Supreme Court of Ohio Clerk of Court - Filed January 29, 2016 - Case No. 2015-0390

In the Supreme Court of Ohio

STATE OF OHIO, *ex rel.*	:	Case No. 2015-0390
THE CINCINNATI ENQUIRER	:	
	:	
Relator,	:	Original Action in Mandamus
	:	
vs.	:	
	:	
OHIO DEPARTMENT OF PUBLIC	:	
SAFETY, et al	:	
	:	
Respondents.	:	
	:	

RELATOR'S MERIT BRIEF

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INTRODUCTION

When the General Assembly enacted the Ohio Public Records Act, R.C. 149.43 ("the Act"), it codified, and strengthened, the long-standing common law right of access to governmental records held by Ohio citizens for decades. *See* Hon. Thomas J. Moyer, *Interpreting Ohio's Sunshine Laws: A Judicial Perspective*, 59 N.Y.U. Ann. Surv. Am. L 247, 248 (2003). The common law right was founded on a fundamental principle of American democratic government; the principle that "public records are the people's records [and that] the officials in whose custody they happen to be are merely trustees for the people . . ." *Dayton Newspapers, Inc. v. Dayton* ("*Dayton Newspapers*"), 45 Ohio St.2d 107, 109, 341 N.E.2d 576, 577 (1976) (internal quotations omitted).

Consistent with this principle, the Act creates a broad right of access to governmental records, qualified only by limited, and strictly construed, exceptions. *State ex rel. Dann v. Taft*, 109 Ohio St.3d 364, 368, 2006-Ohio-1825, 848 N.E.2d 472, 477. By preserving the broad right of access, and limiting exceptions, the Act minimizes the government's discretion over how to classify its own records. In doing so, the Act also curtails the ability of the government to decide how transparent it wants to be. *See Dayton Newspapers*, 45 Ohio St.2d at 110, 341 N.E.2d 576.

The dispute in this case arises out of Ohio State Highway Patrol ("OSHP") records created by a camera mounted on the dashboard of two OSHP police cruisers (hereinafter "dash-cam"). The videos show the actions of two OSHP officers in a high-

speed pursuit on I-71, and the eventual arrest of the motorist. The video is therefore a record of OSHP activities that form the core of its public mission, and the quintessential "public record" within the meaning of the Act.

The issue this Court must decide is thus straightforward: are these particular records exempt under the Act? The answer is no, because the information on the videos does not fall squarely within one of Act's enumerated exceptions. Moreover, the videos are the functional equivalent of a police incident report, which this Court has repeatedly held to be subject to immediate disclosure upon request.

But the Court's disposition of this case has far reaching implications, beyond establishing The Enquirer's legal entitlement to the specific dash-cam videos at issue. Recent events throughout the country illustrate the value of prompt disclosure of unedited video and audio records of law enforcement activities to the public. Public access to such records spurs robust public debate about the relationship of law enforcement and the community. But perhaps more important, access promotes public confidence in law enforcement agencies by demonstrating the agency's commitment to transparency. Thus, it necessarily follows that unjustified denials of public records requests erode public confidence.

This Court has only once had occasion to consider OSHP dash-cam videos, in *State ex rel. Miller v. Ohio State Highway Patrol* ("*Miller*"), 136 Ohio St.3d 350, 2013-Ohio-3720, 995 N.E.2d 1175. The Court did not decide, however, whether the specific dash-

cam video requested in that case was subject to disclosure, but held that such recordings were "public records," unless exempt under the confidential law enforcement investigatory record exception.[1] This case squarely presents the Court with the question whether the confidential law enforcement investigatory record exception invoked by OSHP applies to dash-cam video recordings of OSHP activities preceding an investigation, such as the highway pursuit and arrest involved here.

The Enquirer therefore requests that this court hold that police dash-cam videos of non-investigatory law enforcement activities are public records under the Act, and that they are never exempt under the confidential law enforcement investigatory records or trial preparation records exceptions. The Enquirer further requests that the Court award it its reasonable attorney's fees in bringing this action.

STATEMENT OF FACTS

Relator The Cincinnati Enquirer is a newspaper of general circulation in the greater Cincinnati metropolitan area. (Jt. Ex. A ("Agreed Statement of Facts"), ¶ 1.) The Ohio State Highway Patrol ("OSHP") is a law enforcement agency, and a division of the Respondent the Ohio Department of Public Safety ("ODPS"). (*Id.* at ¶ 3.) Respondent John Born is the director of ODPS. (*Id.* at ¶ 4.)

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[1] On remand, the Court of Appeals for the Twelfth Appellate District held that the dash-cam video at issue was exempt under the confidential law enforcement investigatory records exception. *State ex rel. Miller v. Ohio State Highway Patrol*, 12th Dist. No. CA2012-05-034, Clermont County, 2014-Ohio-2244, 14 N.E.3d 396, 402-03, ¶ 29. The relator did not appeal that decision to this Court.

At all times relevant to this action, OSHP officers regularly utilized police cruisers with so-called "dash-cams," that is, video capture devices installed in the cruiser's dashboard to record, *inter alia*, high speed pursuits and traffic stops. (*Id.* at ¶ 5.)

On January 22, 2015, OSHP troopers Laura Harvey and Cristian Perrin participated in a high-speed pursuit on Interstate 71, which began in Warren County, Ohio shortly after 8:30 a.m., and terminated in Hamilton County, Ohio shortly after 9:00 a.m. The suspect, Aaron Teofilo, was arrested at the conclusion of the pursuit, and charged with several felonies. (*Id.* at ¶ 6.) The dash-cams in both officers' cruisers recorded their pursuit and the arrest of Teofilo (hereinafter "OSHP Videos"). (*Id.* at ¶ 7; Jt. Ex. F.)

Trooper Harvey's dash-cam video ("Harvey Video") is the longest. (Jt. Ex. F.) It starts at 8:33:55 a.m. (00:00:00) and ends at 9:31:39 a.m. (00:57:42). The video portion contains images of the highway pursuit of Mr. Teofilo,[2] his apprehension,[3] and events following his arrest.[4] The audio from the Harvey Video includes, among other things, police radio chatter, the apprehending officers' orders to Teofilo before arresting him, Trooper Harvey's questioning of Mr. Teofilo, and Teofilo's responses.

Trooper Perrin's dash-cam video ("Perrin Video") begins at 8:35:39(00:57:44) and ends at 9:21:49(1:43:04). (Jt. Ex. F.) The video portion contains images of: Trooper Perrin

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[2] 8:33:55(00:00:00) through 8:51:02(00:17:07).
[3] 8:51:03(00:17:08) through 8:52:35(00:18:39).
[4] 8:52:36(00:18:40) through 9:31:39(00:57:42).

driving on the highway, accelerating to join the pursuit, and then waiting on the side of I-71 for Teofilo to pass;[5] and the pursuit.[6] Because of the positioning of Trooper Perrin's cruiser before Teofilo's apprehension, and after, the rest of his dash-cam video does not show images of Teofilo's apprehension or other events. The audio portion from the Perrin Video includes police radio chatter, the apprehending officers' orders to Teofilo before his apprehension, discussion between Troopers Harvey and Perrin, and a brief conversation with a passing civilian. His audio does not appear to pick up any of Trooper Harvey's questioning of Teofilo, or his responses. There is also third video OSHP produced, which begins at 8:35:39(1:43:55). This video shows images of an empty seat during the pursuit, in what appears to be Trooper Perrin's police vehicle (as it terminates at the same time (9:21:49)).

At some point after Teofilo's arrest, troopers Harvey and Perrin copied the recorded video from their respective cruiser dash-cams onto compact discs. (Jt. Ex. A, at ¶ 8.) Trooper Harvey also prepared a written incident report about the pursuit at some point after Teofilo's arrest. (*Id.* at ¶ 8; Relator's Ex. 3, at 4-5.)

OSHP is responsible for maintaining, and does maintain, dash-cam recordings created by OSHP troopers. (Jt. Ex. A, at ¶ 9.) It also promulgates policies governing the use of dash-cams and recordings resulting from their use. (*Id.* at ¶ 10; Jt. Ex. B.) OSHP

[5] 8:35:39(00:57:44) through 8:41:19(1:03:22).
[6] 8:41:20(1:03:23) through 8:51:07(1:13:11).

also maintains a Web site on which it posts dash-cam recordings. (Relator's Ex. 3, at 3 (Interrogatory No. 5).)

On January 29, 2015, Enquirer reporter Keith BieryGolick sent an email to Bradley Shaw, an employee of the OSHP, requesting a copy of "the dashboard camera video, incident/arrest report, and any 911 radio communications from a chase on Interstate 71 that started in Warren County before proceeding into Hamilton County on Jan. 22" (hereinafter "Records Request"). (Jt. Ex. A, at ¶ 11.)

Mr. Shaw's response was simply: "The prosecutor has asked that we don't release the video at this time. Thanks[.]"[7] (Jt. Ex. C, at 2.) Mr. BieryGolick asked Mr. Shaw for clarification regarding the basis for OSHP's denial of the Records Request, and Mr. Shaw wrote "**Confidential Law Enforcement Investigation Records** ORC 149.43(A)(1)(h) and ORC 149.43(A)(2)." (*Id.*)

On February 11, 2015, Eric S. Richmond, Assistant Public Records Manager for the ODPS, provided copies of the entire arrest/incident report and the 911 radio communications, but not the dash-cam recordings. Mr. Richmond stated that the dash-cam video recordings were "a part of an open criminal case that pertains to a law enforcement matter of criminal, quasi-criminal, civil, or administrative nature and whose release would create a high probability of disclosure of specific investigatory work product." (Jt. Ex. D.)

[7] Mr. Shaw failed to cite legal authority (statutory or otherwise) for denying the request.

Relator filed this action on March 9, 2015. Aaron Teofilo later entered a guilty plea in a criminal prosecution relating to the I-71 pursuit. On May 1, 2015 ODPS provided copies of the requested dash-cam recordings to Mr. BieryGolick on a single compact disc.

ARGUMENT

Proposition of Law No. I
Mandamus is the appropriate remedy to compel compliance with R.C. 149.43, and a relator need not establish the lack of an adequate remedy at law to establish entitlement to the writ.

"Mandamus is the appropriate remedy to compel compliance with R.C. 149.43, Ohio's Public Records Act." *State ex rel. ACLU of Ohio v. Cuyahoga County Bd. of Comm'rs*, 128 Ohio St.3d 256, 261, 2011-Ohio-625, 943 N.E.2d 553, 560 (internal quotations omitted). To establish entitlement to a writ of mandamus, a relator must establish, by clear and convincing evidence: "[1] a clear legal right to the requested relief, [2] a corresponding clear legal duty on the part of respondents, and [3] the lack of an adequate remedy in the ordinary course of the law." *Id.* at 260. A relator need not establish the third element in an action to enforce R.C. 149.43. *Id.* at 261.

R.C. 149.43(B)(1) provides "[u]pon request . . . all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular hours." It further states that "[i]f a public record contains information that is exempt from the duty to permit public inspection or to copy

the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt." *Id.*

Respondent clearly failed to make the OSHP Videos available to The Enquirer for inspection promptly in response to its Records Request. Thus, if the OSHP Videos were "public records" when The Enquirer made its Records Request, a writ of mandamus is appropriate.

<u>Proposition of Law No. II</u>
An OSHP dash-cam video recording of an OSHP trooper's pursuit of a motorist is a public record under R.C. 149.43, unless otherwise exempt.

The Act defines "public record" as "any record that is kept by any public office." R.C. 149.43(A)(1). The term "record" means "any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office." R.C. 149.011(G).

Consistent with the General Assembly's intent to "effectuate broad access to records," this Court has held that the term "records" encompasses "almost all documents memorializing the activities of a public office," unless exempt. *Kish v. City of Akron*, 109 Ohio St.3d 162, 2006-Ohio-1244, 846 N.E.2d 811, ¶ 20. Law enforcement agencies are public offices within the meaning of the Act. *See Bardwell v. Rocky River Police Dep't*, 8th Dist. No. 91022, 2009-Ohio-727, 2009 Ohio App. LEXIS 609, ¶ 54 ("It is

undisputed that a police department is a public office.") Thus, OSHP's "records" are "public records," unless otherwise exempt.

An OSHP dash-cam recording—irrespective of content—meets the statutory definition of "public record," since it is an "item . . . created . . . by . . . [a] public office . . . which serves to document activities of the office." Additionally, the *Miller* Court held that a request for "any and all video and audio records" from an OSHP trooper's police cruiser created during a specified period was "a public-records request" sufficient to shift the burden to the OSHP to show that an exception justifying denial of the request applied. *Miller*, 136 Ohio St.3d 350, 2013-Ohio-3720, 995 N.E.2d 1175, at ¶¶ 19-22.

Here, the OSHP Videos document the pursuit of a motorist by two OSHP troopers, and their subsequent arrest of the motorist. As the records clearly constitute "public records" under the Act, the burden fell upon OSHP to establish the applicability of an exception to disclosure. *State ex rel. Cincinnati Enquirer v. Dupuis*, 98 Ohio St.3d 126, 2002-Ohio-7041, 781 N.E.2d 163, 167, ¶ 16.

In its second response[8] denying The Enquirer's Records Request, ODPS cited the CLEIR exception, R.C. 149.43(A)(1)(h), contending that release of the OSHP Videos would "create a high probability of disclosure of specific investigatory work product." ODPS has not cited any other exception as justification for withholding the records.

[8] OSHP's first response to Mr. BieryGolick's Records Request facially violated R.C. 149.43(B)(3), as Mr. Shaw failed to cite legal authority (statutory or otherwise) for denying his request.

Nevertheless, the inapplicability of another commonly cited exception used by law enforcement agencies, the trial preparation records ("TPR") exception, R.C. 149.43(A)(1)(g), is also addressed. *See* R.C. 149.43(B)(3) (permitting public office to rely upon reasons and legal authorities beyond those provided in response to request in mandamus action to enforce act).

<u>Proposition of Law No. III</u>
An OSHP dash-cam video recording of an OSHP trooper's pursuit of a motorist is not exempt from the definition of "public record" as a confidential law enforcement investigatory record, R.C. 149.43(A)(1)(h), or trial preparation record, R.C. 149.43 (A)(1)(g).

This Court construes the exceptions to the definition of "public record" set out in R.C. 149.43(1)(a) through (cc) strictly, and against the public-records custodian. *Miller*, 136 Ohio St. 3d 350, 2013-Ohio-3720, 995 N.E.2d 1175, at ¶ 23. Thus, to establish the applicability of an exception, the records custodian must prove that the subject record "falls squarely" within that exception. *State ex rel. Cincinnati Enquirer v. Jones-Kelley*, 118 Ohio St.3d 81, 2008-Ohio-1770, 886 N.E.2d 206, ¶ 10.

A. A dash-cam video of an OSHP pursuit of a motorist, and the motorist's subsequent arrest, does not constitute a confidential law enforcement investigatory record under the Act.

The CLEIR exception excludes from the definition of "public record":

> any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

> (a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;
>
> (b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;
>
> (c) Specific confidential investigatory techniques or procedures or specific investigatory work product;
>
> (d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

R.C. 149.43(A)(2).

The CLEIR exception is a product of the Court's 1978 decision in *Wooster Republican Printing Co. v. Wooster* ("*Wooster*"), 56 Ohio St.2d 126, 383 N.E.2d 124 (1978). In that case, the Court held that "[p]olice and other law enforcement investigatory records are not subject to the compulsory disclosure provisions of R.C. 149.43," in an attempt to reconcile the provisions of the newly enacted Privacy Act, R.C. Chapter 1347 and R.C. 149.43. *Wooster*, 56 Ohio St.2d 126, 383 N.E.2d 124 (paragraph 4 of the syllabus).

Shortly after the *Wooster* decision, the General Assembly amended R.C. 149.43 "to expressly state that law enforcement investigatory records were, subject only to narrow exceptions, within the compulsory disclosure provisions of R.C. 149.43 (138 Ohio Laws, Part I, 245-246)." *See State ex rel. Nat'l Broad. Co. v. City of Cleveland* ("*Nat'l*

Broad."), 38 Ohio St. 3d 79, 81, 526 N.E.2d 786 (1988). With this amendment, the General Assembly intended to reverse the result in *Wooster*, and "to subject law enforcement investigatory records to disclosure under the public records law." *Nat'l Broad.*, 38 Ohio St.3d 79 at 82, 526 N.E.2d 786. Although the General Assembly has amended the Act many times since the Court's 1988 *National Broadcasting* decision, it has not altered the CLEIR exception definition construed by that Court. *Compare* R.C. 149.43(A)(2) and *Nat'l Broad.*, 38 Ohio St.3d at 82, 526 N.E.2d 786. *See also* H.R. 152, 120th Gen. Assem., 1993-94 Reg. Sess. (Ohio 1993) (text of 1993 amendment to 149.43).

Based on the CLEIR definition provided in R.C. 149.43(A)(2), this Court developed a two-part test for evaluating whether the CLEIR exception applies. The test asks:

> First, is the record a confidential law enforcement record? Second, would release of the record create a high probability of disclosure of any one of the four kinds of information specified in R.C. 149.43(A)(2)?

Miller, 136 Ohio St.3d 350, 2013-Ohio-3720, 995 N.E.2d 1175, at ¶ 25 (internal quotations omitted).

But if the confidential law enforcement record at issue is not "investigatory" in nature, CLEIR—and the two-part test—has **no** application, regardless of whether release would disclose the types of information specified in R.C. 149.43(A)(2). The Court made this clear in *State ex rel. Beacon Journal Publ'g Co. v. Maurer* ("*Maurer*"), 91 Ohio St.3d 54, 56-57, 741 N.E.2d 511 (2001).

In *Maurer*, the Court considered whether a police report for an officer-involved shooting was exempt from disclosure under the CLEIR exception. The report at issue was extensive, containing "four typed transcripts of taped statements of law enforcement officers" and "[w]ritten statements by other witnesses." While the actual form report was two pages in length, the report with the officer and witness statements totaled thirty-five pages. *Id.* at 54, 741 N.E.2d 511.

The Court held that the entire thirty-five page report was a public record, and not exempt under the CLEIR exception. Although the Court took note of its two-part CLEIR test, it did not apply the test to the report. Instead, the Court held that the incident reports at issue were public records because they were not part of an investigation into the officer-involved shooting. *Id.* at 56, 741 N.E.2d 511 ("incident reports initiate the criminal investigations but are not part of the investigation"). Resolving any doubt about the meaning of its decision, the Court explained that it was ruling this way "despite the risk that the report may disclose the identity of an uncharged suspect." *Id.* at 57.

Maurer thus stands for the proposition that a law enforcement record created before the start of an investigation is never exempt under CLEIR. It also clarifies that—as a matter of law—the incident report in all cases is created <u>before</u> the investigation commences because it is <u>that</u> record which initiates the investigation. By definition, therefore, the incident report is not part of the investigation. Moreover, "[r]ecords even

further removed from the initiation of the criminal investigation than the form reports themselves, such as 9-1-1 recordings, are also public records." *Miller*, 136 Ohio St.3d 350, 2013-Ohio-3720, 995 N.E.2d 1175, ¶ 26 (internal quotations omitted).

1. *The OSHP Videos are not investigatory records because they preceded the initiation of the criminal investigation, and thus, the CLEIR exception cannot apply as a matter of law.*

The OSHP Videos recorded objective facts, in this case, images of the highway pursuit of a motorist. OSHP officers are "expected" to use their dash-cams to "record traffic stops, pursuits, and other public contacts occurring within the operating range of the camera." (Jt. Ex. B at 2.) Consistent with OSHP's policies limiting their officers' discretion in the use of dash-cams, the troopers' dash-cams in this case were automatically activated at the same time the troopers activated their emergency lights.

