

CHAPTER 17: INVESTIGATIONS

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1.0 RESPONSIBILITY FOR INVESTIGATIONS

1.1 POLICY

It is the policy of the Buffalo Police Department to conduct a preliminary investigation of all crimes reported to the Department and in those cases where there exist sufficient solvability factors, there shall also be a thorough and complete follow-up investigation done by a member of the Detective Division.

1.2 PRELIMINARY INVESTIGATION

Refer to M.O.P. Chapter 8.

1.3 CASE MANAGEMENT

A. Case Status - Preliminary Investigation

At the conclusion of the preliminary investigation the investigating officer must indicate the current status of the case.

1. "CLEARED" - A case is cleared when there has been an arrest made for the crime that was being investigated or when a warrant card is issued.
2. "EXCEPTIONALLY CLEARED" –A case is exceptionally cleared whenever there is a refusal to prosecute.
3. "CLOSED" - A case is closed when there are no solvability factors.
4. "ACTIVE" - A case is active when at the conclusion of the preliminary investigation:
 - a. there exists at least one solvability factor;
 - b. there are no solvability factors but the offense is one which arouses public sensibilities because of the time or manner in which it was committed, the type of victim, or where media attention might assist in the solution of the case, and the investigating officer's supervisor has approved the case's "ACTIVE" status;
 - c. the crime is a burglary;
 - d. the crime is a type which is investigated by the Homicide Squad or Special Victims Unit.
5. "UNFOUNDED" - A case is unfounded when at the conclusion of the preliminary investigation it is determined that no crime was committed within the City of Buffalo.

B. Responsibility for follow-up investigation

1. Except for felony case enhancement or for cases involving extenuating circumstances, cases whose status is "CLEARED," "EXCEPTIONALLY

CLEARED," "CLOSED," or "UNFOUNDED" need no follow-up investigation.

2. Crimes that fall under the exclusive jurisdiction of a specialized unit shall be investigated by a member of the specialized unit. When requested to do so members shall render all possible assistance to members of specialized units in the investigation of such crimes.
3. Except for street corner drug activity, all narcotic related investigations shall be conducted by Narcotics and Vice Enforcement, including the investigation of "drug houses."

1.4 ASSIGNING CASES

- A. Upon completion of the P-1375 (incident report), the Police Officer or Report Technician will submit the report for review by the Supervisor. The report will then be forwarded to the District Detective in-basket or forwarded by FAX and/or interdepartmental mail to the appropriate Detective Unit for follow-up.
- B. All follow-up investigations shall be referred to the District Detective Unit of the District in which the incident occurred, except those types of incidents which are handled by specialized Detective Units (e.g. murder is handled by the Homicide Squad, rapes are handled by S.O.S., gambling is handled by Narcotics and Vice Enforcement, etc.).
- C. Supervisors of Detective Units shall be responsible for equitably distributing the case load amongst assigned personnel. In assigning cases, consideration should be given to:
 1. the specialized skills of the investigator;
 2. the need for an expedited investigation;
 3. the current caseload of each investigator;
 4. any other factor that would enhance the quality and efficiency of the investigation.
- D. The Supervisor shall maintain a record of the name of the Officer to whom the case was assigned as well as the date of that assignment.

1.5 FOLLOW-UP INVESTIGATIONS

The type and extent of the follow-up investigation will be determined to a great extent by the nature of the underlying incident and the thoroughness of the preliminary investigation. In general, the follow-up investigation should include:

- A. A review and analysis of all:
 1. previous reports stemming from the preliminary investigation,
 2. pertinent Department records,
 3. results from laboratory examinations, if any;

- B. Conducting additional interviews and interrogations;
- C. Seeking additional information from witnesses, informants and Department employees;
- D. Collecting physical evidence if there is any physical evidence to collect;
- E. Planning, organizing and conducting searches when necessary;
- F. Identifying and apprehending suspects;
- G. Determining the involvement of the suspects in any other offenses;
- H. Checking suspects' criminal history;
- I. Preparing cases for court presentation;
- J. Keeping complainants and investigating officers apprised of the status of the case.

