Updates / Revisions to Sample Policy Manual – July 2015:

These highlighted changes reflect most of the changes made to the Sample Policy Manual. Additional minor changes were made that do not significantly influence the content and do not impact a Best Practice Standard.

**Chapter 12.1 Property and Evidence**

X Property AND Evidence Release Guidelines

* 1. Persons Authorized to Release Property

* + 1. The following persons may authorize the release of property under the provisions of this manual:
       1. The investigating officer, assigned investigator, or the investigator’s supervisor,
       2. The Chief of Police,
       3. A magistrate,
       4. The district attorney’s office
       5. In cases of found property and property impounded for safekeeping, the impounding officer.
  1. Release Authority
     1. A court order is required for the release or disposal of property seized pursuant to a search warrant as well as for any property the ownership of which is contested.

2. Disposition of Firearms

All firearms will be destroyed unless released to their rightful owner with two exceptions. Firearms that are scheduled for disposal that could be used by the department may be converted to departmental use upon written approval of the city manager. These weapons will become the property of the department and not individual officers and will be tracked and accounted for on inventories and audits. Weapons of intrinsic collectable value or long guns (not handguns) of sporting value may be auctioned by the city during the regular auction process. Only those persons possessing an FFL may bid on the weapons.

**Chapter 10.1 Holding Facility Operations**

C. Release due to Medical Reasons

1. All felony offenses and all violent misdemeanors may be transported to necessary medical facilities and guarded until released and returned to jail, or a case is filed and custody turned over to the county, or bond is made.

2. Non-violent offenses classified as a class B or class A may be released on “pending investigation” due to medical reasons by an on-duty supervisor if the offenders have not been arraigned and there is no danger of a continuing threat to another person. If they have been arraigned, the on-duty supervisor will contact the magistrate and determine the method of release. If a case has been filed and immediate care is not necessary, officers may transport the prisoner and release to the county. Any release of a class B or A non-violent offender requires the approval of a supervisor.

**Chapter 8.2 Civil Disturbances and Mass Arrests**

IV. PROCEDURES: General Management and Organization Principles

By law, this municipality may impose reasonable restrictions on the time, place, and manner of expressing first amendment rights. This department shall place only those limitations and restrictions on demonstrations necessary to maintain public safety and order and, to the degree possible, allow uninhibited commerce and freedom of movement for uninvolved persons. Any planned constraints of first amendment rights will be reviewed by city legal prior to implementation.

**Chapter 7.42 Eyewitness Identification (Section VIII, Page 7 & 8)**

12. These restrictions apply not only to civilian field identifications, but to field identifications in which an officer is the witness.

**Chapter 7.40 Investigations**

C. Interrogation of suspects

1. Custodial statements and confessions.

a. Miranda warnings are required and shall be administered prior to any custodial interrogation. Officers shall be familiar with the requirements in article 38.22 of the CCP.

b. The following represent examples of situations that are not custodial and do not require issuance of Miranda warnings.

i. Investigatory stop and frisk or consensual encounters

ii. Questioning during a routine traffic stop (or detention) or for a minor violation, which includes driving while intoxicated (DWI) stops until a custodial interrogation begins. During routine questioning at the scene of an incident or crime when the questions are not intended to elicit incriminating responses.

Cont. Page 7

3. Invoking the Right to Silence

a. When a suspect invokes his/her right to remain silent, all interrogation shall terminate immediately.

b. Officers may interrogate a suspect who has previously invoked his right to silence if, after the passage of time, the suspect initiates communication with officers or fourteen (14) days have passed. However, prior to questioning Miranda warnings shall be re-administered and a waiver obtained.

Cont. Page 11

X. DISPOSITION OF CASES

A. The officer or investigator shall maintain files of all cases assigned to him/ her. All case files shall be appropriately labeled with the date of incident, the name of victim, and/or the name of any suspect or arrested person. Investigators shall be aware of the requirement under state discovery laws in article 39.14 of the CCP that mandate virtually all writings and other items generated by the police during an investigation are subject to disclosure to the defense.

The file shall contain the following:

1. Original incident report and any supplementary reports or statements.

2. Photographs.

3. Lab reports,

4. Reports of disposition of any property pertinent to the case, such that which was stolen, confiscated, recovered, or otherwise dealt with.

5. Arrest reports

6. Investigative notes

7. All electronic and recorded communications – including but not limited to email, text, instant messages, and voice mail.

8. All other items developed, documented or seized during the investigation.

**Chapter 7.16 Vehicle Impoundment and Inventory**

Page 3 – We no longer have “inspection stickers” on cars.

2. A vehicle may be presumed to be abandoned if it lacks either a current license plate, a current county, city, or town tag or sticker, and has been left unattended on public property (other than an interstate or primary highway) for more than 48 hours.

**Chapter 7.13 Domestic Violence (Definitions)**

C. Family violence: An act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself.

D. Abuse: as defined by Sections 261.001(1) (C), (E), and (G) by a member of a family or household toward a member of the family or household.