Indeed, when an OSHP officer exercises discretion to not activate his or her dash-cam, the officer "must be prepared to articulate his/her reasoning, and in the case of temporary suspension of a recording, the officer should declare on the record the reason for suspension prior to deactivation." (*Id.*) The clear expectation is that the dash-cams are activated as a matter of course when the emergency lights are turned on.

Respondents nevertheless contend that the OSHP Videos are "investigatory" records. Their argument lacks merit for several reasons.

First, the images shown on the OSHP Videos are those of a public, high-speed pursuit of a speeding motorist on a heavily trafficked interstate. They are images of an

incident in progress, and OSHP's emergency response to that incident. Although the images captured may have ultimately been useful to a subsequent investigation or criminal prosecution, the troopers did not make the OSHP Videos during an "investigation."[9] To argue otherwise is to suggest that every high-speed pursuit of a motorist is an investigation, which would render the term "investigatory," as used in the exception, meaningless. Indeed, under OSHP's own policy, OSP-200.06(C) the pursuit was an "emergency response," which it defines as "the response to a situation in which the physical safety and well-being of a person is directly jeopardized." (Jt. Ex. B, at 22, Appx. A-36.)

Second, the troopers' dash-cams started recording automatically when they activated their emergency lights, with a one-minute pre-record. OSHP policy OSP-103.22(B)(1)(c) provides that "[i]n vehicles equipped with digital camera/DVR combinations, the DVR is programmed to automatically start recording, including a one-minute pre-record, *whenever* the emergency lights and/or siren are activated." (Jt. Ex. B-2, Appx. A-16 (emphasis added).) Thus, it is not a trooper's need to investigate that triggers the dash-cam recording, but rather, the trooper's need to use emergency lights or sirens.

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[9] Indeed, Trooper Harvey testified that her probable cause for signaling Mr. Teofilo to stop was a missing rear license plate, which did not warrant an investigation. (Resp.'s Ex. A, ¶ 4.) She did not know that Mr. Teofilo would commit a felony, or that he did, until after the crime occurred.

Last, the "Initial Incident Report" Trooper Harvey prepared following Teofilo's arrest details information shown in her video. (*See* Relator's Ex. 3, at 4-5.) Moreover, she completed the incident report *after* the OSHP Videos came into existence. *Maurer* established the rule that incident reports initiate investigations, but are not part of the investigations they initiate. It would be a strange result indeed if the OSHP Videos—created before the non-investigatory incident report—were found to be "investigatory" for purposes of CLEIR. Moreover, such a result would blur the line of demarcation establishing when an investigation, for purposes of CLEIR, begins. Blurring the *Maurer* rule would inevitably result in more public official discretion in classifying records, more litigation, and less government transparency.[10]

OSHP's current public records policy governing its self-generated videos demonstrates the legitimacy of this concern. OSP-103.22(F) provides:

> **F. USE OF RECORDINGS FOR PURPOSES OTHER THAN EVIDENCE –** Videos generated by the Division (*other than those of an evidentiary nature*) which are being retained in accordance with the 30-day provision are subject to public record law and Ohio Department of Public Safety policy OSP-400.04.

(Jt. Ex. B-5, Appx. A-19 (emphasis added).) Subsection E(3) of the same policy states:

> **[E] 3. Viewing –** Display of evidentiary recording contents shall be limited to Division employees and those specifically designated by the prosecutor. Display and/or duplication of video regarded as evidence

[10] The importance of protecting laws affording broad public access to law enforcement records has been brought to the forefront of national debate by the tragic killing of Laquan McDonald in October 2014. *See, e.g.,* 161 Cong. Rec. H8436 (Nov. 30, 2015) (statements of Rep. Kelly, Rep. Jeffries, and Rep. Jackson Lee).

> shall be limited to Division employees, those specifically designated by the prosecutor, *or a person authorized under court order*.

(Jt. Ex. B-5, Appx. A-19 (emphasis added).) Thus, OSHP's written policy appears to be that it will deny all public records requests for records that are "of an evidentiary nature." (*See also* Jt. Ex. B, Appx. A-23 (OSHP Policy No. OSP-403.22(B)(1) provides: "Direct all media requests for in-car video segments, except prosecutorial work product, to the ***Office of Superintendent, Public Information Unit,*** for processing.").)

But the issue whether a record is "of an evidentiary nature" is irrelevant to whether the record is subject to disclosure under the Act. Not only is there no "evidence" exception in the Act, this Court held nearly twenty years ago that "[o]nce clothed with the public records cloak, the records cannot be defrocked of their status." *State ex rel. Cincinnati Enquirer v. Hamilton County*, 75 Ohio St.3d 374, 378, 662 N.E.2d 334 (1996). Thus, the mere fact that an OSHP officer, or prosecutor, later determines that a particular recording made by OSHP is "of an evidentiary nature" cannot make the record exempt. *Cf. State ex rel. Cincinnati Enquirer v. Sage ("Sage")*, 142 Ohio St.3d 392, 2015-Ohio-974, 31 N.E.3d 616, ¶ 25 (fact that 9-1-1 callback recording contained prejudicial information, alone, was insufficient for Court to conclude that release would violate federal law as violation of criminal defendant's Sixth Amendment right to fair trial).

The status of the OSHP Videos is clear under *Maurer*. They were created before Trooper Harvey wrote her incident report, and are therefore non-investigatory records

as a matter of law. This is so regardless of what information the release of the OSHP Videos might reveal. To maintain the common sense, bright-line rule *Maurer* established, the inquiry should end there.

> 2. *Even assuming that the OSHP Videos are "investigatory" records for purposes of CLEIR, release would not have created a high probability of disclosure of one of the four kinds of information specified in R.C. 149.43(A)(2).*

Even assuming that the OSHP Videos could be classified as law enforcement investigatory records under the Act and *Maurer*, their release posed no risk of disclosing the types of confidential information specified in R.C. 149.43(A)(2)(a)-(d). Subsection (a) (uncharged suspect) has no application since the grand jury indicted Mr. Teofilo with crimes pertaining to the OSHP Videos on February 23, 2015, six days before The Enquirer made its request. (Respondent's Ex. C, at pg. 13 ("Grand Jury was set on 2/20/15 – Indictment was filed on 2/23/15").) The inapplicability of subsections (b) and (d) are self-evident. Consequently, OSHP has thus far relied solely on the "[s]pecific confidential investigatory techniques or procedures or specific investigatory work product" category, which is subsection (c).

First, the OSHP Videos reveal no investigatory techniques of the OSHP, and OSHP does not contend otherwise. A high-speed pursuit of a motorist is not an investigation. It thus follows that releasing a video of a pursuit could not reveal specific confidential investigatory techniques.

Furthermore, the OSHP regularly posts dash-cam videos on its web site, www.statepatrol.ohio.gov. (Relator's Ex. 3, at 3 (Interrogatory No. 5).) Such content belies any argument that OSHP deems its pursuit tactics to be "confidential" in nature, or that disclosing such videos poses a risk of disclosing OSHP's confidential investigatory techniques. Indeed, OSHP publishes pursuit tactics in OSHP policy no. OSP-203.20. (Jt. Ex. B, at 34, Appx. A-46.)

Likewise, the OSHP Videos do not contain any of the troopers' "specific investigatory work product." The term "specific investigatory work product" means "notes, working papers, memoranda, or similar materials prepared by law-enforcement officials in anticipation of litigation." *Sage*, 142 Ohio St.3d 392, 2015-Ohio-974, 31 N.E.3d 616, ¶ 18 (citing *State ex rel. Steckman v. Jackson* ("*Steckman*"), 70 Ohio St.3d 420, 434, 639 N.E.2d 83 (1994)). And particularly pertinent here, "[t]he work product exception does not include ongoing routine offense and incident reports, including, but not limited to, records relating to a charge of driving under the influence and records containing the results of intoxilyzer tests." *Steckman*, 70 Ohio St.3d at 435, 639 N.E.2d 83, 94.

To start, the OSHP Videos were not "prepared" by the troopers. They were created automatically when the troopers turned on their emergency lights. (Relator's Ex. 2, at 2 (Interrogatory No. 1).) The lack of any affirmative action on the troopers' parts and lack of discretion alone forecloses a finding that they "prepared" the videos in anticipation of litigation. To argue otherwise is to contend that an OSHP trooper

anticipates litigation every time he or she activates the emergency lights or sirens on an equipped cruiser. Indeed, Trooper Harvey activated her lights to signal Mr. Harvey to stop, not to prepare for litigation over a citation for a missing license plate. She could not know when she activated her lights that Mr. Teofilo would commit a felony by failing to stop.

Furthermore, the exception for work product exists to protect the thoughts and mental impressions of a law enforcement officer engaged in an investigation. As the *Steckman* Court explained:

> If the product of such work is to be available merely upon demand, then there is a very real probability that certain information will remain unrecorded, witnesses' names will not be catalogued and other memoranda will be absent from the 'official' files.

70 Ohio St.3d at 434, 639 N.E.2d 83.

The OSHP Videos involved here do not implicate those concerns. The videos do not reveal the status of an investigation, for instance, the progress a detective has made in piecing a case together. Nor do they reveal an investigator's theories or impressions that could compromise an investigation if disclosed to the public. On the other hand, the videos are more akin to "records relating to a charge of drunk driving" or "intoxilyzer tests"; records which support the state's decision to bring criminal charges, rather than records of an investigator's post-commission inquiry to compile evidence to support those charges. Accordingly, for these reasons, OSHP cannot meet its burden of show that the OSHP Videos fall squarely within the CLEIR exception.

Additionally, it is worth noting that even if the videos could be considered "investigatory" records, and some portions of the video constituted "work product," OSHP was obligated to redact those exempt portions of the video and produce the rest. R.C. 149.43(B)(1).

Respondent will likely rely upon the reasoning of the Court of Appeals for the Twelfth Appellate District's decision in *Miller* after remand, where the court held that OSHP traffic stop records, including a dash-cam video, were exempt under CLEIR because disclosure would reveal specific investigatory work product. *State ex rel. Miller v. Ohio State Highway Patrol* ("*Miller II*"), 12th Dist. No. CA2012-05-034, Clermont County, 2014-Ohio-2244, 14 N.E.3d 396, ¶ 29. The court based its decision on the fact that the dash-cam captured the trooper's "specific assessment of whether he had probable cause to arrest [the driver] for OVI." *Id.* at ¶ 24. It further held that "there was no doubt that the video depiction was intended to be used by Trooper Westhoven to justify his probably cause determination, and by the state to support the impending criminal case against [the driver]." The Twelfth District's reasoning is not persuasive, and this Court should not adopt it, for at least two reasons.

First, the video was clearly a record "relating to a charge of drunk driving." Indeed, the video captured a field sobriety test, which is conceptually identical to the "intoxilyzer test" included in the types of records the *Steckman* Court identified as non-exempt records. *Miller II*, 2014-Ohio-2244, at ¶ 23. Thus, under *Steckman*, the video of the

traffic stop was subject to immediate release. 70 Ohio St.3d at 435, 639 N.E.2d 83, 94. The fact that the video may have supported a probable cause determination, or was evidence in a criminal case, is irrelevant.

Moreover, in distinguishing *Steckman*, *t*he Twelfth District offered nothing more than a cursory reference to changes in the way law enforcement officers investigate crimes. But the *Miller II* Court ignored that fact that the *Steckman* Court was merely approving of the holding of this Court in *State ex rel. MADD v. Gosser*, in which the Court held that a number of records relating to impaired driving arrests, including breath test results, were public records under the Act. 20 Ohio St.3d 30, 34, 485 N.E.2d 706, 710 (1985). *See also State ex rel. Outlet Commc'ns v. Lancaster Police Dep't*, 38 Ohio St.3d 324, 528 N.E.2d 175 (1988) ("in *State, ex rel. Mothers Against Drunk Drivers,* v. *Gosser* (1985), 20 Ohio St. 3d 30, 20 OBR 279, 485 N.E. 2d 706, wherein we held records of intoxilyzer test results are public records which, absent any specific statutory exclusion, must be made available for public inspection").

Second, the Twelfth District also found that the "impaired driver report" prepared by the trooper was exempt under the CLEIR exception. *Miller II*, 2014-Ohio-2244, ¶ 27-30. That report is the equivalent of an incident report, which is never exempt from disclosure under CLEIR. *See Maurer*, 91 Ohio St.3d at 56-57, 741 N.E.2d 511. The Twelfth District did not, however, attempt to distinguish the Court's 2006 *Maurer* decision, which involved a much more detailed report of an officer-involved shooting.

Nevertheless, the Twelfth District's *Miller II* decision is distinguishable. The dash-cam in that case contained information of an officer conducting a field sobriety test to determine whether a crime had been committed. The Twelfth District relied on its characterization of this test as "investigatory work product" to reach its conclusion. In contrast, the OSHP Videos here merely show the officers pursuing a suspect and arresting him. They do now show the troopers conducting any sort of test to determine whether he committed a crime.

B. A dash-cam video of an OSHP pursuit of a motorist, and the motorist's subsequent arrest, does not constitute a trial preparation record under the Act.

OSHP did not cite the TPR exception, R.C. 149.43(g), as a ground for denying The Enquirer's request for the OSHP Videos. And indeed, it is plainly inapplicable.

The Act defines "trial preparation record" as "any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney." R.C. 149.43(4). The Court reiterated in *Sage* that "when an investigation has multiple purposes, the records of that investigation cannot be said to be trial preparation records." *Sage*, 142 Ohio St.3d 392, 2015-Ohio-974, 31 N.E.3d 616, ¶ 14 (internal quotations omitted). And "[e]ven general fact-finding investigations do not produce trial-preparation records." *Id.*

Here, as in *Sage*, the trooper's pursuit—even if it could be characterized as an investigation—had a dual purpose. The most obvious purpose—as made clear by the videos themselves—was to put an end to the high-speed pursuit taking place on a crowded interstate. Thus, for this reason, the OSHP Videos are not exempt under the TPR exception.

Additionally, the OSHP Videos were not specifically compiled in anticipation of litigation. Instead, they were created because the troopers' activated their emergency lights.

Accordingly, for these reasons, OSHP cannot meet its burden of show that the OSHP Videos fall squarely within the TPR exception.

<u>Proposition of Law No. IV</u>
The Court should award The Enquirer its reasonable attorney's fees under R.C. 149.43(C)(2).

The criteria for an award of attorney's fees is set forth in R.C. 149.43(C)(2). Under that subsection, "the court may award reasonable attorney's fees subject to reduction as described in division (C)(2)(c)." A court may make a reduction to fees based on the reasonableness of the government's actions.

Under the reasonableness test,

> The court may reduce an award of attorney's fees to the relator or not award attorney's fees to the relator if the court determines both of the following:
>
> (i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public

> office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;
>
> (ii) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible or the requested public records as described in division (C)(2)(c)(i) of this section would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

R.C. 149.43(C)(2)(c). The Court has repeatedly held that a request that would enable to a newspaper to provide "complete and accurate news reports to the public" confers a public benefit, which supports an award of fees. *See Sage*, 142 Ohio St.3d 392, 2015-Ohio-974, 31 N.E.3d 616, ¶ 42 (citing *Maurer*, 91 Ohio St. 3d at 58, 741 N.E.2d 511).

The Enquirer has satisfied all of the necessary requirements to be entitled to an award of attorney's fees under R.C. 149.43(C)(2), as explained by this Court in *State ex rel. Pennington v. Gundler*, 75 St.3d 171, 661 N.E.2d 1049 (1996). Specifically, The Enquirer: (1) made a proper request for public records pursuant to R.C. § 149.43; (2) the Records were not turned over in response to that request; and (3) The Enquirer was therefore forced to file a mandamus action to obtain the Records. *Id.* Moreover, The Enquirer's request for the OSHP Videos was for the purpose of providing "complete and accurate news reports to the public."

Furthermore, no reduction of The Enquirer's fees under R.C. 149.43(C)(2)(c)(i) and (ii) would be appropriate in this case. To start, OSHP committed a facial violation of R.C. 149.43(B)(3) when Mr. Shaw failed to provide citation to legal authority for denying the Records Request. It then proceeded to withhold videos of a highway pursuit on the ground that they were exempt under the CLEIR exception. No well-informed public servant would reasonably believe that such videos were made as part of an investigation. And indeed, OSHP's own policies governing the use of dash-cam videos belie any such conclusion.

Likewise, no well-informed public servant would reasonably believe that withholding the dash-cam videos served the Act's objectives of open government and transparency. To the contrary, Respondent's decision to force The Enquirer to file suit to obtain what are the functional equivalent of incident reports diminishes public confidence in the commitment of law enforcement agencies to public transparency. Accordingly, should the Court award The Enquirer its attorney's fees, it should award the full amount without reduction.

CONCLUSION

For the reasons set forth, The Enquirer has established its right to access the OSHP Videos by clear and convincing evidence, and OSHP's correspondingly clear duty to permit public access. OSHP cannot meet its reciprocal burden to show that an exception to disclosure applies. Accordingly, The Enquirer respectfully requests that the

Court issue a writ of mandamus to Respondents, and award it its reasonable attorney's fees incurred in bringing this action.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing ***Relator's Merit Brief*** was served upon all counsel of record via Regular U.S. Mail, postage prepaid, pursuant to Ohio R. Civ. P. 5(B)(2)(c), on this 29th day of January, 2016.

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APPENDIX

R.C. 149.43 Availability of public records for inspection and copying.

(A) As used in this section:

(1) "Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;

(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;

(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under sections 3705.12 to 3705.124 of the Revised Code;

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

(f) Records specified in division (A) of section 3107.52 of the Revised Code;

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;

(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;

(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;

(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;

(m) Intellectual property records;

(n) Donor profile records;

(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;

(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information;

(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;

(r) Information pertaining to the recreational activities of a person under the age of eighteen;

(s) In the case of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section 3701.70 of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of section 307.626 of the Revised Code;

(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;

(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of executives of long-term services and supports administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;

(v) Records the release of which is prohibited by state or federal law;

(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;

(x) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;

(y) Records listed in section 5101.29 of the Revised Code;

(z) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section;

(aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;

(bb) Records described in division (C) of section 187.04 of the Revised Code that are not designated to be made available to the public as provided in that division;

(cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of section 2949.221 of the Revised Code.

(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;

(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(3) "Medical record" means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.

(4) "Trial preparation record" means any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.

(5) "Intellectual property record" means a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.

(6) "Donor profile record" means all records about donors or potential donors to a public institution of higher education except the names and reported addresses of the actual donors and the date, amount, and conditions of the actual donation.

(7) "Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation residential and familial information" means any information that discloses any of the following about a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation:

(a) The address of the actual personal residence of a peace officer, parole officer, probation officer, bailiff, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or an investigator of the bureau of criminal identification and investigation, except for the state or political subdivision in which the peace officer, parole officer, probation officer, bailiff, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation resides;

(b) Information compiled from referral to or participation in an employee assistance program;

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation by the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's,

firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's employer from the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's compensation unless the amount of the deduction is required by state or federal law;

(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation;

(g) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.

As used in divisions (A)(7) and (B)(9) of this section, "peace officer" has the same meaning as in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

As used in divisions (A)(7) and (B)(9) of this section, "correctional employee" means any employee of the department of rehabilitation and correction who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.

As used in divisions (A)(7) and (B)(9) of this section, "youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

As used in divisions (A)(7) and (B)(9) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

As used in divisions (A)(7) and (B)(9) of this section, "EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service

organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

As used in divisions (A)(7) and (B)(9) of this section, "investigator of the bureau of criminal identification and investigation" has the meaning defined in section 2903.11 of the Revised Code.