1.6 PREPARING SUPPLEMENTARY REPORTS

- A. The officer who is assigned to conduct a follow-up investigation shall be responsible for preparing the supplementary reports.
 - 1. Supplementary reports need not be routinely prepared in cases that are "CLEARED," "CLOSED," or "UNFOUNDED."
 - 2. A supplementary report must be prepared for each case that has been referred for follow-up investigation.
- B. Within ten (10) days from the date the case was originally assigned to him/her, the officer conducting the follow-up investigation must submit a supplementary report. If the follow-up investigation has not yet been concluded, the officer may continue the investigation but the required report must be submitted within the ten day time frame. Additional P-1375's may be submitted at any time.
- C. For instructions for properly completing supplementary reports, officers shall refer to G.O. No. 86-6.

1.7 CASE STATUS AT THE CONCLUSION OF THE FOLLOW-UP INVESTIGATION

At the conclusion of the follow-up investigation the status of the case will be designated as follows:

- A. Active
A case is designated as being "active" whenever it is not "cleared," "exceptionally cleared," "closed," or "unfounded."

B. Cleared

A case is designated as being "cleared" when an arrest has been made.

C. Exceptionally Cleared

A case is exceptionally cleared when a warrant card is issued.

D. Closed

A case is designated as being "closed" when:

1. results have been obtained in full, or in part and no further results can be obtained;
2. no results can be obtained;

E. Unfounded

A case is "unfounded" when no crime has, in fact, been committed in the City of Buffalo.

1.8 FELONY CASE ENHANCEMENT

Criminal investigations do not end with the arrest of a suspect. Equally as important is the preparation of the case for trial after an arrest has been made. The Detective unit that would normally be assigned the case shall be responsible for enhancing or improving the quality of every felony arrest that has been made, regardless of the assignment of the arresting officer. (For example, an arrest for a sex crime made by a patrol officer shall be enhanced by the Special Victims Unit; a burglary arrest by a patrol officer shall be enhanced by the District Detectives, etc.) The case, when finally presented to the Assistant District Attorney should be as complete and well prepared as is possible given the facts of the case. Ideally, the case should be so complete and so well prepared that the only logical outcome is a guilty verdict after trial. Where possible, Detectives who are enhancing a felony case should minimally:

- A. obtain written, sworn statements and/or admissions from the suspect and witnesses.
- B. collect all available evidence and have it examined by the Crime Scene Unit.
- C. contact the Assistant District Attorney assigned to the case to review with him/her all arrest data, including statements and evidence to ensure that they are complete, accurate and admissible, and that they are able to withstand attacks by the defendant's counsel;

1.9 VICTIM/WITNESS ASSISTANCE DURING THE FOLLOW-UP INVESTIGATION

- A. The employee conducting the follow-up investigation shall periodically contact victims and witnesses to determine if their needs are being met. In those instances in which the impact on the victim/witness is unusually severe, the employee shall put him/her in contact with the Victim Witness Assistance Unit of the District Attorney's Office or other service agency that provides assistance to that type crime victim.

- B. If it does not unnecessarily jeopardize the successful outcome of the case, the employee conducting the follow-up investigation shall explain to the victims and witnesses the procedures involved in a criminal prosecution and the role that they are expected to play.
- C. If possible, the scheduling of appearances requested by the police (e.g. line-ups, interviews, etc.) shall be at the victim/witness's convenience. Transportation shall be provided when required.
- D. Property seized as evidence shall be returned to the victim/witness as soon as possible as permitted by law.
- E. Actual line-up procedures are handled by the Crime Scene Unit with authorization through the Chief of Detectives office.

1.10 SUPERVISING INVESTIGATIONS

The supervisor of each Detective Unit shall be responsible for overseeing all investigations being conducted by members of his/her command. The Supervisor shall ensure that:

- A. the case is within the purview of his/her unit and not some other specialized unit;
- B. that each investigation is conducted in a timely fashion;
- C. that the investigation is thorough and complete;
- D. that all investigative leads are followed;
- E. that all information is properly recorded;
- F. that all reports are properly submitted.