E. Dating Violence: as defined by Section 71.0021.

Cont. Page 9 (#8 below was deleted and #1 was revised)

G. In determining probable cause, the officer shall NOT consider:

1. Race, sex, ethnicity, social class, or sexual orientation.

2. Whether the complainant has not sought or obtained a protective order.

3. The officer's own preference to reconcile the parties despite the complainant's insistence that an arrest be made.

4. That the complainant has called for law enforcement protection previously and has not pursued or has withdrawn the criminal complaint against the abuser.

5. That the complainant has not begun divorce proceedings.

6. Assurances of either or both disputants that violence will stop.

7. The lack of visible bruises or injuries.

**Chapter 7.5 Search Warrants**

E. Protective Sweep: A quick and limited search of premises incident to an arrest or service of a warrant performed in order to locate other persons inside who might pose a risk to the officers. Officers must be able to articulate a reasonable basis their safety concerns.

Cont. Page 8

C. When warrantless vehicle searches may be performed

1. As noted earlier, if feasible, warrants shall be obtained to search vehicles unless an exception applies. Any vehicle that has been disabled with little chance of its being driven away shall be searched with a warrant. In all other cases, vehicles may be searched without a warrant with the following limitations:

a. When probable cause exists, a search may extend anywhere within the vehicle, unless the probable cause is limited to a specific part of the vehicle.

b. When consent has been obtained from the driver, officers may search the vehicle subject to any limitations specified by the consenting person. Consent shall be obtained in writing or recorded, if feasible.

c. Searches incident to the arrest of an occupant shall be limited to any area within reach of the arrestee. The passenger compartment is deemed to be within reach. This search may only occur if the officer has a reasonable belief that he or she will find evidence of the offense for which the occupant was just arrested. The trunk, engine compartment, and any locked compartments shall not be searched unless immediately accessible to the suspect. (See Section III above for a fuller treatment of searches incident to arrests and restrictions. Once an individual is restrained or removed from the immediate area of the vehicle, the authority to search the area within reach is removed.)

**Chapter 7.3 Arrests With & Without a Warrant**

Definitions -

B. Probable cause: According to the U.S. Supreme Court, "Probable cause exists where the facts and circumstances within [the arresting officers’] knowledge and of which they had reasonable trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed" and that the person to be arrested committed it. An officer must have probable cause to obtain a warrant or to make a warrantless arrest. Generally, probable cause has been interpreted to mean – specific and articulable facts and circumstances known to the officer that would cause a reasonable officer to conclude that a specific person has committed a specific offense.

IV. DISCRETION

A. Officers shall demonstrate discretionary judgment. Discretion shall be applied reasonably and shall be guided by the oath of office, the limits of authority as established by law, the decisions and interpretations of the courts, the policies of our department, and any instruction provided by field supervisors.

B. Officers shall not make arrests or take any enforcement action based in whole or in part on a person's sex, race, creed, color, age, general or assumed attitude, ethnic or natural origin, economic status, disabilities, or sexual orientation. The exception to this policy is that race and/or other identifying characteristics listed above may be used to build probable cause if they are relevant factors identifying a suspect.

**Chapter 7.2 Field Interviews and Detentions**

I. POLICY

Per the US Supreme Court, there are only three types of encounters between police and civilians: (1) a consensual encounter in which the civilians voluntarily elect to stay and interact with the officer, (2) a detention based upon reasonable suspicion, which may include a frisk for weapons if the officer can state the facts and circumstances that justify the officer’s fear for their safety, and, (3) an arrest based upon probably case. The agency expects and encourages officers to conduct field interviews. Field interviews are important contacts with individuals that aid in preventing and investigating crime. The agency expects officers to gather information with proper observance of constitutional safeguards. Strict constitutional guidelines exist that protect both the civil rights of all persons and the need of officers to obtain information crucial to the reduction and prevention of crime.

NOTE: Added #10 below on Page 2 of this policy – This is a reference to what is commonly called “felony running.” It’s not against the law for an individual to simply run. Police officers should have some additional information to reach “reasonable suspicion.” See below -

10. Flight from the officer may be considered as a fact or circumstance, but mere flight will be insufficient basis for reasonable suspicion.

**Chapter 7.1 Constitutional Safeguards**

Page 2 – added #3

3. Temporary shall mean only that relatively brief amount of time that an officer may detain a person so the officer may initiate or continue the investigation, having reasonable suspicion to believe the person is involved in the criminal activity. Once the officer has determined that he or she has insufficient facts and circumstances to establish probable cause, or is not likely to obtain sufficient facts or circumstances to establish probable cause, the officer shall release the person.

The bottom of page 2 and top of page 3 - #3 paragraph was deleted entirely. The paragraph began, “The vast majority of persons…”

**Chapter 2.3 Sexual Harassment**

C. Supervisors shall ensure that pornographic, demeaning, intimidating, or suggestive photographs, illustrations, cartoons or any other form of suggestive material are not posted or kept in any area of the department, including locker rooms, desks, offices or other locations. Materials of this kind used for investigative purposes shall be properly secured according to evidentiary standards. The material in question may be sexual in nature or insulting to a person based on race, religion, national origin, color, or age.