(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

(11) "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Revised Code.

(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code.

(B)

(1) Upon request and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy

the public record, the public office or the person responsible for the public record shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the public office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction.

(2) To facilitate broader access to public records, a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. A public office also shall have available a copy of its current records retention schedule at a location readily available to the public. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

(3) If a request is ultimately denied, in part or in whole, the public office or the person responsible for the requested public record shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing. The explanation shall not preclude the public office or the person responsible for the requested public record from relying upon additional reasons or legal authority in defending an action commenced under division (C) of this section.

(4) Unless specifically required or authorized by state or federal law or in accordance with division (B) of this section, no public office or person responsible for public records may limit or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public record. Any requirement that the requester disclose the requestor's identity or the intended use of the requested public record constitutes a denial of the request.

(5) A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.

(6) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person

to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy. Nothing in this section requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record.

(7) Upon a request made in accordance with division (B) of this section and subject to division (B)(6) of this section, a public office or person responsible for public records shall transmit a copy of a public record to any person by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage if the copy is transmitted by United States mail or the cost of delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.

Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by United States mail or by any other means of delivery or transmission pursuant to this division. A public office that adopts a policy and procedures under this division shall comply with them in performing its duties under this division.

In any policy and procedures adopted under this division, a public office may limit the number of records requested by a person that the office will transmit by United States mail to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. For purposes of this division, "commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

(8) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(9)

(a) Upon written request made and signed by a journalist on or after December 16, 1999, a public office, or person responsible for public records, having custody of the records of the agency employing a specified peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation shall disclose to the journalist the address of the actual personal residence of the peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, community-based correctional facility employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation and, if the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's, parole officer's, probation officer's, bailiff's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, community-based correctional facility employee's, youth services employee's, firefighter's, EMT's, or investigator of the bureau of criminal identification and investigation's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

(b) Division (B)(9)(a) of this section also applies to journalist requests for customer information maintained by a municipally owned or operated public utility, other than social security numbers and any private financial information such as credit reports, payment methods, credit card numbers, and bank account information.

(c) As used in division (B)(9) of this section, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

(C)

(1) If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section or by any other failure of a public office or the person responsible for public records to comply with an obligation in accordance with division (B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages under division (C)(1) of this section. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this

section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

If a requestor transmits a written request by hand delivery or certified mail to inspect or receive copies of any public record in a manner that fairly describes the public record or class of public records to the public office or person responsible for the requested public records, except as otherwise provided in this section, the requestor shall be entitled to recover the amount of statutory damages set forth in this division if a court determines that the public office or the person responsible for public records failed to comply with an obligation in accordance with division (B) of this section.

The amount of statutory damages shall be fixed at one hundred dollars for each business day during which the public office or person responsible for the requested public records failed to comply with an obligation in accordance with division (B) of this section, beginning with the day on which the requester files a mandamus action to recover statutory damages, up to a maximum of one thousand dollars. The award of statutory damages shall not be construed as a penalty, but as compensation for injury arising from lost use of the requested information. The existence of this injury shall be conclusively presumed. The award of statutory damages shall be in addition to all other remedies authorized by this section.

The court may reduce an award of statutory damages or not award statutory damages if the court determines both of the following:

(a) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(b) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(2)

(a) If the court issues a writ of mandamus that orders the public office or the person responsible for the public record to comply with division (B) of this section and determines that the circumstances described in division (C)(1) of this section exist, the court shall determine and award to the relator all court costs.

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, the court may award reasonable attorney's fees subject to reduction as described in division (C)(2)(c) of this section. The court shall award reasonable attorney's fees, subject to reduction as described in division (C)(2)(c) of this section when either of the following applies:

(i) The public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under division (B) of this section.

(ii) The public office or the person responsible for the public records promised to permit the relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time.

(c) Court costs and reasonable attorney's fees awarded under this section shall be construed as remedial and not punitive. Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees. The court may reduce an award of attorney's fees to the relator or not award attorney's fees to the relator if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(ii) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records as described in division (C)(2)(c)(i) of this section would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E)

(1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the attorney general as provided in section 109.43 of the Revised Code. In addition, all public offices shall adopt a public records policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under section

109.43 of the Revised Code. Except as otherwise provided in this section, the policy may not limit the number of public records that the public office will make available to a single person, may not limit the number of public records that it will make available during a fixed period of time, and may not establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours.

(2) The public office shall distribute the public records policy adopted by the public office under division (E)(1) of this section to the employee of the public office who is the records custodian or records manager or otherwise has custody of the records of that office. The public office shall require that employee to acknowledge receipt of the copy of the public records policy. The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

(F)

(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

(2) As used in division (F)(1) of this section:

(a) "Actual cost" means the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or database by a person who intends to use or forward the copies for surveys, marketing, solicitation, or resale for commercial purposes. "Bulk commercial special extraction request" does not include a request by a person who gives assurance to the bureau that the person making the request does not intend to use or forward the requested copies for surveys, marketing, solicitation, or resale for commercial purposes.

(c) "Commercial" means profit-seeking production, buying, or selling of any good, service, or other product.

(d) "Special extraction costs" means the cost of the time spent by the lowest paid employee competent to perform the task, the actual amount paid to outside private contractors employed by

the bureau, or the actual cost incurred to create computer programs to make the special extraction. "Special extraction costs" include any charges paid to a public agency for computer or records services.

(3) For purposes of divisions (F)(1) and (2) of this section, "surveys, marketing, solicitation, or resale for commercial purposes" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

149.011 Documents, reports, and records definitions.

As used in this chapter, except as otherwise provided:

…

(G) "Records" includes any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 of the Revised Code, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

Amended by 129th General AssemblyFile No.1, HB 1, §1, eff. 2/18/2011.

Effective Date: 09-26-2003; 2006 HB9 09-29-2007

Ohio State Highway Patrol
Policy Number : OSP-103.22

AUDIO/VIDEO USE, STORAGE, RELEASE, AND DESTRUCTION

Date of Revision : **12/18/2014**
Priority Review : **All OSHP Auxiliaries ; All Sworn Officers ; Other Affected Employees**
Distribution : **All OSP Offices and Facilities**

Summary of Revisions

Biennial review completed in December 2014; changes reflect the removal of VHS reference. Changes are in italicized, bold text.

Purpose

To provide guidelines for use of Division audio/video recording equipment.

To provide guidelines for secure and uniform methods of recording, storing, releasing, and recycling audio/video recordings.

To release Ohio Department of Public Safety employees and the State of Ohio from any and all claims that may arise in the use of a person's personal image or audio recording during an audio/video reproduction project conducted by the Division's Video Production Unit. This release does not apply to audio/video recordings from a patrol car that are released to the media or used otherwise.

Policy

A. **USE OF FIXED, MOBILE, AND HANDHELD CAMERAS**

1. **Division Equipment -** Division-owned recording equipment should be used by employees. The use of personal or privately-owned recording equipment for documentation purposes should be avoided. Recordings generated on Division equipment are Division property.

2. **Division Facilities**

a. At Division facilities equipped with audio/video monitoring/recording equipment for the BAC Room and other locations, the camera in the BAC room is not to be recorded and the audio function needs to be capable of being turned off to allow for privacy during any attorney/client conversations. For all other locations, the equipment will be used for officer safety, post security, or as needed for other purposes.

b. It is the arresting officer's responsibility to ensure the audio is shut off if a suspect or arrestee is permitted to use an area for privileged conversation in person or by phone.

3. **General Usage** - Maximize the use of audio/video recording.

- **Aim and Focus -** Position and adjust where necessary to record events.
- **Monitor -** Ensure the audio/video equipment is not deactivated until the

recorded contact is completed.
- **Wireless Microphone** - When available, use the wireless microphone to provide narration.

4. **Disclosure / Demands to Cease Recording -** Inform those who ask that audio/video recording equipment is in use. It is not Division policy that officers cease recording an event, situation, or circumstance solely at the demand of anyone other than the trooper or his/her supervisor.

5. **Exceptions to Recording** - Occasions and incidents will occur when an officer is unable to or does not activate the camera, or if already activated, must temporarily suspend recording. When exercising this discretion, an officer must be prepared to articulate his/her reasoning, and in the case of temporary suspension of a recording, the officer should declare on the recording the reason for suspension prior to deactivation. Situations when recordings might be inappropriate include but are not limited to:

- Protect the anonymity of an informant or other confidential source of information.
- Officer safety concerns.
- Administrative conversations.
- Conversations involving law enforcement sensitive information.

6. **Privileged Communications** - Privileged communications as defined by Ohio Revised Code 2317.02 shall not be monitored or recorded.

B. **IN-CAR CAMERAS** <41.3.08a, 83.2.02> a-e

1. **Operational Use**

a. It is expected that officers operating patrol vehicles equipped with functioning recording equipment record traffic stops, pursuits, and other public contacts occurring within the operating range of the camera. Back-up officers arriving to assist should make a reasonable effort to position audio/video equipment to record events. It is not expected that troopers record all crash investigations. Only evidence at the crash scene necessary for prosecution should be recorded.

b. Officers may also record other events, situations, and circumstances, including, but not limited to, armed encounters, acts of physical violence, felonious activity, and any evidence at a crash or criminal investigation that would be beneficial to have recorded on video.

c. In vehicles equipped with digital camera/DVR combinations, the DVR is programmed to automatically start recording, including a one-minute pre-record, whenever the emergency lights and/or siren are activated.

d. To reduce audio interference during the recording of a traffic stop, pursuit, or incident, non-work-related audio equipment (e.g., AM/FM radio) should be turned off prior to activating audio/video recording equipment.

e. Except for patrol vehicles equipped for K-9 transport, the backseat microphone will default to the 'ON' position. The officer may manually deactivate it when necessary (e.g., privileged conversations).

2. **Officer Responsibility - Inspection, Maintenance, and Repair**

a. Prior to each work shift ensure the audio/video equipment is functional, then make an entry via the MCT or notify the dispatcher for a notation in the comments field of the officer's unit history on the Computer Aided Dispatch (CAD) System if either functional or non-functional.

b. Digital camera/DVR testing includes:

1) Logging on to the DVR using the Division-assigned USB flash drive and confirming the correct unit number appears on the monitor display.

2) Synchronizing the belt microphone with the video system by placing it in the carrier.

3) Making a brief audio recording (e.g., 1,2,3...)

4) Playing back the recording on the monitor to ensure audio/video components are operable.

5) If the NW (Night Watch) feature is available on the camera, use the NW04 setting at night.

6) If the vehicle is to be left on post at the end of the shift, log out of the DVR and confirm the unit number does not appear on the monitor display.

c. It is not necessary to take a vehicle out of service because of a non-functional camera, but the in-car video system will not be used until repaired.

d. Report equipment failure to a supervisor and arrange for repairs. Report equipment failure during a work shift to the dispatcher without delay, who will then record the malfunction as a comment in the officer's unit history on the CAD to ensure there is a record of the inability to use the audio/video recording equipment. Unless otherwise instructed, the equipment should remain in the patrol car. Report equipment failures involving the car (camera, DVR, etc.) to a DHQ electronic technician. Report equipment failures involving post equipment (servers, card readers, etc.) to LEADS Control for infrastructure specialist dispatch.

e. Maintain the in-car video system and perform routine maintenance in accordance with the manufacturer's instructions.

f. When encountering vehicle or equipment maintenance issues that will require technical or maintenance staff to be engaged to troubleshoot and initiate repairs, the employee leaving or ***taking*** the vehicle for repairs will ensure that any video ***is uploaded*** before taking the vehicle for service. This will include service performed by electronic technicians or infrastructure specialists.

g. Upon receiving a patrol vehicle equipped with a video recording system for repair, the ET or IS will check the video recorder to ensure the video media has been removed before power is disconnected or restored to the vehicle / video recorder.

3. **Demonstration Requests** - Division officers should exhibit, display, and demonstrate in-car cameras to interested parties on request, at a convenient time and place.

C. **USE OF PORTABLE / HAND-HELD VIDEO / DIGITAL RECORDING SYSTEMS** <83.2.02>1,2

1. Portable, hand-held video/digital recording systems are useful in recording events and incidents. However, video/digital recordings should not be used to replace still photography when documenting investigations. Use still photography to document events for evidentiary purposes and process in accordance with Division policy. Use of video can be used in addition to still photography to document events.

2. When using video/digital equipment to document an unusual incident or incidents such as natural disasters, major investigations, catastrophic crash scenes, etc., seal video/digital recordings in an HP-12B pouch and forward to the OSP Forensic Video Analysis Unit without delay. Document incident number / crash number and the existence of the recording on the OH-2 and/or Incident Report. As a public record subject to disclosure, the recording will be filed in Forensic Video Analysis Unit and retained according to the applicable retention schedule.

D. **IDENTIFICATION AND STORAGE OF ALL RECORDED MEDIA** <41.3.08b,c> 1-3

1. **Responsibility -** Officers and other employees are responsible for:

- Ensuring audio/video recordings are not altered;
- Maintaining an adequate supply of recording media (free space on a flash card to complete a tour of duty); and
- Using only Division-issued audio/video recording media (flash cards, USB drives, etc.).

2. **Removal of Flash Cards** - The flash card should be electronically downloaded at the end of the shift.

a. **Storage -** Store used audio/video media not used as evidence in a locked storage area accessible only to post supervisors. Store audio/video media at the post of origin regardless of an officer's duty assignment change.

b. **Recording Erasures -** Record each erasure on a DPS 0131, Certificate of Records Disposal. Enter erasure of multiple media recordings as a single entry provided the inclusive dates are listed. Forward completed and signed DPS 0131's to ***Planning & Analysis***, Central Records through a supervisor.

E. **RECORDINGS USED AS EVIDENCE** <41.3.08b,c> 1-5; <83.2.02>1,2

1. **Control -** Recordings used as evidence and potentially subject to continuing judicial review (e.g., appeals process) shall continue to be governed by the joint control of the Division and the affected prosecuting authority. Patrol facilities are provided with the necessary duplication equipment to permit maintaining the evidentiary chain.

2. **Storage -** Recordings used as evidence (e.g., under subpoena, request of prosecutor, etc.) shall be retained by the Division. Those recordings on the post video

server shall be tagged. The recorded media shall be retained on the post server up to two years or until adjudication. When no longer needed by the court, remove the tag and it will be purged ***automatically by the system.*** Tagged videos remaining on the server for two years will be purged automatically by the system. If they are still required, the video must be copied to a DVD prior to the two year deadline and that recording shall be handled as evidence.

3. **Viewing -** Display of evidentiary recording contents shall be limited to Division employees and those specifically designated by the prosecutor. Display and/or duplication of video regarded as evidence shall be limited to Division employees, those specifically designated by the prosecutor, or a person authorized under court order.

4. **Exceptional Incidents -** Unusual or exceptional incidents related to law enforcement activities generate the interest of many. Employees shall not permit un-authorized persons the opportunity to review a video segment without prior authorization of the Superintendent or designee. If allowed, this could constitute pre-trial publicity and inhibit court proceedings.

5. **Challenges to the Evidentiary Value of Recordings**

a. Successful court challenges to the use or propriety of recorded evidence shall be detailed in writing by the officer's immediate supervisor and forwarded through DHQ to the Office of Field Operations.

b. The documentation should include a summary of the court's ruling as well as a notation and discussion of any restriction or sanction levied pursuant to the court ruling.

F. **USE OF RECORDINGS FOR PURPOSES OTHER THAN EVIDENCE -** Videos generated by the Division (other than those of an evidentiary nature) which are being retained in accordance with the 30-day provision are subject to public records law and Ohio Department of Public Safety policy DPS-400.04. Reproduction of videos generated by the Division without authorization of the Superintendent or designee is prohibited.

1. **Examples:** Video recordings may be saved for reasons other than evidence, including:

- officer safety review
- media requests
- public information
- training
- possible civil litigation
- to protect the officer from unfounded complaints, etc.

2. **Storage and Security -** Any video saved for legitimate law enforcement / administrative use should be stored in a secure area accessible only to authorized Division employees.

3. **Training Aids -** For recordings that may be of use as a training aid:

a. A supervisor will view the video.

b. If the video might be of value for training and is not needed as evidence,

the supervisor should forward the copy of the video to Field Operations for review prior to sending it to the Academy.

c. Academy staff will review and evaluate a video segment to determine its training value and reproduce it if needed.

G. **MEDIA / PUBLIC RECORDS REQUESTS -**

1. **Release** - Public support for Division operations is enhanced by the public viewing what we see each day. Release of audio/video segments for national and statewide media coverage improves public understanding of our mission and the obstacles we must overcome. Employees are encouraged to send video segments to the OSP Public Affairs Unit (including those used in criminal cases when released by the prosecutor). Copying or reproduction of any video or video segment generated by the Division without authorization of the Superintendent or designee is prohibited. WITHOUT EXCEPTION, release of video to the media will only be done by the OSP Public Affairs Unit with approval of the Superintendent or designee. Video segments of the following are examples likely to be released to state and national media:

- Crashes, if recorded
- Dangerous or reckless driving
- Unusual incidents
- Pursuits
- OVI arrests
- Anything which the officer believes is newsworthy and will portray the officer(s) and Division positively.

2. **Forward to the OSP Public Affairs Unit -** Forward all requests for video segments without delay to DPS Communications. WITHOUT EXCEPTION, direct all media requests for recorded segments, except prosecutorial work product, to the OSP Public Affairs Unit.

3. **Request in Writing -** Encourage requesters (although not required) to send their request in writing by fax or email to the OSP Public Affairs Unit.

a. Written requests should be on the letterhead of the requesting organization (if applicable) and indicate mailing address, reporter / producer / requester name, and requested method of how the recorded segment should be sent (FedEX, Airborne Express, UPS, etc.) along with applicable account number.

b. Information from the request is entered into the OSP Public Affairs Unit database that includes at the least: the media organization's name; last name of reporter / producer / requester; date received; date sent; and description.

4. **Duplication and Processing by the OSP Public Affairs Unit -**

a. **Digital Master -** All digitally-copied and network downloaded video segments will be archived in the OSP Forensic Video Analysis Unit in a locked cabinet accessible only to authorized staff. Forensic Video Analysis Unit will contact the facility for the original video or to network download a digital copy of the original video. OSP Public Affairs Unit or Forensic Video Analysis Unit staff will document the request by recording on the HP-63B,

Public Records Request Log.

b. **Digital Overlay of OSP Logo** - The OSP Forensic Video Analysis Unit will ensure a digital overlay of the OSP logo is placed on the video. The use of the OSP trademarked logo is prohibited without the approval of a Strategic Services supervisor or designee.

c. **Media Requests** - OSP Public Affairs Unit will forward the requested video segment to the media organization.

d. **All Other Video Requests** - OSP Public Affairs Unit will forward the duplicated video segment to the Central Records Unit for mailing to the requestor.

H. **HP-73C RELEASE OF ALL CLAIMS AND CONSENT TO USE PERSONAL IMAGE OR AUDIO RECORDING**

1. **Use** - Releases all claims of individuals, their heirs, executors, administrators, personal representatives, and/or assigns, in consideration of the opportunity to participate in traffic safety film projects created by the Ohio Department of Public Safety (ODPS) and/or its divisions. By signing the form associated with this policy, the signer permits his/her likeness and/or voice reproduction to be used in or edited from any video and/or audio pre-recordings that depict crash scenes, interviews, or photos recorded by ODPS or any of its Divisions for the projects; grants ODPS and its Divisions permission to use his/her persona and/or voice reproduction, and voluntarily releases, discharges, waives, and covenants not to sue the state of Ohio, Ohio Department of Public Safety, and/or its Divisions, officers, agents, and employees should the persona and/or voice reproduction be used; and further assigns to ODPS, without qualification, the copyright, the right to copyright, and the right to publish, use, and reuse without restriction any and all photographs and video tapes created during the preparation, planning, and/or actual staging and occurrence completed for the projects.