1.11 PUBLIC MORALS

A. Definition

As used in this chapter, public morals shall pertain to all violations of the law relating to vice, drugs, controlled substances, liquor, gambling, lewdness, pornography and other specified immoral conduct.

B. Duty of Sworn Members

1. All Sworn Members

Whenever a sworn member of the Department reasonably believes that any premises are being used in conjunction with the violation of any laws relating to public morals, it shall be his/her duty to report such belief to the appropriate investigative unit. Such report shall be prepared on an Intra-Departmental Memorandum and forwarded through the chain of command.

2. Commanding Officer's Responsibility

- a. In those areas under their command, District Commanding Officers will be held strictly accountable for the stringent and impartial enforcement of the laws dealing with public morals.
- b. Commanding Officers shall regularly apprise those under their commands of the responsibility, obligation and duty that each member has in enforcing the laws concerning public morals.
- c. Commanding Officers are not relieved of their responsibility merely because of the assignment of a specialized unit to deal with public morals. Commanding Officers may request the assistance of such specialized units to assist him/her in investigating and suppressing incidents involving public morals.

C. Conducting Public Morals Investigations

1. Revealing Information

Employees of the Department investigating complaints involving public morals shall not show the complaint to the persons being complained of, nor will they inform them that such complaint has been made, nor shall they identify the complainant.

2. Inquiries

Department employees will be careful in their inquiries so that they do not unnecessarily endanger the reputation of any person who may be the subject of their investigation. Hasty and unsubstantiated conclusions concerning persons under investigation shall not be made.

3. Interviewing

Employees of the Department receiving complaints of violations of laws involving public morals shall fully interview the complainants and shall attempt to elicit as much information about the alleged violations as possible.

2.0 DETECTIVE DUTY - GENERALLY

2.1 POLICY

It is the policy of the Buffalo Police Department to use members assigned to the rank of Detective and Detective Sergeant to conduct follow-up investigations of crimes reported to the Department and to carry out investigative functions associated with on-going criminal activity (i.e. vice, narcotics, public morals, etc.). Follow-up investigations of specified traffic related incidents shall be conducted by the Accident Investigation Unit.

2.2 GENERAL INSTRUCTIONS

Members assigned to the rank of Detective and Detective Sergeant shall:

- A. Work such hours, perform such duties, and submit such reports as may be required by their superiors and by the rules, regulations, directives, procedures and orders of the

- Department, consistent with the collective bargaining agreement;
- B. Acquire a thorough knowledge of investigative techniques, interrogation, and the gathering , preservation, and presentation of evidence;
 - C. Pursue each case and investigation assigned to them, or for which they are responsible, until final disposition;
 - D. Advise complainants at reasonable intervals of the status of investigations;
 - E. Suppress vice, gambling and liquor law violations within their respective jurisdiction; maintain constant vigilance over all suspected premises; and obtain evidence and make arrests of operators of such premises where possible;
 - F. Promptly serve all legal papers directed to them and execute required returns in compliance with Department procedures;
 - G. Actively cooperate with prosecutors in preparing cases, and present evidence and testimony thoroughly and efficiently;
 - H. Be careful in their inquiries to not unnecessarily endanger the reputation of any person who may be the subject of an investigation;
 - I. Obtain permission from a superior Officer prior to conducting an investigation outside the city limits;
 - J. Under no circumstances make public any information that might jeopardize the successful completion of an investigation, or the apprehension of a suspect;
 - K. Render assistance when requested, to other employees of the Department, but they shall not interfere with, or work independently upon any case, except by direction of their superior Officer;

2.3 DISTRICT DETECTIVES TO FREQUENTLY ATTEND PRE-TOUR BRIEFING

- A. District Commanding Officers shall require investigative personnel assigned to their command to frequently attend pre-tour briefings. This will give investigative personnel an opportunity to establish a rapport with patrol personnel and to exchange information that may prove beneficial to all parties.
- B. Commanding Officers of specialized detective units shall encourage members of their command to attend pre-tour briefings in Districts in which they have on-going investigations.

