheet(s) if necessary)

It is a violation of Wisconsin State Law to file a false report about a police officer according to State Statute 946.66, specifically; whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a Class A forfeiture. A Class A forfeiture can be up to \$10,000.

I swear and affirm this statement made by me this _____ day of _____ 20____ is true and correct to the best of my knowledge.

Signed _____ Witness _____
Complaining person