2. **Form Completion -** Each person should be requested to complete this form, whose likeness and/or voice reproduction is to be used in or edited from any video and/or audio pre-recordings that depict crash scenes, interviews, or photos recorded by ODPS or any of its Divisions for a project. A signed release is also required for all DPS employees.

Name - First name, middle initial, and last name of the person who will appear in the project.

Signed - Signature of the person must correspond with name listed.

Address - Complete address of the person who will appear in the project.

Legal Representative - Signature of person serving as a legal representative (if present) for the signature of the person releasing all claims, or legal guardian of minors (required for minors).

Witness - Signature of a person who can attest to the validity of the signature of the person releasing all claims.

Date - Date form is completed / signed.

3. **Disposition and Retention -** Prepare one copy prior to production. Fax to the Department of Public Safety Communications Office and send the original to DPS Communications via inter-office mail. File the completed form in 3-REL and retain in accordance with records retention schedules until destroyed.

Current Form and Supplemental References

Forms available by accessing Central Repository System (CRS):
http://odpsweb.ps.dps.state.oh.us/crs

Video Review Checklist
OHP 1299

HP-12E Digital Recording Log
OHP 1300

HP-63B Public Records Request Log
OHP 2485

Certificate of Records Disposal
DPS 0131

OSP Standard References

41.3.08 83.2.02

Policy References

DPS-400.04	ADMINISTRATION OF PUBLIC RECORDS REQUESTS
OSP-102.01	BACKGROUND AND SECURITY CLEARANCE INVESTIGATIONS
OSP-103.06	PHOTOGRAPHS / DIGITAL IMAGES
OSP-103.10	STORAGE AND DISPOSITION OF EVIDENCE AND RECOVERED PROPERTY
OSP-200.06	PATROL CAR / MOTOR VEHICLE OPERATION BY SWORN OFFICERS
OSP-403.06	DIVISION ADMINISTRATIVE FILES, DIRECTIVES, FORMS, READ AND SIGN
OSP-403.22	RECORDS MANAGEMENT

Attachment(s)
OSP-103.22 HP-73C Consent to Use Personal Image or Audio Recording.doc

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Print this Policy

Ohio State Highway Patrol
Policy Number : OSP-403.22

RECORDS MANAGEMENT

Date of Revision : **2/24/2009**
Priority Review : **All Supervisors ; Other Affected Employees**
Distribution : **All OSP Offices and Facilities**

Summary of Revisions

Biennial Review completed May, 2011. Policy updated to provide guidelines for obtaining and completing box labels via AIMS. HP-52 is no longer used.

Purpose

To establish accountability and operational guidelines for:

- administration, use, retention, and disposal of Division records, including juvenile records;
- distribution of public documents produced by the Division, as required by Ohio Revised Code Section 149.11;
- compliance with Ohio Revised Code Section 149.43, The Public Records Act, for requests for inspection and/or photocopies of records from the general public; and
- document preparation in anticipation of, or reaction to, civil litigation.

Policy

A. **POLICY STATEMENT** - All Division records will be maintained in a secure area, accessible only to authorized personnel. Records will be retained as established by the Division's record retention schedules. Unless otherwise specified, all Division records will be released in accordance with this policy and DPS-400.04, Administration of Public Records Requests. The Superintendent is responsible for records management and has delegated this authority as necessary to the Office of Strategic Services, Central Records, and individual commanders as stated in this policy.

B. **PUBLIC RECORDS REQUESTS**

1. **General** - The majority of official Division records are maintained in Columbus. Time stamp and forward immediately any request through the "Public Records Act" to the Central Records Unit. All requests for information will be logged by the OSP Public Records Administrator utilizing the DPS Public Records Database as outlined in DPS-400.04. Depending upon the circumstances, this may require that the request be faxed, e-mailed, telephoned, or mailed via courier to Central Records. This does not preclude a commander from allowing a requester to visually inspect a routine report, completed traffic crash reports, BAC log book, HP-53B, etc. For the purposes of this policy, the definition of a completed traffic crash report is an OH-1 that has received supervisory review/approval and is ready to be sent to Central Records. Direct all media requests for in-car video segments, except prosecutorial work product, to the ***Office of the Superintendent, Public Information Unit***, for processing. <82.1.01a>

2. **Record Identification and Protection** - As soon as a request is received and before it is forwarded to GHQ, the commander receiving the request must determine what information is being sought to ensure that no temporarily held record is destroyed. (Example: A post commander receives a public records request for an audio tape of radio transmissions and/or telephone conversations.)

3. **Media Requests** - Any request from the media will be processed with the coordination of the ***Office of the Superintendent, Public Information Unit***. The Division's attorney should be consulted on unusual requests that may need a legal interpretation.

4. **Local Records** - Although a requested record may be held at the local level, time stamp and forward any unusual requests to Central Records for review before providing the record. <82.1.01a,c>

5. **Rules of Discovery** - Investigative materials relating to open criminal cases are exempt from release under public records law, until criminal proceedings in the case are complete. The Ohio Supreme Court has ruled "in pending criminal proceedings, criminal defendants are entitled only to the materials that are available to them under criminal discovery rules. The Ohio Public Records Law cannot be used as a means to obtain records otherwise excluded from discovery, for use in preparing a defense to criminal charges." This does not mean that the Division can make summary denials of any record or records potentially dealing with a criminal proceeding, only those available under discovery. If a request for records is received dealing with a criminal defendant in a pending criminal matter, contact Central Records and/or the Division attorney for guidance. <82.1.01a,c>

a. **Document Production** - Failure to comply with the rules of discovery may lead to sanctions against the non-complying party (i.e. monetary penalties, payment of attorney's fees, or inability to use the documents at trial) for the willful withholding or destruction of potential evidence. All documents, including any personal notes, tapes, or other forms of recordings shall be produced in a timely manner to the Division's attorney in cases where notice of suit has been filed. Officers shall forward all documents and information pertaining to the litigation regardless of apparent relevance to the case.

b. **Supplemental Documentation** - There is a continuing obligation to supplement the materials produced as additional information becomes available. Inquiries concerning the litigation should be made to the Patrol's attorney through proper channels.

6. **Questionable Requests** - District, post, and component commanders should contact Central Records when questions arise from public records requests. The Department of Public Safety attorney should be consulted on requests that may need a legal interpretation. <82.1.01a,c>

7. **HP-53 Documentation** - All Public Records Requests must be documented on the HP-53. If obtainable, record the requester's name, address, phone number, and organization represented along with the

specific request and how it was handled. Enter "PRR" (Public Records Request) in the "SERVICE EVENT CODE" caption, and enter the unit number of the employee handling the request in the "FROM" caption of the HP-53.

8. **Civil Litigation Preparation**

a. **Definition of "Document"**- All originals of any nature whatsoever, identical copies and all non-identical copies thereof pertaining to any medium upon which knowledge or information is recorded in your possession, custody, or control regardless of where located, including without limiting the generality of the foregoing, punch cards, printout sheets, movie film, slides, phonograph records, photographs, microfilm, notes, letters, memoranda, ledgers, work sheets, books of account, brochures, circulars, proof sheets, books, magazines, notebooks, diaries, calendars, appointment books, registers, charts, tables papers, agreements, contracts, purchase orders, acknowledgements, invoices, authorizations, budgets, analyses, projections, transcripts, minutes of meetings of any kind, correspondence, telegrams, drafts, data processing discs or tapes, and computer produced interpretations thereof, x-rays, instructions, announcements, schedules, price lists, and mechanical or electrical sound recordings and transcripts thereof, video tapes, and audio tapes. In all cases where originals and/or non-identical copies are not available, "document" also means identical copies of original documents and copies of identical copies.

b. **Document Storage** - ODPS Legal Services does not have the ability to store all documents in cases where a suit might be filed. Therefore, where there is the potential for civil litigation, documents should be stored and maintained at the post or other office component.

C. **RESPONSIBILITY** - Each section is responsible for maintaining and storing relevant records.

1. **Office of Human Resources** <82.3.05>

- Personnel Records
- Grievances
- Evaluations
- Promotional Materials and Promotional Examinations
- Administrative Investigations Records

2. **Office of Personnel** <82.3.05>

- Recruitment and Selection Records
- Training Academy Records - e.g., individual course rosters, lesson plans, course contents, and grades.

3. **Office of Special Operations**

Investigative Services Unit - Copies of Confidential Informant files will be maintained in accordance with Policy OSP-103.17,

Use of Informants. Intelligence files are not public records. Retention is one year plus the current year. Victim and witness records are filed in case investigation files and retained according to the case investigation retention schedule. <82.3.05>

4. **Office of Field Operations**

Inspections Unit - Copies of all staff and line inspections are maintained by Field Operations - Inspections Unit until after the next inspection is complete. <82.3.05>

5. **Office of Strategic Services** <42.1.03d> <82.1.01a; 82.1.06 c,d> <82.2.04>

a. **Central Records** - Maintains all records of completed aircraft and traffic crashes, case investigations, background investigations and polygraphs, and oversees requests for public information/records for the Ohio State Highway Patrol. <82.3.05>

1) Some records are maintained in hard copy while others are scanned for optical electronic storage according to applicable retention schedules. In order to maintain the security and integrity of all records, the Strategic Services Commander shall ensure an annual audit of security procedures is conducted. This audit will include verification of employees' access to secured hard copy records and verification of all passwords, access codes and/or access violations of the computerized optical storage system. <82.1.06b>

2) A daily access log will be maintained and persons entering the Central Records Unit will be entered on the log with name, purpose of visit, time in, and time out. Only authorized personnel will be permitted access. An ID card reader will be used for all employees assigned to or managing the Unit. The Central Records Unit is staffed Monday - Friday from the hours of 8AM - 5PM. Direct urgent requests for information not attainable through Division 24/7 resources (i.e., RIMS, IntelliVUE) to the Strategic Services Commander or designee, to determine a course of action. <82.1.01b>

b. **Fiscal Services** - The Fiscal Services Commander maintains records on Division fiscal matters including past, present, and future budgets, invoices, vouchers, audits, etc. These records are maintained in a secure area, accessible only to authorized personnel. <82.3.05>

c. **Photographic Services -** Copies of all Division photographs are maintained in accordance with applicable records retention

schedules. <82.2.04;82.3.05>

D. **JUVENILE RECORDS** - Juvenile records are provided greater constitutional protection under the law than adult records. Juvenile records shall be marked accordingly and shall be securely maintained as outlined in the following text. <82.1.02a>

1. **Fingerprints and Photographs**

a. If juveniles are charged and/or convicted, the fingerprints and photographs may be retained for two years or until the juvenile's 18th birthday, whichever comes first. At the end of this retention period, the post commander, detail commander, or plainclothes officer in charge will be responsible for seeing that the photographs are returned to the juvenile court in a timely manner.<82.1.02d>

b. If a report of investigation which includes the fingerprints and/or photographs of a juvenile is completed, the post commander will be responsible for seeing that the fingerprints and/or photographs are removed from the report before it is forwarded to Central Records. If the report is forwarded to Central Records in advance of this period, it will be the responsibility of the post commander, detail commander, or plainclothes officer in charge to retrieve the items from Central Records for return to the juvenile court. Upon receipt of the fingerprints and/or photographs, the juvenile court will retain or expunge them as prescribed by statute.<82.1.02b>

2. **Expungement** - Juvenile courts have the authority and responsibility to order the sealing or expunging of juvenile records as specified in ORC 2151.358. Requests for expungement of traffic crash records, traffic arrest reports, and case records should be forwarded to the Central Records Unit supervisor. The Division shall direct any further inquiries of these documents to the appropriate court. <82.1.02e>

3. **Responsibility for Juvenile Record Keeping** - The post commander is accountable for secure management of pending juvenile records at the patrol post. The responsibility for secure management of completed juvenile criminal and/or case records rests with the Strategic Services Commander.<82.1.02c>

4. **Access to Records** - Access to juvenile records and juvenile traffic records are governed by ORC 2151.313(C).

E. **RECORDS RETENTION SCHEDULE** - Records Retention Schedules specific to OSP records have been approved and are attached to this policy. The schedules attached will be kept current by the Central Records unit as changes occur.

1. **Schedule** - All Division records, as defined in ORC 149.011, will be scheduled through the Department of Administrative Services (DAS). ORC Section 149.34 requires that a state agency submit to the State Records Administrator at the Department of Administrative Service (DAS) all applications for records disposal or transfer and all schedules of records

retention and destruction. The Central Records Unit will have the responsibility of maintaining Records Retention Schedules.

2. **Disposal** - A Certificate of Records Disposal (DPS 0131) will be filled out by the manager or designee accountable for the records. As each page is filled with line entries, forward the form to the Central Records Unit. All records are disposed of in accordance with records retention schedules.

3. **Retention Period** - If a record is scheduled for destruction more than five years after its creation, then adequate justification must be given. This may include reference to its legal, administrative or historic value. The justification will be determined by the commander accountable for the records. For example, training records must be maintained permanently as documentation of training in case of court litigation against the Division. Another example would be documents of historic value to the Division.

F. **ENTERING NEW RECORDS IN AIMS**

1. **Records Identification Label Obtained in AIMS**

All records stored at a Division facility are to be tagged with a Records Identification Box Label. The label shall be attached to the outside of the storage container. It shall be attached so as not to become separated from the records it is identifying by using AIMS item code #414036. This records the ownership, series, name, and date the record is scheduled for destruction. It also serves as a reminder to record the destruction on the DPS 0131, Certificate of Disposal (available as an online form). This provides a means of properly identifying stored records that are subject to records management rules.

2. **Assigning Box Numbers (Required Field)**

a. Box numbers should be created and entered into the system as soon as the records are placed into record storage boxes. The system will display box numbers in descending order with the highest most recent) number at the top. Users may choose a numbering pattern consistent with the current method of assigning box numbers within the allowable field range (11 characters). The preferred method is the alpha series followed by the year (fiscal/calendar) the box is created and the sequential number. Do not include any punctuation or spaces in the number field. Example: CD0300001

b. Users are not restricted to the example; however this method will allow the users to view the records in the order in which they were created which may be useful when adding new records and when initiating requests to retrieve stored records. After the information has been entered and saved in the system, the user must generate box labels to affix to the records boxes. Users may also generate a report that lists the boxes entered into the system for their own use (Records Storage List).

3. **Box Status (Required Field)**

At the time box numbers are created, the default status of the box is NW (new) and boxes can be maintained locally (without releasing to Records Center staff) in this status indefinitely. This field can be changed using direct entry or by using the drop-down menu to display a list of values. Users must change the box status to PU (pickup) to indicate release to Records Center staff which will set in motion the process developed by the Records Center pertaining to the retrieval and transport of records without any further action by users. The system will always display the current box status during processes involving the retrieval and storage of records boxes. The box status must be in **ST** (stored) to initiate and process retrieval requests.

4. **Container Code (Required Field)**

This is the container (box) used for the records being added into the system. This field can be changed using direct entry or by using the drop-down menu to display a list of values. The AIMS item code is included in the drop-down.

5. **Medium Code (Required Field)**

This is the type of records stored in the records box, i.e., **P** paper, **M** microfilm. This field can be changed using direct entry or by using the drop-down menu to display a list of values.

6. **Org. Code (Required Field)**

This is the AIMS assigned code that maintains ownership of the records. This field can be filled using direct entry or by using the drop-down arrow. When using the drop-down arrow, a query window will open allowing a search of the organization table using user defined criteria.

7. **Description (Required Field)**

Information that describes the contents of the records contained in the box. The field is limited to 250 characters including spaces and punctuation. Users may use the information in this field to perform future search queries so the better the description, the easier it will be to find stored records later.

8. **From and To (Not Required)**

These fields can be used to enter the beginning and ending values for the contents of the box when applicable. Both fields allow 30 characters and can include date or numbering sequences or other information that would help to further identify the contents. These fields can also be used to perform search queries.

9. **S.A.N. (Required Field)**

The Series Authorization Number is the approved records schedule that is specific to the contents of the box. This number provides the basis for both the storage and the eventual (if any) disposal of the records. This number is assigned through Records Center Management with the approval of D.A.S. **All records entered into the system must have a current approved retention schedule prior to processing by Records Center staff.**

10. **Schedule Destroy Date (Required Field)**

This is the scheduled disposal date for the records. This date is based on the S.A.N. and is the basis to initiate disposal actions by Records Center personnel. This field can be directly entered by using the MM/DD/YYYY format or by using the drop-down which will display a calendar. **No records will be disposed of without written approval from the records owner.**

11. **Disposal Code (Required Field)**

The disposal method applicable to the records from the S.A.N. This field can be changed using direct entry or by using the drop-down menu to display a list of values.

12. **Destroyed Date (Restricted to Records Center Personnel)**

This date will be displayed upon owner approval AND completion of all processes involved with the records disposal. Entry in this field is restricted.

13. **Comments (Not Required)**

This field is limited to 240 characters that can be used to provide any information about the box including processes involving retrieval and transport. This field can also be updated throughout storage that could include additions and removals of specific contents or omissions in series ranges.

G. **RECORDS DISPOSAL - DPS 0131 Certificate of Records Disposal**

1. **Use** - To document the disposal of Division records in accordance with ORC 149.331(J), Functions of State Record Administration Program. The Department of Administrative Services (DAS) has established procedures and rules for the disposal of records by state government agencies. The Certificate of Records Disposal (DPS 0131) shall be used when disposing of Division records. All destroyed records must be listed.

2. **Completion** - The facility commander/manager or designee accountable for the records shall complete when disposing of records in accordance with the applicable Records Retention Schedule. If multiple types of records are disposed of at the same time, enter the records on one form. Other DPS Divisions document disposal of records direct with DAS electronically.

- Agency - Department of Public Safety.
- Division - State Highway Patrol.
- Section/Unit - post, district, or section/unit.
- Authorization No. - from Record Retention Schedule.
- Agency Series No. or General Schedule No. - from Record Retention Schedule.
- Record Series Title - from Record Retention Schedule.
- Inclusive Dates of Records - time period covered by the record. Leave blank if not applicable.
- Volume Disposed - approximate amount in cubic feet, normally not in excess of one cubic foot.
- Date of Disposal - self-explanatory.
- Medium Code - "P" - paper; "M" - microfilm; or "E" - machine-readable record.
- Method of Disposal - "B" - burn; "S" - shred; "W" - disposed of as waste paper; "E" - erasure; or "A" - archives.
- Authorized Agency Official - manager accountable for the records.

3. **Disposition and Retention** - Posts shall retain a copy in File 3-REC, sub-folder "Records Retention/Disposal," until the annual inspection, then destroy. All offices shall, once the form is full, forward as an email attachment to the Central Records Unit supervisor for filing in accordance with the Records Retention Schedule.

H. **PROVISION OF PUBLIC DOCUMENTS TO THE STATE LIBRARY** <61.4.04> 1,2

1. To comply with ORC Section 149.11, whenever the Division publishes a report, pamphlet, document, or other publication intended for general public use and distribution, 100 copies of the publication shall be forwarded to the State Library, Documents Section. This applies to publications which the Division creates and reproduces by a duplicating process, either internally or through a contract awarded to any person, company, or to the Department of Administrative Services.