2.4 MAINTAINING CASE FILES

- A. Each unit conducting follow-up investigations shall maintain a file of all cases to which it has been assigned to investigate.
- B. Minimally the file shall include:
 - 1. a copy of the original crime report;
 - 2. a copy of all notes or reports of the officer conducting the preliminary investigation;
 - 3. statements of victims, witnesses and suspects;
 - 4. results of examinations performed on any physical evidence;
 - 5. copies of all reports prepared by the investigator performing the follow-up investigation;
 - 6. any other written material that would assist in conducting the follow-up investigation.
- C. Access to case files shall be limited to members of the unit to which the follow-up investigation was assigned.
- D. Case files shall be maintained for as long as is required by law (refer to M.O.P. Chapter 9).

2.5 DAILY ACTIVITY REPORTS

The Commanding Officers of the various branches of the Detective Division and Districts may require their subordinates to submit daily activity reports. These reports shall provide a record of the Detective's activity for each tour of duty worked. The type of data to be submitted on such reports shall be determined by the unit's Commanding Officer.

2.6 MONTHLY ACTIVITY REPORTS

The completion and submission of the Detectives Monthly Activity Report (form P-1375) by the supervising officer of each Detective unit throughout the Department, is mandatory. The report must be forwarded to the Chief of Detectives no later than the third business day of the ensuing month. The purpose of the report is threefold:

- A. It serves as a monthly record of the activities performed by each detective;
- B. It shows the actual caseload of each Detective, his/her warrant and arrest activity, and especially, the ratio of cases assigned to cases cleared;
- C. It allows the Chief of Detectives, District Commanding Officers and Detective supervisors to measure the efficiency and productivity of each of the investigators assigned to his/her command.

Detective supervisors shall refer to G.O. 86-6, Part II, pp 29-30 for instructions for preparing the Detectives monthly Activity Report.

2.7 DETECTIVES CHRONOLOGICAL CASE RECORD

The Detective supervisor of each of the Detective units throughout the Department shall be responsible for maintaining the Detectives Chronological Case Record (Form P-1193). The purpose of this report is to:

- A. establish a chronological record of cases for each of the Department's detective units;
- B. indicate the cases that each unit is responsible for;
- C. assist in the equitable assignment of cases to individual detectives;
- D. reflect the current status of each case;
- E. enable Detective supervisors:
 1. to scrutinize the performance of each Detective;
 2. to accurately measure each Detective's productivity; and,
 3. to make Detectives more accountable for their case loads.

For the proper completion of the Detectives Chronological Case Record, Detective supervisors can refer the G.O. 86-6, Part II, pp 27-28.

2.8 ON - CALL ROSTERS

Those Detective units that do not function on a 24 hour basis and whose personnel may be needed after regular business hours shall maintain a roster of on-call members (e.g. Homicide Squad, Crime Scene Unit, etc.). A copy of such roster shall be filed with the 911 Lieutenant.

3.0 INTERVIEWS AND INTERROGATIONS

Refer to M.O.P. Chapter 3 and M.O.P. Chapter 8 (Field Interviews).

4.0 LINE-UPS AND EYEWITNESS IDENTIFICATION

Refer M.O.P. Chapter 3.

5.0 SEARCHES AND SEIZURES

Refer to M.O.P. Chapter 3.

6.0 DEALING WITH EVIDENCE

Refer to M.O.P. Chapter 5.

7.0 CRIME SCENE TECHNICIAN

Refer to M.O.P. Chapter 5.

8.0 INFORMANTS

8.1 POLICY

It is the policy of the Buffalo Police Department to use all sources of information, including informants, to carry out its law enforcement responsibilities. Informants provide a wealth of raw and uncorroborated criminal intelligence information. Because of the nature of the information they provide and because the credibility and motivation of informants may be suspect, the use of informants by Department members must be strictly controlled.

8.2 INFORMANTS – GENERALLY

A. Informant - Definition

An informant is any person who provides criminal intelligence information in exchange for consideration of any sort. Consideration may include foregoing the prosecution of a criminal charge; reducing or dismissing criminal charges; paying money; or any other form of compensation.