2. This applies only to publications intended to enhance the public's knowledge. It does not apply to internal publications used by the Division, nor does it apply to publications intended solely for use by law enforcement agencies. The Strategic Services Commander will designate the publications to be forwarded to the State Library.

I. **DPS PUBLIC RECORDS DATABASE** - Used to document public records requests and the identity of the requester. Use to record the requests for inspection and/or photocopies of public records. Since the majority of official Division records are maintained at GHQ, any request through The Public Records Act for documents not on file at the local level should be forwarded immediately to Central Records. (See DPS-400.04.)

Current Form and Supplemental References

Form available by accessing the Central Repository System (CRS):
http://odpsweb.ps/crs

Certificate of Records Disposal
DPS 0131

OSP Standard References

42.1.03	61.4.04	82.1.01	82.1.02	82.1.06
82.2.04	82.3.05			

Policy References

DPS-400.04	ADMINISTRATION OF PUBLIC RECORDS REQUESTS

Attachment(s)

OSP-403.22 RRS by Form Number.doc
OSP-403.22 RRS by Series (2).doc
OSP-403.22 OSP Records Retention Schedules and Index (3).doc
OSP-403.22 OSP Records Retention General Schedules.doc
OSP-403.22 Invoice for Public Record & Information Request.dot

Ohio State Highway Patrol
Policy Number : OSP-200.06

PATROL CAR / MOTOR VEHICLE OPERATION BY SWORN OFFICERS

Date of Revision : **1/5/2015**
Priority Review : **All OSHP Auxiliaries ; All Sworn Officers ; Other Affected Employees**
Distribution : **All OSP Offices and Facilities; DM**

Summary of Revisions

Revisions are in bold, italicized text.

Purpose

To provide sworn officers with guidelines for the proper operation of motor vehicles.

To establish guidelines for officers using in-car audio and video recording equipment during enforcement activities.

To establish guidelines for roadblocks and checkpoints, other than sobriety checkpoints.

Policy

A. **STATEMENT OF POLICY**

1. **Professionalism** - Safety is the first consideration in motor vehicle operation. Officers are most visible to the public when operating a motor vehicle and performing their duties. They provide the public with the leadership role expected of an Ohio State Highway Patrol employee, through safe driving habits and the efficient and effective use of time and resources. Each officer is expected to apply common sense rules to driving, to ensure safe motor vehicle operation, and to conserve energy resources.

2. **Rules for Patrol Car Operation** - It is impossible to formulate a rigid set of rules to govern the operations of State Highway Patrol motor vehicles because so many variables exist. However, certain guidelines have been established to ensure uniform statewide operations, to ensure a clear understanding of what is expected of each driver, and to ensure officers conduct violator contacts with the safety of both the officer and violator of paramount concern.

3. **Patrolling Speed** - To determine the speed at which to drive or what emergency warning equipment is necessary when responding to a situation, officers should consider:

    - Applicable Ohio Revised Code sections;
    - Written Division policies;
    - Type, urgency, and seriousness of the situation;
    - Existing conditions such as traffic, road surface and width, weather, and visibility;
    - Employee's own skills; and
    - Limitations of the motor vehicle.

4. **Use of In-Car Audio / Video Recording Equipment**

   a. When using patrol vehicles equipped with in-car video systems, make every effort to document the traffic violation and/or criminal conduct through audio and visual recording. In impaired driving violations, include driving / traffic violations committed by the driver and standardized field sobriety (SFST) testing.

   b. Record events surrounding the driver's actions, stop, and arrest of the suspect without jeopardizing sound officer safety tactics.

   c. A video recording should be used in addition to, and never in lieu of, required documentation of an incident.

5. ***LoJack - Vehicle Recovery Equipment -***

   a. All considerations of adding LoJack equipment to Division vehicles will be approved by the Office of Strategic Services - Technology and Communication Services Section (OSS-TCS). OSS-TCS will use the LoJack's Ohio system coverage maps as the determining factor of which Post the system would be installed at. See attached LoJack coverage maps.

   b. After OSS-TCS approves a Post area for use of the LoJack system, all installations will be coordinated through the Electronic Technician 3 (ET3) assigned to the OSS-TCS Central Install facility.

   c. If an enforcement vehicle currently has a LoJack system installed, the CI ET3 will coordinate with LoJack - Columbus for installation of the system in the replacement enforcement vehicle. When an enforcement vehicle with the LoJack system installed is traded, the CI ET3 will then coordinate with LoJack of Columbus to have the system removed before the vehicle is sent to state salvage.

   d. After the LoJack system is installed in an enforcement vehicle, it will remain with this vehicle until it is no longer in service.

   e. OSS-TCS CI ET3 will maintain an updated list of all Division enforcement vehicles which have the LoJack system installed and operational.

6. **Compliance with Policy by Non-sworn Employees** - Professional staff will not operate state-owned or leased motor vehicle under emergency response conditions. The guidelines in this policy are applicable to professional staff operating Division-owned vehicles, including marked patrol cars, as it relates to off-street parking, use of emergency brake, use of the security alarm system when parked unattended for a lengthy period of time, and duty to comply with all motor vehicle laws, including safety belt usage.

B. **NORMAL OPERATION**

1. **Safety Belts** - Safety belts shall be worn by all Division employees when the vehicle is in motion. Patrol officers shall ensure that other passengers in a patrol vehicle use the safety belts provided. <41.3.03>

2. **Traffic Laws** - Traffic laws, signs and signals will be obeyed in accordance with the Ohio Revised Code, the Ohio Administrative Code, and Department of Public Safety/Ohio State Highway Patrol directives.

3. **Patrol Speed** - Lawful speed limits should not be exceeded during motor vehicle operation except while checking a suspected violator's speed (pacing, VASCAR, etc.); while observing a traffic violation (reckless operation, following too close, etc.); while overtaking or intercepting a violator; or under emergency conditions. Adjust patrolling speed to traffic conditions in a range that affords the best possible observation. Avoid build-up of traffic by regulating speed or by pulling off the highway so traffic may pass.

4. **Use of Turn Signals** - Use directional signals when changing lanes or courses of travel except when impossible to do so during emergency pursuit.

5. **Crossing Median -**

    a. An officer may elect to cross the median of a divided highway in response to a hazardous condition which poses an immediate threat to other users of the highway, to pursue a driver who has committed a serious traffic violation (e.g., OVI, reckless operation, unusually high speed), or to pursue a person suspected of committing a serious criminal violation (e.g., wanted felon, discharge of firearms).

    b. Weigh the decision to cross the median against the hazards created by the action. Give consideration first to officer safety, secondly to the effect on highway users, and finally to damage to the roadway and the patrol car. Give first consideration to alternate means of direction changes.

6. **Stationary Patrol** - is the positioning of a patrol car in a conspicuous location to permit motorists to readily observe the patrol car and officer. Under normal conditions, stationary patrol is encouraged for at least ten minutes each hour with the engine off whenever possible to conserve fuel.

7. **Ignition -**

    a. When on stationary patrol, at crash scenes, etc., the ignition should be turned off whenever possible whether the officer is in or out of the vehicle.

    b. Either the kill-switch, or Secure Park (for Dodge Charger model years 2014/2015)will be used anytime the vehicle is left unattended for an extended period of time ***and the motor is running***. The exception would be during a routine traffic stop.

8. **Emergency Brake** - The emergency brake will be set on all motor vehicles when left unattended. The exception would be freezing weather conditions when the mechanism might freeze.

9. **Locking Unattended Vehicles** - Motor vehicles left unattended will be locked. When parked at a residence, it shall be either garaged or off the street. When a marked patrol car is parked unattended the alarm system will be activated. This includes anytime the vehicle is parked at a private residence and in all non-operational situations. When in doubt, activate the alarm.

10. **Special Purpose Vehicles** - Additional vehicle operation guidelines for special purpose vehicles are contained in other policies, including OSP-200.06-02, and may contain more restrictive operational guidelines.

C. **EMERGENCY RESPONSE OPERATION**

1. "Emergency Response" is defined as the response to a situation in which the physical safety and well-being of a person is directly jeopardized.
2. Sworn officers should realize that very little time is saved in emergency response operation through excessive speeds. Careful driving enables the officer to reach the destination in ample time to perform the required duties while assuring the safety of highway users.
3. When operating under emergency response conditions, officers will comply with all ORC provisions, including those statutes (e.g., 4511.03, 4511.04, 4511.24, and 4511.45) that provide exemptions to public safety vehicles from certain traffic laws when responding to an emergency call. Officers will become familiar with these provisions that do not relieve the officer from the duty to drive with due regard for the safety of all persons using the street or highway.
4. **Requests for Relays**

    a. Requests for assistance in transporting blood, plasma, or donor organs will be established as a life or death situation before being approved. Appropriate personnel from hospitals, i.e., physicians or the Red Cross, may need to be contacted for verification.

    b. All relays will be made at legal speeds, obeying all traffic laws, unless specifically designated an emergency by a district staff officer.

5. **Changing Conditions** - The status of reported emergencies often changes rapidly. It is incumbent upon the dispatcher to keep all responding officers informed of changes as they become known. Responding officers should maintain contact with the post and monitor available frequencies for status updates. Upon stabilization of an emergency (e.g., other unit or agencies on the scene, confirmed reports of no injuries, lack of life threatening circumstances), responding officers will discontinue emergency operations and return to normal motor vehicle operations.
6. The Dodge Charger Pursuit police sedan is equipped with electronic stability (ESC), a critical safety feature that assists drivers in maintaining control through braking and a reduction of engine power based on speed, steering angle, and rotation rate. The Charger is also equipped with a button that allows the driver to temporarily disable the electronic stability control (ESC).

    Whether under normal or emergency operation conditions, at no time will the electronic stability control be disabled.

D. **EMERGENCY EQUIPMENT** <41.2.01> 1,2 (all)

1. **Response Using Emergency Warning Equipment**

    a. Emergency warning equipment is defined as specialized equipment designed to warn highway users of an approaching, existing, or pending hazard. This includes the rotating / flashing lights

(emergency lights) and siren.

b. In those situations where the necessity for the officer's immediate arrival outweighs the hazards of emergency response operation, officers shall use emergency warning equipment in accordance with the Ohio Revised Code and Division directives.

c. Use emergency warning equipment:

- During a pursuit;
- During an emergency response; and
- While stopping a violator (siren optional).

d. Use emergency warning equipment, excluding the siren:

- While protecting traffic
- In any situation where there is a need to warn other highway users of a potential or existing hazard.

e. When an officer is stopped with a motorist, emergency / pursuit lights should remain on for safety, when practical.

f. Do not use factory-equipped hazard lights in lieu of emergency lights.

g. In order to maintain its effectiveness, do not use emergency warning equipment on routine traffic details and escorts unless there is a need to warn other highway users of a potential or existing hazard.

h. The use of emergency warning equipment is not required while checking a suspected violator's speed; while observing a traffic violation (reckless operation, following too close, etc.); or while overtaking or intercepting a violator unless existing traffic, road, or weather conditions render it reasonable and prudent to use such equipment.

2. Unmarked vehicles assigned to sworn units (except OIS) will be equipped with the standard template of emergency warning lights and equipment. There will be no deviation from this template.

a. This template will include the following:

- FRONT – Two flashing blue LED lights mounted at the top of the windshield, one on each side of the rearview mirror.
- FRONT – Two flashing red LED lights mounted in the grill.
- FRONT – Wig-wags installed on the high beam headlights.
- REAR – One flashing blue LED light mounted at the top center of the rear window.
- REAR – Two flashing blue LED lights mounted at the bottom of the rear window, one on the passenger side and one on the driver's side.
- REAR - Two flashing red LED lights mounted in the taillights.
- One siren, mounted in the trunk, with access switch inside the driver's compartment. h. One shotgun rack, with shotgun, in the trunk.

- One flashlight charger with rechargeable flashlight mounted in the trunk.
- One MARCS portable radio charger (two for field captains for immediate interoperability at critical incidents) mounted in the trunk.

b. All sworn officers operating unmarked vehicles with the above listed equipment installed will stop for disabled vehicles and at crash scenes to render assistance. The emergency warning lights will be used when stopping and the stop and all subsequent actions will be communicated by voice radio to the applicable dispatch center.

c. In compliance with Ohio Revised Code 4549.13, which states, "Any motor vehicle used by a member of the state highway patrol or by any other peace officer, while said officer is on duty for the exclusive or main purpose of enforcing the motor vehicle or traffic laws of this state, provided the offense is punishable as a misdemeanor, shall be marked in some distinctive manner or color and shall be equipped with, but not necessarily have in operation at all times, at least one flashing, oscillating, or rotating colored light mounted outside on top of the vehicle. The superintendent of the state highway patrol shall specify what constitutes such distinctive marking or color for the state highway patrol," unmarked cars will not be used to make routine traffic stops. Unmarked cars being used for administrative operations may only be used to make a traffic stop if the observed violation is extreme in nature and puts the safety of the general public at risk.

d. OIS and EPU unmarked vehicles will be equipped with covert emergency lighting for limited emergency response and/or to gain access and protect and scene. OIS officers, not in uniform and without the lighting template described above, are exempt from the responsibility to stop for disabled and/or crash scenes. If possible, OIS units will make every effort to contact the appropriate dispatch center to dispatch a traffic unit to any observed disabled vehicles or crash scenes. EPU units will address these situations as their special duties dictate.

e. Approved OIS/EPU vehicle emergency and warning equipment installation is dependent on vehicle style and ability to install as covertly as possible. District Technicians will consult C/I for specifications to achieve lighting template which includes the following features:

- Red & Blue Grill Lights
- Corner flashers (clear in front/red in taillights)
- Rear Deck lights
- Combination red/blue lights in taillights/reverse lights
- Siren & P/A
- Shotgun mount
- Disguised antennas

3. **Other Equipment**

   a. Use optimum lighting whenever possible. When visibility is reduced, use at least low beam headlights and "take-down" lights for illumination.

   b. When increased illumination is needed, including when visibility is reduced (dusk, nighttime, windows tinted), use "take-down" lights to illuminate the interior of a vehicle during a traffic stop.

   c. The spotlight may also be used to illuminate the interior of a vehicle during a traffic stop in the same manner as "take-down" lights. The spotlight may also be used during nighttime search operations. When the vehicle is in motion, do not direct the spotlight into oncoming traffic (ORC 4513.12).

   d. Radios will be operated in accordance with Division policies and training.

   e. The public address system should be used during felony arrest stops or other situations when officer safety may be compromised.

   f. Trunk lid lights have been installed to enhance officer safety. When the trunk lid is lifted, the overhead lights are partially obscured. Trunk lid lights help eliminate this problem. They are set up to activate when the trunk is opened and will illuminate red and blue flashing lights. The trunk lid lights are mandatory and shall not be disconnected or by-passed.

E. **TRAFFIC STOPS** <41.2.01> 1 <61.1.07a> 1-5

1. **Use of Emergency Lights** - Emergency warning equipment will be used to signal the violator to stop. When an officer is stopped with a motorist, emergency / pursuit lights should remain on for safety, when practical, to protect the scene, stopped motorist, highway users, and the officer.

2. **Establishing Safe Vehicle Location**

   a. Stop the vehicle in a location that is as safe as possible for both the violator and the officer.

   b. Determine the location of any traffic stop primarily with due consideration for the safety of all concerned, and secondarily with optimizing the audio/video recording of the stop.

   c. It is recommended the officer stop the patrol car a minimum of 15 feet behind the stopped vehicle, offset approximately 1½ to 2 feet to the left in order to create a safety lane from traffic, and keep the front wheels pointed straight ahead.

   d. Set the parking brake before exiting.

   e. Park patrol vehicles as far off the highway or traveled portion as possible. On a four-lane highway, the right berm is generally the safest possible location. However, there may be occasions where circumstances beyond the control of the officer result in stopping the patrol vehicle in the median. When this is necessary, clear the median as soon as possible.

   f. Select the location for field sobriety testing based on officer safety

considerations. This may mean the tests are conducted in a location in which a video recording is not possible.

g. When determined to be safe by the officer, conduct field sobriety testing to the right front area of the patrol car, allowing the camera to capture the testing.

h. Do not conduct testing between the patrol car and suspect's vehicle.

3. **Communication of Traffic Stop**

a. The preferred method to communicate traffic stops will be a combination of voice radio and mobile computer terminal (MCT) use. The officer making the traffic stop will communicate the stop information (Unit, Location, Plate – in this order) by voice radio. The plate should be given twice to ensure it is copied by the dispatcher properly. Subsequently, the officer will access the Traffic Stop Screen and transmit the screen without entering the plate.

b. The dispatcher will then access the incident already on the CAD from the officer's MCT transmission and attach the plate, which automatically runs the plate through LEADS and NCIC. If the unit choses to enter the plate on the traffic stop screen, the dispatcher will still run the registration. The dispatcher will immediately return the vehicle year and make as well as NIF or any hot hit information for all traffic stops, regardless of whether the unit ran the license plate on the MCT.

c. After considering officer safety, traffic conditions, and radio talkgroup availability, the officer may choose to enter the plate on the traffic stop screen to receive officer safety and/or LEADS/Hit responses directly on the MCT prior to the stop. This decision and responsibility for maintaining officer safety and driving safety rests with the officer. As always, all traffic stops will also be communicated by voice radio.

d. Under all circumstances, when the officer enters the plate (or runs a plate while not on a stop) and a LEADS/NCIC hit return is routed to the CAD, the dispatcher responsible for monitoring that officer will follow proper radio signal protocol. When officers enter a plate, dispatchers should ensure accuracy by comparing what is entered and what was communicated by voice radio. If there are any discrepancies, the dispatcher will confirm the plate and ensure the correct plate is run through LEADS/NCIC.

e. As always, should an officer safety situation or traffic safety condition be present that would be worsened by utilizing the MCT, or there is any indication the MCT is not functioning properly, the officer should conduct the traffic stop using voice radio only. The dispatcher will then enter the incident and plate, ensure the plate is run through LEADS/NCIC, and communicate all information to the officer at the appropriate time.

f. To ensure officer safety and professional operations, dispatchers will not question which method is used by the officer to communicate the traffic stop. Should a disruptive pattern emerge creating difficulty in maintaining safe operations or professional communication, a supervisor will be notified to address the situation.

g. District and/or posts will not mandate one blanket method to communicate traffic stops. The dynamic nature of field operations requires field officers to have options to ensure communication is made during a traffic stop. It is the responsibility of the officer to communicate the license plate to the dispatcher on all incidents involving a license plate.

h. The Quick Stop (QStop) button should only be used when officers are faced with a dynamic/urgent situation that prevents other types of communication. The officer will immediately take whatever action is necessary to address the situation, but has the availability to hit the QStop button prior to exiting the cruiser. This initiates an incident, with GPS information, and lets the dispatcher know the officer is out and check-up's should begin immediately to ascertain if the officer needs assistance. Officers should not clear the QStop on the MCT until they have communicated to the dispatcher the incident information and the dispatcher can update the incident to the proper type and add the corrected address.

i. After concluding the traffic stop with the violator, the officer should use the MCT to enter the disposition(s), ORCs, and any activity tracked by the Division. If the MCT is not working, the officer will advise the dispatcher of the applicable information for entry. Once transmitted, the officer will signal 45 by voice radio. The officer will also need to advise the post if they want a registration or driving record printed and saved for court or other purposes. This can be done by MCT message or voice radio.

4. **LEADS / NCIC File Checks**

   a. Use the RP file on every field contact - including every vehicle contacted for any reason. Dispatchers shall notify the officer as soon as the reply is received. Seconds may be critical to the officer's safety.

   b. On stationary patrol and at times when radio traffic is minimal, RP checks should be made on vehicles frequently stolen by auto theft rings or vehicles the officer feels would be a good stolen check.

   c. Whenever possible, file check and verify VIN numbers.

   d. If the trooper cannot obtain a reply from an RP check and there is not a reasonable suspicion of a traffic violation, the vehicle should not be stopped.

5. **Officer - Violator Contact** <61.1.08> a-d

   a. Exit the patrol vehicle and remain alert for actions or movement within the stopped vehicle.

   b. Maintain a position so the interior of the stopped vehicle and its occupants may be monitored.

   c. Inform the driver of the reason for the stop and remain alert for any suspicious actions by the occupants.

   d. When the contact is complete, assist the vehicle into the traffic flow.

F. **RECORDING THE VIOLATION** <61.1.07a> 1-7

1. When an officer observes an indicator of possible traffic violation and/or criminal conduct, and has made the decision to start an investigation, the officer should manually activate the in-car video system.
2. Once the in-car video system is activated, the officer may orally articulate any indicators that lead the officer to suspect a traffic violation and/or criminal conduct. Since the camera may miss certain actions, it is beneficial that the officer articulate both the reasonable suspicion to stop and the probable cause to arrest. This assists the "untrained eye" during prosecution. This articulation may continue through the entire recording process.
3. Officers should verbalize the type of vehicle being observed, location of the vehicle, license plate number, number of occupants, and direction of travel. Officers should not follow a vehicle any longer than needed to establish probable cause for the traffic stop, and should articulate all indicators for recording.
4. Officers should verbally articulate any additional indications of a violation and/or criminal activity including impairment (bloodshot eyes, odor of alcoholic beverage, obvious lack of coordination, etc.) as they develop and when, in the officer's judgment, it is appropriate to do so.
5. When officer safety considerations are met, the officer is encouraged to have in view of the camera:
    - the suspect being placed under arrest,
    - handcuffing activities,
    - the reading of the Miranda Rights.
6. If there are no other occupants, search the vehicle incident to the arrest. Remove evidence present in the vehicle and place on the rear of the suspect's vehicle or on the hood of the patrol vehicle in view of the camera.
7. Searches of both the suspect and vehicle should be both audio and video recorded, with the officer describing what evidence is found and where located. This is a discretionary consideration based on officer safety concerns.

G. **CRASH / CRIME SCENES AND TRAFFIC CONTROL POINT ASSIGNMENTS**

1. Choosing a parking location at a crash / crime scene or traffic control point assignment should be done with extreme care. Patrol vehicles should not be parked on the roadway unless it is absolutely necessary to protect human lives or there is no other place to park within a reasonable distance.
2. Patrol vehicles should not be parked on the traveled portion of the highway to protect property or the scene except when, in the judgment of the officer, circumstances necessitate protecting the scene by parking on the roadway. The vehicle will be moved off the roadway as soon as possible.
3. Emergency lights will remain in operation while the officer is at the scene.
4. To protect the scene and warn other motorists, the traffic situation may require the use of fuses, traffic cones, patrol car lights, flashlight or the use of special equipment from the Department of Transportation to effectively control the flow of traffic.

H. **DECEPTIVE ENFORCEMENT TECHNIQUES** <61.1.06a,b> 1-3

1. There are no traffic violations that require enforcement through ingenious deceptions. A skillful, alert and enthusiastic officer will observe and apprehend violators by taking advantage of patrolling techniques which are in harmony with Division goals and professional traffic law enforcement.
2. When parked or stopped at night, the officer should have the headlights on, if possible; otherwise, the parking lights shall be lit. A parked, occupied patrol car should be well lighted to make it as conspicuous as possible.
3. Officers shall refrain from any of the following practices:
    - Stationary running of radar or laser without headlights illuminated at night or in a semi-concealed location.
    - Patrolling on private parking lots.
    - Making arrests for OVI when the only evidence available is the odor of an alcoholic beverage.
    - Surveillance of and following of people leaving various places of business, then stopping and administering sobriety tests without probable cause.
    - Stopping and/or detaining people based on their race, gender or ethnicity.

I. **PARKING**

1. **At Residence** - Whenever sufficient motor vehicles are available, officers who are not on time off should keep their assigned vehicles at their residences. This will ensure ready transportation in the event of an emergency or an immediate call to duty. Vehicles parked at residences shall be either garaged or parked off the street.
2. **At Post** - Vehicles left in reserve status at the patrol post will be parked at the rear of the parking lot or in the garage. Motor vehicles will normally be backed into the parking space.
3. **Car Pools** - Car pools will be established to and from duty whenever practical, with consideration given to the Division's emergency response capability and the need to conserve fuel.

J. **CHECKPOINTS AND ROADBLOCKS** - Safety is the primary factor to be considered when determining the need. High risk operations should not be used if an officer, violator or innocent person may be exposed to an unnecessary risk.

1. **Supervisor Responsibility -** The decision to establish a checkpoint or roadblock should be made by a supervisor who is immediately available and has knowledge of the situation. The supervisor's primary role is to safely direct and control. It may be necessary to alert local residents, other law enforcement agencies, and/or the news media of the nature and duration. <41.2.03d>
2. **Trooper Responsibility -** Inform a supervisor as soon as possible of the complete details surrounding the incident. Situations may evolve quickly and call for instant assessment and decision on the officer's part, therefore, an involved trooper aware of the existing conditions, traffic volume, type of area, etc., may

make the decision to initiate a checkpoint or roadblock.

3. **Checkpoints -** A checkpoint is a stationary surveillance position and usually does not involve a roadblock. Checkpoints are most often used to cover or monitor avenues of escape during a manhunt. Park off the roadway with the pursuit lights off, in a position to enable immediate pursuit. Be alert and prepared to act if confronted by the suspect or if the suspect attempts to leave the area.

4. **Roadblocks -** One or more stationary roadblocks may be utilized to cordon off a particular area to contain and/or locate a suspect, and are most often used during felony manhunts. Roadblocks require vehicles to slow down or stop while the officer makes a quick check of its occupants. They should be established in an area that gives oncoming traffic ample time to identify the roadblock and a safe stopping distance. <41.2.03a>

    a. **Authorization and Coordination -** Coordination and communication are essential. The decision to set up and control a roadblock will be made by a supervisor, if possible. The quicker a roadblock is established, the smaller the perimeter has to be and the greater the chances that the fugitive will be apprehended. Therefore, any sworn officer, aware of the existing conditions, may decide to establish a roadblock to prevent a suspect's escape. <41.2.03d>

    b. **Site Setup and Responsibilities -** The basic roadblock encourages a two man operation employing a "checking officer" whose responsibilities include traffic control and surveying the passing vehicles, with a "covering officer" close by as a backup. <41.2.03b>

        - The checking officer should assume a position in the roadway to direct and control traffic and to check vehicles.
        - The covering officer should assume a position visible to all traffic to survey the entire roadblock without losing sight of the checking officer.
        - Position the patrol car, with pursuit lights activated, to enable use as cover and available for immediate pursuit.

K. **COMPUTER-GENERATED MOTOR VEHICLE INSPECTION REPORT** - Used for assignment, reassignment and inspections. Office components, post and districts will have computerized access to the inspection report as needed.

1. Periodic Inspections - The report will be part of the quarterly, annual and internal audit inspections. Component managers will ensure that assigned motor vehicle equipment is inspected at least quarterly to ensure operational readiness. One copy for each assigned vehicle will be available for inspection. Each component shall maintain on file a copy of the quarterly motor vehicle inspection report for two years plus the current year.

L. **SPECIAL CONSIDERATION**

1. When assigned to attend an on-duty event (i.e. training, assessment center, etc) that requires the officer to wear business attire, the following apply:

    a. The officer should attempt to obtain an unmarked vehicle from DHQ

or Alum Creek for commutation, if available.

b. If an unmarked vehicle is not available, the officer will drive a marked vehicle, wearing the uniform of the day. The officer shall change into business attire or the appropriate clothing upon reaching his/her destination.

c. Officers assigned to specialty positions such as Special Response Team (SRT) or Mobile Field Force (MFF), as well as officers attending civil disturbance or other tactical training, may wear the appropriate and designated tactical gear while driving a marked vehicle. This will include the protective vest and firearm. Officers traveling under these conditions are still expected to render assistance to motorists in need.

d. An off-duty officer may drive a marked vehicle on a limited basis with supervisory approval (i.e. in-transit from post to residence, relay a vehicle for service) while not wearing the uniform of the day. Officers traveling under these conditions shall not conduct traffic stops, but will advise the dispatch center in the event a uniformed officer is needed for response.

OSP Standard References

41.2.01	41.3.03	61.1.06	61.1.07	61.1.08

Policy References

DPS-203.01	OPERATION OF DEPARTMENT SUPPORT VEHICLES
DPS-505.03	COMPREHENSIVE LOCK AND KEY CONTROL
OSP-103.22	AUDIO/VIDEO USE, STORAGE, RELEASE, AND DESTRUCTION
OSP-200.06-02	EQUIPMENT PLACEMENT AND DISTINCTIVE MARKINGS OF PATROL VEHICLES
OSP-200.21	SOBRIETY CHECKPOINTS
OSP-201.10	MOTOR CARRIER ENFORCEMENT INSPECTOR / NO PURSUIT POLICY
OSP-203.05	SEARCH AND SEIZURE
OSP-203.20	RESPONSE TO RESISTANCE
OSP-203.26	CUSTODIAL AND NON-CUSTODIAL CARE AND SECURITY
OSP-203.37	ASSISTANCE TO MOTORISTS
OSP-400.01	COMMUNICATIONS / SIGNAL 40
OSP-801.06	EMPLOYEE INCIDENT REPORTING
OSP-902.04	OFFICER SAFETY AND THE DEADLY ERRORS
OSP-902.20	ALCOHOL / DRUGGED DRIVER ENFORCEMENT

Print this Policy

Ohio State Highway Patrol
Policy Number : OSP-203.20

RESPONSE TO RESISTANCE

Date of Revision : **10/31/2014**
Priority Review : **All OSHP Auxiliaries ; All Sworn Officers ; Dispatch Personnel ; Other Affected Employees**
Distribution : **All OSP Offices and Facilities; DM**

Summary of Revisions

Revisions are in bold, italicized text.
Purpose

To establish uniform standards for responding to an offender's resistance that will ensure a maximum level of protection for sworn officers responding to a hazardous or a potentially hazardous situation.

To establish structure, guidelines, requirements, and responsibilities for:

- Each level of command as it relates to use of deadly force by or against Division officers in the performance of their duties.
- Pursuing and apprehending fleeing offenders.
- Using less-lethal weapons.
- Using roadblocks and roadspike deployment.
- Reporting response to resistance incidents.
- Committee review of on duty response to resistance incidents.
- Reducing the psychological effects on any employee involved in a critical incident.
- Giving immediate attention to those involved in a critical incident.
- Providing evidence of psychological good health before returning to assigned job duties.
- Training sworn officers for line-of-duty combat firing using Division-issued handguns, shotguns, rifles, and personally-owned second weapons.
- Complying with Ohio Peace Officer Training Commission (OPOTC) training requirements.
- Training, qualifying, carrying, cleaning, and maintaining authorized weapons.

Policy

A. **STATEMENTS OF POLICY**

1. **Limited Authority** - A primary goal of the Division is the protection of life and property while enforcing the traffic and criminal laws of the state. ORC Section 5503.02 requires that Ohio State Highway Patrol officers enforce criminal and traffic laws within our jurisdiction. Officers must understand and appreciate the limits of their authority when responding to resistance. It is not the intent of this policy to avoid that responsibility; rather the intent is to provide general guidelines that will help ensure apprehensions within the limits of safety.

2. **Reasonable Response** - Ohio State Highway Patrol officers recognize and respect the value of human life and will respond to any unlawful resistance using the amount of force that is reasonable under the circumstances with due regard to public safety.

3. **Balanced Response** - When responding to resistance, the response must be based on the actions and behavior of the offender and be reasonable for the situation. Division officers will pursue offenders within the limits of safety, while using other methods to identify or arrest the offender.

4. **Level of Response** - The level of response must be balanced against the likelihood of injury to the offender, to innocent bystanders, and to law enforcement officers, including themselves. A pursuit is only justified when the necessity of the apprehension outweighs the level of danger created by the pursuit.

5. **Escalation of Response** - Officers shall use only that response to resistance that is reasonable to effect an arrest, detention, or mission. The amount or type of response needed will be determined and reassessed as an incident progresses based on the CARA model. <1.3.01>

6. **Response to Limit Injury** - Officers must make a reasonable attempt to limit injury to themselves, the offender, the public, and other law enforcement personnel. Medical attention must be provided when deemed necessary. <1.3.05>

7. **Use of Authorized Weapons** - Officers shall not be permitted to carry any firearm or other weapon not authorized by the Superintendent. <1.2.02>

8. **Warning Shots** - Under no circumstances shall an officer discharge warning shots. <1.3.03>

9. **Restriction of Breathing** - The use of neck restraints, or similar weaponless control techniques, intended to restrict a person's breathing is prohibited, when not involved in a Level 5 encounter based on the Action-Response Continuum.

10. **Incarceration** - When delivering an offender to an institution, such as a detention facility, hospital, or mental health facility, the intake staff shall be informed of the method and extent of officers' responses to resistance.

11. **Crowd Dispersal** - Before any crowd dispersal is attempted by an officer using any less-lethal weapon, an audible order to disperse shall be given.

12. **Emergency Operation** - ORC Section 5503.02A provides that the Division shall enforce state laws on all roads and highways relating to the use and operation of vehicles. While operating under emergency conditions, the operator of a public safety vehicle must comply with the provisions of the following Ohio Revised Code sections.

4511.03, Public safety vehicle to proceed cautiously past red or stop signal
4511.041, Emergency vehicles or public safety vehicles exempt
4511.24, Public safety vehicle excepted from speed limits
4511.37, Turning in roadway prohibited
4511.45, Right-of-way of public safety vehicles
4511.452, Right-of-way of pedestrians
4513.21, Horns, sirens and warning devices

B. **CARA MODEL FOR RESPONSE TO RESISTANCE**

CONDITION - Verbal / Non-Verbal commands given by the officer to comply with an order / command.

ACTION - Offender's response to the officer's condition.

RESPONSE - Officer's required response to the offender's actions.

ASSESS - Did officer's response gain compliance or control?

- Officer constantly reassesses need to recycle CARA or to modify it to gain compliance or control.
- CARA is always dependent upon the offender's actions. The level of response is determined by the officer.
- CARA can, and often does, occur very rapidly and does not require a verbal condition, when to a reasonable person it is implied.

C. **ACTION - RESPONSE CONTINUUM** - The Action - Response Continuum is a general guideline used for offender control and officer defense. Because confrontation is dynamic and often unpredictable, an officer may be forced to escalate, de-escalate, or go from minimum to maximum response without utilizing each intermediate step. Effective and proper use of the Action - Response Continuum is dependent on the offender's actions against the officer, special circumstances, and officer/offender comparative factors, such as:<1.3.01>C. 1-5; <1.3.06D>5 (LEVEL 3&4)

1. **Actions Against Officers**

- Verbal or physical danger cues.
- Not responding to commands Refusing to move - dead weight.
- Pulling away from officer
- Pushing officer
- Wrestling with officer
- Striking or kicking officer
- Life-threatening weaponless assaults
- Attempting to disarm officer
- Weapons attempted / used against officer

2. **Special Circumstances**

- Closeness of a weapon
- Injury or exhaustion
- Being on the ground
- Distance from the offender
- Special knowledge
- Availability of other options

3. **Officer/ Offender Comparative Factors**

- Age
- Sex
- Size
- Skill level
- Multiple persons/officers
- Relative strength
- Environment

4. **Body Space Parameters**: Portions of the Action - Response Continuum are driven by body space parameters.

- **Zone 3** - Reactionary gap six feet to eight feet or more from offender
- **Zone 2** - Within the offender's striking distance
- **Zone 1** - Close quarters contact with offender

5. **Levels in the Action - Response Continuum** - The five levels of the Division's Action - Response Continuum are designed to aid and assist officers in the decision-making process.

Level 1 - Officer's Presence

- Appearance
- Posturing
- Body Space Parameters

Level 2 - Issuance of Verbal Commands

- To direct and inform person or group of people
- To deescalate a person / situation
- The principles of verbal commands are ASK, ADVISE, ORDER
    - Ask for compliance
    - Advise need for compliance
    - Order offender to comply

Level 3 - Non-Compliant / Non-Combative Resistance

- Any of the following techniques and weapons is a reasonable response when involved in a Level 3 encounter:
    - Escorts / Controlled Movements
    - Joint Manipulations
    - Takedowns
    - Pressure Point Control Tactics (PPCT)
    - Mace / OC / CS
    - Conducted Energy Weapon (CEW)

Level 4 - Assaultive / Combative Resistance / *Threat to Officer or Others*

- Any of the following techniques and /or weapons is a reasonable response when involved in a Level 4 encounter:
    - Striking Techniques (Hands / Elbows / Knees)
    - Kicking Techniques
    - Defensive Impact Weapon Strikes (Baton / Handcuffs / Other)
    - Soft Tissue Manipulation (Eyes / Groin / Other)
    - Extended Range Impact Weapons (Bean Bags / Wood Pellets / Other)
    - Canine deployment for the purpose of suspect apprehension

Level 5 - Lethal / Deadly Force

- Any of the following techniques and /or weapons is a reasonable response when involved in a Level 5 encounter:
    - Applied Force to the Throat and/or Head
    - Lethal Weapons
    - Offensive Impact Weapon Strikes

D. **USE OF DEADLY FORCE** - Deadly or lethal force is defined as any force which carries a substantial risk that it will proximately result in the death or serious physical injury of any person. An officer must have a reasonable belief that deadly force is necessary to protect life before resorting to the use of deadly force. Deadly force will not be used against a fleeing felon unless the situation meets the following criteria. Officers shall be justified in using deadly force only under the following circumstances: <1.3.02>

- To defend themselves from serious physical injury or death
- To defend another person from serious physical injury or death.

E. **LESS-LETHAL WEAPONS** (Also see attachment Response to Resistance Training for additional specific guidelines for training, issue, wear, use, qualification) - The Division issues the following types of less-lethal weapons: CS/OC repellent, flashlight, baton, and conducted energy weapon. Less-lethal weapons are used by an officer to de-escalate a situation or to prevent aggressive behavior from escalating further in the action-response continuum. Other less-lethal weapons may be issued for specialized needs or assignments. Appropriate training and certification shall be provided to designated employees prior to authorized carry and/or use of the weapon. Prior to the issuance, the review, inspection, and approval of all less-lethal weapons shall be conducted by a certified weapons instructor. <1.3.04; 1.3.09 a,c; 1.2.02>

1. **CS / OC Repellent** - The CS/OC agent is authorized for use when a person is noncompliant / non-combative, or assaultive / combative.

2. **Flashlight / Wooden Baton / ASP** - The flashlight, wooden baton, and the ASP expandable baton are authorized for use primarily as defensive weapons. Striking an offender with the flashlight or baton is reasonable when an officer is:
   - Protecting himself, herself, or others from an assault.
   - Attempting to stop an offender's aggression, or to overcome resistance or violent behavior.