B. Cooperating Individual Agreement

Before a person is established as an informant, (s)he must sign a "Cooperating Individual Agreement." The officer establishing the person as an informant must discuss with him/her the contents of the "Cooperating Individual Agreement," most especially emphasizing that the informant is not permitted:

1. to claim that (s)he is a member of the Buffalo Police Department or has any official employment relationship with the Department;
2. to act as a Police Officer or Peace Officer;
3. to participate in acts of violence;
4. to use any unlawful techniques to obtain information;
5. to conspire or engage in criminal activity except as specifically authorized by the Department and then only as is necessary to obtain information or evidence that is required for a prosecution.

C. Meeting With Informants

Whenever practicable an officer shall meet with an informant only when accompanied by at least one other officer. If not practicable, an officer may meet with an informant, unaccompanied by another officer, but only if such meeting was authorized by the officer's superior. Investigating officers shall take additional precautions when dealing with informants of the opposite sex or any other informant who may make an investigation more susceptible to compromise through alleged improprieties.

D. Significant Information From an Informant Must be Reported

Any significant criminal intelligence information that results from a meeting with an informant must be reported in writing to the officer's supervisor.

E. Foregoing, Reducing and Withdrawing Criminal Charges Prohibited

1. Except as specifically authorized, no member of the Department shall enter

into any agreement, expressed or implied, with an informant to withhold or forego arrest or prosecution for a crime, in exchange for information concerning any other crime or criminal, or for any other reason. The prosecution of criminal charges is a prosecutorial prerogative that can only be made by the office responsible for prosecuting the case (i.e. District Attorney's Office, U.S. Attorney's Office, State Attorney General's Office). In circumstances in which a reliable informant facing criminal prosecution has valuable criminal intelligence information, the investigating officer may, after consulting with his/her supervisor, contact a member of the prosecuting attorney's office and advise him/her of all facts relevant to the case. The decision to forego prosecution, or to reduce or dismiss criminal charges lies exclusively with the prosecutor.

2. For narcotics cases in which the informant may have engaged in conduct that would constitute a misdemeanor, the Narcotics Lieutenant or Captain of the Detective Division may authorize that the arrest be deferred if the informant provides reliable information that results in the arrests of others for felony crimes or results in the seizure of a large quantity of drugs or cash. Such authorization shall be in writing and shall be retained in the informant's file. In any such case, the District Attorney's Office shall be apprised of such arrangement.

- F. Nothing in this chapter prohibits or restricts employees of the Department from using street sources, citizen sources, or non-compensated persons who provide information.

8.3 ESTABLISHING A PERSON AS AN INFORMANT

To ensure the personal safety of officers and to protect them from unjustified claims of improper, unethical or illegal conduct, all informants shall be under the control of the Department and not the individual officer. Officers are required to properly establish all informants with the Department. To establish a person as an informant with the Department, an officer must:

- A. Prepare a "Cooperating Individual Agreement" that is signed by the informant (refer M.O.P. Chapter 17 above).
- B. Prepare an "Informant Establishment Report," and include information to identify and locate the informant.
- C. Prepare an Informant I.D. Signature Card which contains the informant's picture and signature.
- D. Check the informant's criminal background by using all available criminal indices. If a verified FBI or NYSID number is available, request a copy of the criminal records from the FBI or DCJS. Where a verified FBI or NYSID number is not available, the informant should be fingerprinted with a copy sent to the FBI and DCJS for analysis. The informant may be used on an interim basis while awaiting the

response from the FBI or DCJS.

- E. Assign an informant code name or code number to each person established as an informant to protect his/her identity.
- F. Inform the Chief of Detectives' Office of the informant's name, aliases or nicknames; the name of the officer who established the informant; and the unit in which the informant file is being maintained. The Chief's Office must also be notified whenever an informant is deactivated if not used for a period of six months.