3. **Conducted Energy Weapon (CEW)** - The conducted energy weapon (CEW) is authorized for use by those officers trained and certified in its use, to control or otherwise subdue persons when a person is non-compliant / non-combative, or assaultive / combative.

   a. **Deployment Cycles** - Officers shall energize the offender the least number of times, and no longer than necessary to accomplish legitimate operational objectives. Upon firing the weapon, the person may be secured as soon as practical while disabled by CEW power to minimize the number of deployment cycles.

   b. **Pointing** - The CEW should not be pointed at any person unless the officer involved reasonably believes it will be necessary to use the weapon. The CEW's laser pointing device shall not be intentionally aimed at any person's eyes.

   c. **Prohibited Use - Situational** - The CEW shall not be used:

      - When the operator cannot, for safety or other reasons, approach the person within the weapon's effective range;
      - In proximity to flammable liquids, gases, blasting materials or any other highly combustible materials that may be ignited by use of the device, including but not limited to any person who may have been

contaminated with combustible liquids; or

- When it is reasonable to believe that incapacitation of the person may result in serious injury or death.

4. **Pocket Knife** - A pocket knife may be carried, not as a weapon, but only for personal use as a cutting tool.

F. **FIREARMS ISSUE** (Also see attachments Response to Resistance Training, Firearms Qualification and Familiarization Courses of Fire, and Firearms Cleaning - Maintenance for additional specific guidelines for training, issue, wear, use, qualification). <1.3.09 a> 1-6; <1.2.02> 1-4

1. **Authorized Firearms Issue** - With the exception of authorized second handguns, only weapons issued by the Division will be used in the performance of duty as noted. Uniformed officers are expected to be armed at all times while on duty, to include while in uniform or civilian attire.

2. **SIG-Sauer Model P-226 Semi-Automatic Pistol** - Every Division sworn officer will be issued a .40 caliber SIG-Sauer Model P-226 semi-automatic pistol and three twelve-round .40 caliber magazines.

3. **SIG-Sauer Model P-239 Semi-Automatic Pistol** - Every Division sworn plainclothes investigator will be issued a .40 caliber SIG-Sauer Model P-239 semiautomatic pistol and three seven-round .40 caliber magazines.

4. SIG-Sauer Model P-250 Sub-Compact - Sworn officers holding the rank of Captain and above have the option of being issued a .40 caliber SIG-Sauer Model P-250 semiautomatic pistol and 3 ten-round magazines to carry when performing administrative duties.

5. **Shotgun** <1.3.09 f> a,b

a. **Vehicle Issue** - Each marked patrol car will be equipped with a Division-issued 12 gauge shotgun, carried with the safety on, action closed, and trigger released. The shotgun will be secured in the shotgun trunk mount system in all marked vehicles. Every issued shotgun carried in a patrol car will have the chamber empty and four rounds of reduced recoil 00 buck loaded into the magazine. Each shotgun will be equipped with a side-saddle accessory. Four rounds of slug ammunition will be carried in the side-saddle.
b. **Post, DHQ, and GHQ Issue** - Each district headquarters will be assigned two 14 inch shotgun for use as spares. Posts will no longer be issued spare shotguns.
c. "Go Bag" Issue - All vehicles for officers ranked Staff Lieutenant and below will be assigned a "Go-Bag" that will contain 5 rounds of 12 gauge buckshot, 5 rounds of 12-gauge slug, 2 magazines of 12 rounds of .40 cal pistol ammunition (24 total) and 2 magazines of 28 rounds of .223 Barrier Tap, 62 grain, rifle ammunition.

6. **Second Handguns** - The Division neither encourages nor discourages the practice of carrying a second handgun. <1.3.09c> b <1.3.09 f> c,d,e

a. **Five-shot Capacity / Stopping Power** - All secondary weapons shall possess at least five-shot capacity. The weapon caliber must be .380 or larger. Ammunition must have sufficient "stopping power," i.e., capability of effectively incapacitating a person who poses a life endangering threat.

b. **Inspection / Approval** - No officer will be permitted to carry a second handgun that is not approved by the Academy Firearms Officer or the Response to Resistance Review Committee. The Academy Firearms Instructor shall inspect each second weapon for compliance upon initial qualification and report to the Response to Resistance Review Committee through the officer's district/section commander any second weapon that is not approved.

c. **Concealment On Person** - Secondary weapons must be concealed on the officer's person during the normal performance of duty. The weapon must be secured in a holster with at least one snapping retention device. The second weapon must be concealed by use of a holster which secures to the body, such as an ankle holster, shoulder harness and holster, or holster which secures to the belt. Pocket holsters will not be authorized.

d. **Prohibitions**

1) Due to a suspect's increased ability to access a secondary weapon when an officer carries multiple secondary weapons, and an officer's inability to apply proper retention to multiple secondary weapons during a non-life threatening physical confrontation, no officer will be permitted to carry more than one secondary weapon at a time.

2) Second weapons will not be carried in a briefcase or in the patrol car.

3) Derringers are dangerous due to the lack of safety devices and will not be permitted as second weapons.

e. **Secondary Weapons Holsters** – The type of holster used for a second handgun will be inspected at qualification sessions. The Firearms Officer will inspect it to ensure proper securing and safety of the weapon. At least one holster retention device, i.e. a "thumb snap", is required.

7. **Patrol Rifles**

a. Weapon Specifications – The weapon will be 5.56mm or .223 caliber, AR15/M16 style platform, semi-auto fire, with a 16 inch barrel (which includes a flash suppressor). The weapon will be equipped with A-2 iron sights (fixed or modular) and a fixed or adjustable stock. A single, double-point or quick detach sling is authorized, but not required. Three thirty round magazines will be required. Magazines will not be stacked, coupled together, nor attached to the weapon by means of a magazine carrier being attached to the weapon. Optics may be utilized, but magnification will be 4-power or less. Laser sights will not be permitted. A tactical flashlight may be attached to the weapon but is not required. The weapon and all accessories will be black in color. Any other accessory will not be permitted. Officers are prohibited from modifying the mounting system to accommodate varying rifle configurations and/or accessories. The Academy will be the authority on the permissiveness of weapons. Weapons not meeting the specifications listed above or otherwise approved will not be authorized.

b. Ammunition – Training and duty ammunition will be supplied by the Division. Ammunition will not be given to officers for personal/non-division training. The ammunition will be .223 caliber, which can be utilized in

either .223 caliber rifles or 5.56mm rifles. No other ammunition is authorized. Three magazines will be the authorized load limit for each patrol rifle. ***One magazine will be loaded in the magazine well without chambering a round. The remaining two magazines*** will be stored in the Division provided Go-Bag. Magazines will be loaded with 28 rounds.

c. Initial Training – All weapons and equipment will be inspected at the start of the training. Inspection will be for safety and serviceability to ensure the weapon and equipment meet standards. Like any second weapon, officers must qualify with the specific rifle they intend to carry. Anyone attending this training NOT utilizing a division issued patrol rifle must supply their own weapon. A division owned patrol rifle will NOT be supplied for training of officers opting to carry personally owned rifles. All officers must carry the division issued patrol rifle listed on their HP-61 while on duty or the personally owned patrol rifle during their initial or annual qualifications. Officers who are married and working different shifts who intend to use the same patrol rifle must both be trained and qualify with that specific patrol rifle.

d. Yearly Training/Qualification – Annual training and qualification will be a required elective course for officers wanting to stay certified to carry the police rifle. This course will be available through PeopleSoft. The dates and times for the requalification course will be established by the Academy.

e. Deployment of the Police Patrol Rifle – Deployment of the Police Patrol Rifle should be at the discretion of the officer and/or immediate supervisor on the scene. Officers on scene should utilize the weapon system that allows them the best tactical advantage for the given situation. The Police Patrol Rifle will not be utilized to dispose of any injured or rabid animals.

f. Patrol rifles carried while on duty shall be stored secured in the locking mount provided by the Division, located in the trunk of the patrol car or other approved method as directed by the Division Armorer. The rifle will be carried with the chamber empty, bolt and dust cover closed, safety on and one magazine loaded with 28 rounds of duty ammunition seated into the magazine well.

8. **Special Response Team (SRT)** - SRT special weapons are carried by members assigned to the Special Response Team. Weapons will be issued on an "as-needed" basis by the Superintendent or designee.<46.2.03 >

- Bushmaster XM15-E2S
- Sig-Sauer P226-40- Tac Ops
- Heckler and Koch MP5 / MP5A3 / MP5SD3
- FN SPR A5 Rifle
- Remington Model 1100 Modified
- Remington Model 1200 Modified
- Remington Model 870 Modified
- 37mm and 40 mm Gas Munitions Launchers
- FN-303 Less Lethal Launcher

9. **Shoulder Holsters** <1.3.09 f> a-d

a. Division-issued handguns will be carried on the person, in Division-issued holsters while in uniform and on duty.

b. Shoulder holsters, paddle holsters and purses will be permitted for use by district and GHQ investigators for issued handguns.

c. Personally-owned shoulder holsters will have a "thumb snap" or "thumb break."

d. If the muzzle is pointed in a direction other than downward, the trigger guard must be fully enclosed.

10. **Carrying a Handgun and Ammunition While Off-Duty**

- The decision to carry a handgun while off-duty will be that of the officer.
- The Ohio Revised Code provides that a peace officer (defined in ORC 2935.01 to include a state trooper) is a concealed carry license holder. Generally allows carrying of a concealed firearm at anytime except in courthouses and airports, unless the appointing authority of the person has expressly specified this exemption does not apply to the person. Certain other restrictions apply (see 2923.12 and 2923.16 "Transporting or possessing a loaded handgun in a vehicle while intoxicated."
- An off-duty officer, while carrying a concealed handgun, shall carry the Department-issued I.D. card, which will serve as proof of law enforcement status in lieu of a concealed carry license.
- Officers who have been issued a license to carry a concealed handgun in the State of Ohio are not exempt from the provisions and restrictions of this directive.
- An officer, while off-duty, shall not carry a Division-owned weapon unless the employee has provided a compelling reason for the need, the personal safety of the employee or others is at risk, and a written or verbal request has been approved by the Superintendent.

11. **Authorized Firearms Ammunition Issue and Storage** <1.3.09b> a-i

a. **Division-issued Ammunition** - Only ammunition issued by the Division will be carried for use with Division-issued firearms and personally owned patrol rifles. Purchased ammunition may be used for firearms training and practice only if similar to issued ammunition.

b. **Ammo Rotation** - Whenever new ammunition is issued, it will replace all the old ammunition that has been stored, carried in a patrol car, or issued to an officer. Old ammunition will be used for firearms training. It is the intention of the Division to rotate ammunition as needed.

c. **Other Ammunition** - Ammunition for specialized firearms will be issued to those officers having special weapons assigned to them by the commander responsible for the firearms. All ammunition carried for use with second handguns will be supplied by the officer. Teflon, armor piercing, and exploding ammunition will not be carried or used because of their potential for injuring innocent persons.

d. **Magazines and Speed loading Devices** - Only Division-issued

magazines will be carried for use with Division-issued weapons. They will be carried, loaded, in the carriers provided. Magazines and/or speed loading devices owned by the officer may be carried in a non-conspicuous place for use in second handguns.

e. **Officer Issue**

1) Every sworn officer will be issued thirty-seven rounds of .40 caliber ammunition.

2) Each magazine will be loaded with 12 rounds of duty ammunition.

3) Two of these magazines will be carried in the magazine pouch on the Sam Browne belt.

4) A total of 13 rounds will be carried in the weapon, one round in the chamber and twelve in the magazine.

5) Each sworn officer certified to carry a rifle will be issued 84 rounds of 62 grain, Hornady TAP Barrier .223 caliber ammunition for use in their rifle magazines. Each magazine will be loaded with 28 rounds.

f. **Patrol Car Issue**

1) An ammunition carrying bag (go-bag) will be kept in the trunk of the patrol vehicle. The go-bag shall contain 5 rounds of reduced recoil 00 buck and 5rounds of rifled slugs in the trunk of the patrol car below the shotgun near the rear wall of the trunk.

2) Shotguns in patrol vehicles are equipped with an attached spare ammunition accessory. This ammunition carrying device should contain a full complement of spare slug ammunition.

3) Two magazines loaded with twelve rounds of .40 caliber ammunition will be stored in the go-bag, which will be located in the trunk as specified.

4) Spare ammunition and magazines will be checked monthly to ensure its operational ability. Ammunition should be checked for rust and manufacturing defects. Ammunition which is not in serviceable condition will be removed from service and replaced from the post stock. Defective or damaged ammunition will be forwarded to the Academy for disposal. Post stock ammunition will be replaced by the Academy stock.

5) Ammunition for a shotgun assigned to an unmarked patrol car will be carried in the trunk with the weapon.

g. **Post Issue** - Each post will maintain the following supply of Division-issued ammunition:

- .40 caliber - 500 rounds
- Reduced recoil 00 buck - 200 rounds

- Rifled Slug - 200 rounds
- .223 caliber 62 grain, Hornady TAP Barrier – 200 rounds

h. **District Issue** - Each district headquarters will maintain the following supply of Division-issued ammunition:

- .40 caliber - 1,000 rounds
- Reduced recoil 00 buck - 250 rounds
- Rifled Slug - 100 rounds
- .223 caliber 62 grain, Hornady TAP Barrier – 200 rounds

i. **Special Response Team Issue** - SRT members will maintain the minimum load of ammo at all times. Scout/Observer will carry the basic load of twenty (20) rounds at all times. SRT members will ensure that the minimum pre-loaded ammunition is prepared at the end of each mission/training session.

- H&K MP5: 4 magazines per MP5; 25 rounds per magazine
- M4: 3 magazines per XM15; 25 rounds
- 37/40 mm: 24 rounds gas per gas gun; 6"Stinger" (rubber pellets) rounds per gas gun; 6 bean-bag rounds per gas gun; and 6 CS gas rounds
- Shotgun: 25 rounds of buck per shotgun; 5 bean-bag rounds per shotgun

G. **DISPATCHING BACK-UP / MULTIPLE OFFICERS** <81.2.04e,f,g> 1-2

1. An all inclusive policy cannot be developed to cover every possible situation that may occur. Officers and dispatchers must be aware that a variety of situations may justify a response by more than one officer to ensure the effectiveness and safety of the officer(s) involved. The following are examples of situations when two or more officers might be dispatched to an incident:

- Officer physically assaulted.
- Offender arrested for a felony or known to be violent.
- Arrest involves assaultive/combative or non-compliant/non-combative resistance with the potential of further problems.
- Response to resistance by officer, including situations where the officer uses a weapon or physically overpower an offender.
- Responding to actual or suspected criminal activity in progress.
- Offender fleeing from the scene of a traffic crash or crime.
- Serving arrest or search warrants. Warrant Service Risk Assessment portion of the HP-7B should be completed by the officer prior to serving the warrant.
- Signal 90 received and not cancelled by sending unit

2. **Supervisor and Dispatcher Responsibilities**

a. When any of the above or similar situations occur, the dispatcher should immediately dispatch more than one officer to the incident, unless

instructed otherwise by a supervisor. If additional officers are not available, assistance should be sought from the nearest law enforcement agency having jurisdiction.

b. The dispatcher should then contact a supervisor for further direction. The dispatcher should be guided by the seriousness of the incident and the availability of a back-up officer. If a back-up officer is needed but a Division officer is not in a position to respond within a reasonable amount of time, another law enforcement agency should be contacted.

c. The final decision to send a back-up officer rests with the on-duty supervisor, who must ensure that adequate response is sent and that officers not needed remain on their assignment. Officers not needed at the incident shall remain readily available to respond to other incidents.

H. **MOTOR VEHICLE PURSUITS** - An incident will be classified, defined, and reported as a pursuit if sufficient elements are present to support a charge of fleeing and eluding a law enforcement officer, whether or not an apprehension is made (e.g., the pursuit is ordered or voluntarily terminated by law enforcement, or the offender successfully eludes the pursuing officers). Officers of this Division will pursue offenders within the limits of safety, while using other methods to identify or arrest the offender. A pursuit is only justified when the necessity of the apprehension outweighs the level of danger created by the pursuit. A pursuit shall not be initiated while an officer is transporting a prisoner or any person not authorized by Division waiver. <41.2.02 a,d>

1. **Vehicular Pursuit - Definition** - An active attempt by an officer in an authorized emergency vehicle to apprehend fleeing suspects who are attempting to avoid apprehension through evasive tactics.

2. **Initiating / Continuing Pursuit** - The following information must be taken into consideration prior to initiating or continuing a motor vehicle pursuit:

- Seriousness of the offense
- Possibility of apprehension
- Area where the pursuit takes place (e.g., business, residential, rural, etc.)
- Current traffic volume
- Current road and weather conditions
- Assistance available to the officer
- Knowledge of the identity of the driver and/or occupants

3. **Primary Pursuing Officer Responsibilities** - The primary pursuing officer is normally the officer in closest proximity to the fleeing vehicle and has primary responsibility for conducting the pursuit. The primary pursuing officer may or may not be the initiating officer. The active pursuit will involve not more than two officers (the primary pursuing officer and one back-up officer); unless circumstances dictate additional officers are needed. All other officers will maintain perimeter control on parallel or intersecting routes unless given other specific instructions by a supervisor. When the primary pursuing officer determines that an offender is fleeing and decides to pursue, the officer will immediately notify the dispatcher of the pursuit and relay the following information: <41.2.02 b> 3.a-d

- Location of the pursuit
- Direction of travel
- Estimated speed of the offender
- Description, including the license number of the pursued vehicle and

occupants
- Reason for the pursuit
- Officer's intention

a. **Communications / Status** - The pursuing officer has an obligation to ensure that complete and accurate information is transmitted to the dispatcher at regular intervals during the pursuit.

b. **Command Responsibility** - The primary pursuing officer bears the operational responsibility for the pursuit unless relieved by a supervisor. This authority pertains to the field operation of the pursuit only, and is subordinate to the command of a supervisor at all times.

c. **Pursuit Termination** - The termination of a pursuit does not prohibit the officer from remaining in an area to re-initiate pursuit if the opportunity and conditions permit. A pursuit shall be terminated under any of the following conditions: <41.2.02 g>

- The offender's identity has been established to the point that a later apprehension can be accomplished, and there is no longer any need for immediate apprehension.
- The prevailing traffic, roadway and environmental conditions indicate the futility of continued pursuit.
- In the opinion of officer or supervisor, a clear and unreasonable danger to the officer, offender, or the general public is created by the pursuit that outweighs the necessity for immediate apprehension.
- The offender vehicle's location is no longer known.

d. **MCE Inspector Involvement** - When the pursuit is a result of a Motor Carrier Enforcement Inspector (MCEI) non-compliance incident, pursuing officers must consider that MCEI units have been instructed to stop at the location where a law enforcement officer stops the commercial vehicle. The MCEI will remain back from the actual point where officers confront the occupants until the scene is rendered safe. The MCEI may approach when signaled by an officer. <41.2.02 d>

4. **Back-Up Officer Pursuit Responsibilities** - The back-up officer, upon joining the pursuit shall immediately notify the dispatcher. The back-up officer should immediately assume radio communications, allowing the primary pursuing officer to devote full attention to pursuit driving. The back-up officer will maintain a safe distance behind the primary pursuing officer, but close enough to render assistance if or when needed. If the primary pursuing officer becomes disabled, the back-up officer will become the primary pursuing officer. The dispatcher will then inform the supervisor and other officers that a new back-up officer is needed, and the next officer to join the pursuit will become the back-up officer. <41.2.02 c; 81.2.05>

a. **Requests from Other Agencies** - Officers may engage as a secondary pursuing unit when requested by an outside agency. Assistance shall be provided in accordance with all provisions of this policy. <41.2.02 h>

5. **Supervisor's Pursuit Responsibilities** - It is the primary responsibility of the

supervisor to direct and control the pursuit through effective communication until its end. It is not necessary that the supervisor be physically present or directly involved in the pursuit. Supervisors shall initiate all resisting arrest initial incident reports, including resisting by fleeing, pursuits, and roadspike deployment. Involved officers shall provide the supervisor with the appropriate documentation so the supervisor can prepare the initial incident report narrative description and associated reports. The initial incident report must not be prepared by the primary pursuers because the investigation is to include a critical review of the entire pursuit and the events leading up to the pursuit. <41.2.02 f> a-e <41.2.02 i>

a. **Coordination and Verification** - The supervisor, upon being notified of a pursuit, shall coordinate all officers involved and verify the following:

- Adherence to the provisions of this policy.
- Aircraft assistance has been requested, if necessary.
- The proper radio frequency is being used.
- All affected agencies have been notified.

b. **Continual Re-evaluation** - The supervisor shall continually evaluate the pursuit in relation to the traffic area, driving actions, identity of offender, and most importantly the dangers involved based upon the totality of the circumstances. <41.2.02 a>

c. **Terminating Pursuit** - If a motor vehicle pursuit exposes any officer, the public, or the offender to a clear and unreasonable risk, the supervisor shall terminate the pursuit and employ other techniques to identify and apprehend the offender. <41.2.02 g>

d. **Local Supervisor Assistance** - The supervisor of the post where the pursuit ends shall provide any needed assistance and necessary supervision, even if no apprehension is made. When necessary, the supervisor should proceed to the scene of the incident.

e. **Relinquishing Primary Pursuit Responsibility** - A supervisor initiating a pursuit should relinquish the pursuit to another officer(s) as soon as practical and assume a supervisory role.

6. **Dispatcher's Responsibilities** - The dispatcher shall coordinate all communications activities while maintaining radio communications. The dispatcher will be responsible for receiving and recording all information on the pursuit. The dispatcher shall notify a supervisor that a pursuit is in progress and provide all pertinent information. The dispatcher will also keep all officers informed of the status of the pursuit. <41.2.02 e; 81.2.05g>

7. **Alternatives to Stopping the Fleeing Offender** - Pursuit and tactics contemplated must take into consideration all of the factors surrounding the incident. Safety is always the foremost factor to be considered. Methods for stopping a fleeing offender should always be progressively employed from the least to most hazardous. Alternatives include identifying the offender and apprehending later.

8. **Use of Roadblocks** - Roadblocks for stopping fleeing offenders may be used by Division officers only under the conditions outlined in this policy. <41.2.03 a> b,c; <41.2.03c>a-g

a. **Definition** - A roadblock is a deliberate obstruction of traffic on a road

or street at one or more selected points installed for a specific purpose. It does not necessarily mean a complete stoppage of traffic or a complete blockage of the roadway. There are several types of roadblocks that may be used. Since each situation is different, there is no step by step procedure to dictate when or what type of roadblock is to be used.

b. **Use Based on Safety** - The primary factor to be considered is safety. If a roadblock will expose any person to a clear and unreasonable risk of injury, it will not be used. Safety to the public must be the determining factor; the risk of continuing a pursuit must be greater than the risks encountered when using the roadblock. This is a decision that the pursuing officer or on-duty supervisor must make depending on the facts of each pursuit. <41.2.03 b> b-d

c. **Non-standard Passenger or Commercial Vehicles** - When the fleeing vehicle, is other than a standard passenger or commercial vehicle (e.g., motorcycle, moped, snowmobile, etc.), a roadblock should be avoided unless the offender is wanted for or charged with a life-threatening felony.

d. **Establish Location** - If other traffic is affected, the roadblock must be established in an area that gives other traffic ample time to identify the roadblock and stop a safe distance away.

e. **Supervisor Responsibility - Roadblocks** <41.2.03 d>

- Direct and control the situation with safety being the primary concern.
- Be aware of existing conditions such as traffic volume, type of area, availability of back-up officers, and nature of violation.
- Decide what type of roadblock, if any, to use and location.
- Safety to the public must be the determining factor; the risk of continuing a pursuit must be greater than the risks encountered when using the roadblock. This is a decision that the pursuing officer or on-duty supervisor must make depending on the facts of each pursuit.

f. **Pursuing Officer Responsibility - Roadblocks**

- Carry out the supervisor's decision to set up a roadblock.
- If a supervisor is not available, the pursuing officer will make the decision whether or not to use a roadblock.
- Safety to the public must be the determining factor.
- The risk of a continued pursuit must be greater than the risks encountered when using the roadblock. This is a decision that the pursuing officer or on-duty supervisor must make depending on the facts of each pursuit.

g. **Types of Roadblocks** - Once the decision is made to use a roadblock, the next step is to determine what type of roadblock to use. The primary factor in this decision is the safety of all involved. The roadblock with the least risk that will accomplish the objective should be used. <41.2.03 b> 1-3

(1) **Fusees or Traffic Cones** - Of all roadblocks, this is the least hazardous to all those involved, but it still presents a degree of danger. Fusees and/or traffic cones can be placed across the roadway in an effort to stop or funnel the fleeing vehicle onto the berm to stop. The officer setting up this roadblock must assume that the offender will not stop and must be positioned with the patrol car in a safe location. The patrol car should be off the roadway in a position to assume immediate pursuit with the pursuit lights activated.

(2) **Moving Roadblocks** - This is a partial blockage of the roadway by a moving patrol car(s) for the purpose of slowing or stopping a fleeing offender. This usually involves the use of two patrol cars in front of the offender, or one in front and one alongside the offender. Both patrol cars are then gradually slowed to a stop, forcing the offender to stop. This type of roadblock is extremely hazardous. The offender is very unpredictable and many times will choose any avenue of escape or ram the patrol car. This type of roadblock should only be used on divided highways with light traffic.

(3) **Stationary Roadblock** - This is a partial blockage of the roadway using a suitable material such as construction barricades; however, if nothing else suitable is available, an unoccupied patrol car, with pursuit lights on, can be used.

- The roadway will not be barricaded by occupied or privately-owned vehicles.
- Under no circumstances will a road be completely barricaded by unoccupied vehicles or objects. The roadblock will be constructed in such a manner as to leave a route through the area, and the design should be such that it would be necessary to proceed slowly through the roadblock.
- Stationary roadblocks will be located in an area which provides a safe stopping distance for traffic to avoid unnecessary hazards to officers and innocent persons.
- Officers shall place themselves in a position of safety. They should never expose themselves to a risk for the sake of stopping the offender. The officer should be in a position that also affords the opportunity to make an apprehension if the offender opts to terminate the pursuit at the roadblock.
- If the patrol car is not being used to block the roadway, it should be off the roadway in a safe position to resume pursuit should the offender's vehicle not stop. The pursuit lights should be in operation.

9. **Use of Tire Deflation Devices** - Tire deflation (Stop Stick, Roadspike) devices placed across the roadway may be used when officers are engaged in certain types of pursuits. <41.2.03 b,c> a-d

a. Stop sticks shall be assigned and stored in the trunk of every

marked patrol car.

b. Stop sticks may only be used from a stationary position. The decision by a Division officer or supervisor involved in a pursuit to deploy them shall be made after giving consideration to the principles outlined in this policy. If circumstances and time permit, prior approval from a supervisor shall be sought before deployment to terminate a pursuit.

c. It is imperative that all officers involved are aware of the exact location of deployed stop sticks, so they can slow in time to allow removal after the offender's vehicle crosses. Measures should be taken to divert traffic to prevent damage to other vehicles.

d. Tire deflation devices shall not be used when the pursuit involves motorcycles, three-wheeled vehicles or all-terrain vehicles.

10. **Intentional Contact** - Intentional contact with the offender's vehicle may constitute a high-risk maneuver. Therefore, intentional contact with the offender's vehicle shall be considered by a Division officer only after the dangers of intentional contact are weighed carefully and concluded at the time to be less than the danger of letting the offender continue. <41.2.03 b>

Intentional contact may be considered as a tactic for stopping a wrong-way driver when all other attempts to stop the violator have been unsuccessful. It may also be utilized as a tactic in lieu of other methods if there is an immediate need to stop the wrong-way driver due to public safety and optimal conditions for implementing this technique exist. The officer will need to weigh the risks to the public, the suspect and themselves before deciding to make intentional contact. When intentional contact is utilized, contact should be made in a manner intended to stop the suspect vehicle from continuing to travel in an unsafe manner.

11. **Multiple Departments** - If other police departments are involved in the pursuit, and Division officers have radio communications with them, plain English should be used instead of radio signals. When Division officers pursue vehicles into municipalities, care must be exercised to ensure that a train of police vehicles does not join the chase. The officer initiating the pursuit should remain in control until relinquishing control to another department. If the pursuit enters a substantially different area (from rural to urban), control should be turned over to the department having jurisdiction and the originating officer should assume a back-up role. <41.2.02 h> <2.1.03 b,f>

12. **Crossing State Boundaries** - The pursuit of a fleeing felony offender whose actions are creating a life-threatening condition, beyond the boundaries of the state, is permitted only when the nature of the felony and/or subsequent actions of the alleged offender are such that discontinuing the pursuit at the state boundary would likely result in a threat of death or critical injury to the public at large, to other law

enforcement officers, or to the occupants of the felony offender vehicle.

13. **Use of the Public** - Officers shall not solicit the public for assistance, control, or termination of a vehicle pursuit, and any such offer of assistance from a citizen should be declined.

14. **Unmarked Vehicles - Plainclothes Officers** - Officers operating unmarked vehicles will not engage in pursuits. Due to the potential for mistaken identity and/or a resulting pursuit situation, plainclothes officers attempting to serve a warrant or make an arrest of an offender operating or in physical control of a motor vehicle will be assisted by a sworn officer in uniform and in a marked patrol car. <41.2.02 d>

15. **Pursuit Prohibition - MCEI Vehicles / Inspectors** - Motor Carrier Enforcement Inspectors (MCEI) will not engage in pursuits. <41.2.02 d>

I. **FOOT PURSUITS** - Although it is an officer's decision to initiate a stop, it is the offender who decides to precipitate a foot pursuit by fleeing. An officer's decision to pursue on foot shall be made with an awareness of, and appreciation for, the risk to which the officer and others will be exposed. Where necessary, an officer may pursue persons with reasonable belief that an act has occurred that would warrant a stop, investigative detention, or arrest.

1. **Initiating Officer's Responsibilities** - Shall bear operational responsibility for the foot pursuit unless circumstances dictate otherwise or until relieved by a supervisor. Pursuing officers are cautioned that voice transmissions while running and in other field tactical situations may be difficult to understand and may have to be repeated. The officer initiating a foot pursuit shall, as soon as practical, provide the following information to the communications center / dispatcher.

- Unit identifier
- Reason for the foot pursuit
- Officer location and direction of pursuit
- Number of offenders and description
- Whether or not the offender is armed

2. **Risk Factors** - In deciding whether to initiate or continue a foot pursuit, officers shall also consider these risk factors:

- Officer acting alone, In an unfamiliar area, In a hostile area (e.g., drug trafficking location),
- Pursuing more than one person,
- Unable to obtain backup in a timely manner,
- Unable to establish or maintain communications,
- Pursuing in inclement weather, darkness, or reduced visibility conditions,
- Pursuing into buildings, structures, confined spaces, wooded or isolated areas,
- Barricaded offender,
- Loss of firearm,
- Identity established, probable apprehension later time, and no immediate threat,
- Loss of visual contact,
- Location of offender not known,
- Injury to an officer or third party requiring assistance,
- Danger to pursuing officers or the public,
- Knowledge of own location or direction of travel, and
- Unanticipated circumstances.

3. **Alternatives** - In deciding whether or not to initiate a foot pursuit, an officer shall consider the following alternatives:

- Aerial support
- Containment of the area
- Canine search
- Special Response Team
- Saturation of the area with officers
- Apprehension at another time and place if the officer knows the identity of the subject or has other information that would likely allow for later apprehension.

4. **Foot Pursuit Coordination** - The primary (initiating) officer shall immediately coordinate - directly or indirectly through the dispatcher - with secondary officers to establish a perimeter in the area to contain the offender. Generally, the primary officer shall not try to overtake the fleeing offender but shall keep in sight until sufficient personnel are present.

a. **Containment** - Assisting officers shall immediately attempt to contain the pursued offender. Such officers shall not respond to the primary officer's location unless the offender has been stopped and the primary officer requests assistance to take the offender into custody.

b. **Isolation** - When two or more officers are in foot pursuit, they shall not separate unless they remain in sight of each other and maintain communication, but they shall allow the lead officer to concentrate on the offender's actions while the second officer provides backup and maintains communications with dispatch and other assisting officers,

c. **Termination** - The pursuing officer shall terminate a foot pursuit if so instructed by a supervisor. Upon terminating the pursuit, the pursuing officer shall notify the dispatcher with the location and request any assistance deemed necessary.

5. **Supervisor's Responsibilities - Foot Pursuits** - Upon becoming aware of a foot pursuit, the supervisor shall decide as soon as possible whether pursuit should continue. The supervisor shall take command, control, and coordinate the foot pursuit as soon as possible. The supervisor should allow the foot pursuit to continue if: <81.2.04f>

a. There are at least two officers working in tandem, and there is a reasonable belief that the offender has committed an act that would permit the officer to detain the offender, or

b. There is a reasonable belief that the offender poses an immediate threat to the safety of the public or other officers, or

c. The foot pursuit does not violate provisions of this or related Division policy, procedures, or training.

d. The supervisor shall terminate a foot pursuit at any time he or she concludes that the danger to pursuing officers or the public outweighs the necessity for immediate apprehension of the offender.

e. As in any tactical incident, the supervisor does not have to be physically

present to assert control over the situation.

f. Once the foot pursuit has concluded, the supervisor shall proceed to the terminus of the pursuit to assert post-pursuit discipline and control as needed.

6. **Dispatcher's Responsibilities - Foot Pursuits** - Upon being notified that a foot pursuit is in progress, communications personnel shall immediately notify the field supervisor and provide all available information. Communications personnel shall carry out the following responsibilities during a foot pursuit: <81.2.05g>a-c

a. Receive, record, and immediately report incoming information on the pursuit, the officers involved and the offender.

b. Control all radio communications and clear the radio channels of all non-emergency traffic.

c. Coordinate and dispatch backup assistance and air support units under the direction of the field supervisor.

J. **RESPONSE TO RESISTANCE REVIEW COMMITTEE** <41.2.02 i> 1-4

1. **Structure** -The Committee will consist of:

- Assistant Superintendent - Chairperson
- Field Operations Commander
- Personnel Commander
- Training Commander
- Risk Manager
- Trooper selected by the Superintendent
- In case of an absence, the Superintendent may appoint another command level officer.

2. **Responsibility** - The Committee's primary mission is to determine the following and report findings to the Superintendent on a case-by-case basis:

- Whether the employee's response to resistance was reasonable;
- Whether the employee violated Division directives or criminal/civil laws;
- Performance deficiencies;
- Training needs; and
- Other recommendations that may include positive feedback, recognition, etc.

3. **Review Process**

a. The Committee will convene as necessary to review reports of investigation, whether criminal, administrative, or both. This includes incidents involving response to resistance by or against Division employees which results in injury or death to any person, or which presented a high risk for serious injury or death to any person, whether intentional or accidental. This includes, but is not limited to, shootings, vehicle ramming, and non-deadly responses. A non-deadly response to resistance is a response not likely to cause death.

b. Copies of the preliminary report of all response to resistance cases (Nature Codes 520, 525, 550 or 551) shall be forwarded through channels to Administrative Investigations Unit (AIU) as soon as the preliminary investigation is complete. Post commanders shall attach a Response to Resistance Route Guide with their comments and findings.

c. The post commander then shall forward the investigation to the district commander for a comprehensive review for training needs and policy or rule violations. The district commander or designee will be the final review for determination if the case is to be forwarded to the Committee for consideration. The investigation will be forwarded to the Administrative Investigations Unit for processing. The original case will remain at the post until the investigation is complete.

d. AIU will:

- Coordinate with the chairperson the agenda for scheduled Committee meetings, along with a case by case summary of facts.
- Present the summaries to the Committee members.
- Serve as facilitator and resource unit for the Committee.
- Record the Committee's recommendation for disposition in each case.

4. **Reporting** - A report of the committee's findings and any recommendations will be signed by the chairperson and forwarded to the Superintendent.

5. **Analysis** - Annually, AIU will conduct an analysis of Response to Resistance incidents, including pursuits, to reveal patterns and trends that could indicate training needs or policy changes. The report will be submitted to the Superintendent and to Risk Management for further review and analysis no later than March 10 each year. <1.3.13; 41.2.02 j>

Current Form and Supplemental References

Forms available by accessing the Central Repository System (CRS):
http://odpsweb.ps.dps.state.oh.us/crs

- **OHP 0095 HP-15 Weapons Qualification Record** <1.3.11b>

  Use - Academy staff will record handgun, shotgun and carbine rifle qualification attempts and use as a source document for computer entry. Districts/Sections should use the "Defensive Combat Course" and "other related training" portion of the HP-15 to document attendance, performance, and related training for Civil Disturbance Training. This can then be used as a source document for computer entry into PeopleSoft at the District level. This can be accessed under Workforce Development / Competency Management / Track Person Competencies / Firearm training scores/. Search by unit number; select "Defensive Combat Scoring;" enter appropriate information.

- **OHP 0096 HP-15A Auxiliary Officer Weapons Training Record** <1.3.11b>

  Use - Division firearms officers complete as the source document for auxiliary training files, recording handgun and shotgun familiarization. Complete for each auxiliary officer participating in firearms familiarization at training sessions, and record related training, entering type of training and date given (e.g., chemical

mace, Conducted Energy Weapon (CEW), handcuffing, baton, flashlight, holster, etc.). Forward one copy to Academy for review. Forward a second copy to the Office of Strategic Services for each Auxiliary Officer's permanent personnel file. Retain the original at the post where the auxiliary's records are maintained.

- **OHP 1166 Response to Resistance Review Guide and Committee Findings**
- **OHP 1168 HP-54D Conducted Energy Weapon (CEW) Cartridge Issue and Use Log**

OSP Standard References

01.2.02	01.3.01	01.3.02	01.3.03	01.3.04
01.3.05	01.3.06	01.3.07	01.3.08	01.3.09
01.3.10	01.3.11	01.3.12	01.3.13	33.1.05
41.2.03	46.2.03	81.2.04		

Policy References

DPS-100.01	ADMINISTRATIVE INVESTIGATIONS
DPS-500.02	HUMAN RESOURCE MANAGEMENT SYSTEM (HRMS) - PEOPLESOFT
OSP-100.01	OFFENSE AND INCIDENT REPORTS / REPORTS OF INVESTIGATIONS
OSP-103.19	ADMINISTRATIVE INVESTIGATIONS - OSP EMPLOYEES
OSP-200.06	PATROL CAR / MOTOR VEHICLE OPERATION BY SWORN OFFICERS
OSP-203.06	CARE OF ANIMALS INVOLVED IN TRAFFIC CRASHES, INCIDENTS, OR ARRESTS
OSP-203.26	CUSTODIAL AND NON-CUSTODIAL CARE AND SECURITY
OSP-501.02	DIVISION TRAINING
OSP-507.29	CRITICAL INCIDENT STRESS MANAGEMENT - MEMBER ASSISTANCE TEAM (MAT)
OSP-801.06	EMPLOYEE INCIDENT REPORTING

Attachment(s)

OSP-203.20 Response to Resistance Training.doc
<1.3.05; 1.3.09c&d; 1.3.10; 1.3.11c; 1.3.12; 33.1.05; 41.2.03c>
OSP-203.20 Qualification and Familiarization Course.docx
OSP-203.20 Firearms Cleaning - Maintenance.doc
<1.3.09c&d>
OSP-203.20 Response to Resistance Investigations.doc
<1.3.06; 1.3.07; 1.3.08; 41.2.03e; 81.2.04f>

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