8.4 MAINTAIN INFORMANT FILES

Once an informant has been established by the Department, records and files pertinent to that informant must be maintained by the Detective unit to which the officer establishing the informant is assigned. The specific records and files may vary from unit to unit but must, at minimum, include the following:

A. Separate File for Each Informant:

For each informant there shall be a separate file which includes:

1. Informant Payment Record which is kept at the top of the file. This report provides a summary of informant payments;
2. The Informant Establishment Report;
3. A current photograph and fingerprint card (or FBI/State Criminal Identification Number);
4. A "Cooperating Individual Agreement;"
5. "Receipt for Purchase of Information;"
6. Copies of all debriefing reports every 90 days;
7. Copies of case initiation reports bearing on the utilization of the informant;
8. Copies of statements signed by the informant (unsigned copies will be placed in appropriate investigative files);
9. Any administrative correspondence pertaining to the informant, including documentation of any representations made on his/her behalf or any other non-monetary considerations furnished;
10. The Informant I.D. Card with the signature of the informant;
11. Any deactivation report or declaration of an unsatisfactory informant.

B. Confidential Informant Code File

Each Detective Unit shall maintain an informant code file or book controlled exclusively by the commanding officer of the unit or a supervisor whom (s)he designates, containing:

1. the informant's code name or code number;
2. type of informant (i.e. informant, informant/defendant, restricted use informant);
3. informant's true name;
4. name of officer establishing the defendant;

5. the date the establishment of the informant is approved by the authorizing supervisor;
6. the date that the informant is deactivated.

C. Master Roster of Active Informants

The Chief of Detectives Office shall maintain a roster of all active informants. The roster shall include the informant's name, including any aliases or nicknames, the officer establishing the informant and the unit in which the informant file is being maintained. Access to this master roster shall be limited to the Chief of Detectives and Commanding Officers in the Detective Division having at least the rank of Captain.

D. Quarterly Review of Active Informant Files

The officer registering an informant who is still in active status must review the informant file on at least a quarterly basis. The review shall assure that the file contains all relevant and current information. Where a material fact concerning the informant has changed (e.g. a change in criminal status, the means of locating him/her, etc.) a supplemental report shall be submitted with the correct information.

8.5 INFORMANT FILE – SECURITY and CONFIDENTIALITY

Informant files shall be kept in a separate and secure storage receptacle, segregated from other files, and under the exclusive control of the unit commanding officer or a supervisor (s)he designates. The receptacle shall be locked at all times when unattended. Access to these files shall be limited to those employees who have a necessary and legitimate need. An informant file shall not leave the immediate area except for review by a supervisor. A sign-out log shall be maintained so that any time that an informant file is removed from the storage receptacle, the officer withdrawing the file and the supervisory officer authorizing such removal shall sign the log and enter the time and date taken and time and date returned.

8.6 USE OF JUVENILE INFORMANTS

In addition to all procedures outlined above, whenever an informant is a juvenile (less than 18 years of age), the establishing officer must also:

- A. obtain prior permission from the officer's supervisor before the juvenile is established as an informant;
- B. have the "Cooperating Individual Agreement" signed by both the juvenile and his/her parent or legal guardian;
- C. arrange to have the parent/guardian present at all meetings between the juvenile informant and the establishing officer, and if the parents decline to be present, such fact shall be duly noted;
- D. if the juvenile informant is a ward of the courts or has charges pending in any court, obtain court permission (preferably in writing).

8.7 USE AS INFORMANTS OF PERSONS ON PROBATION OR PAROLE

The use as informants of persons who are on probation or parole requires the permission of the person's probation or parole officer. If the use of the informant violates the terms of a person's parole, permission is also required of the Parole Board.

9.0 CONFIDENTIAL FUNDS

9.1 POLICY

It is the policy of the Buffalo Police Department to allocate funds which are to be designated as "confidential funds." These confidential funds are to be strictly monitored so that a complete and accurate accounting can be made at all times. Strict conformance with the guidelines established for the disbursement of confidential funds is absolutely essential to avoid impugning the integrity of the Department or any of its employees.

9.2 DEFINITIONS

A. Confidential Funds - Confidential funds are those monies that have been allocated for purchasing services, evidence, or specific information. These funds shall only be used when the particular merits of an investigation warrant such an expenditure.

1. Purchase of Services (P/S):

This category includes the purchase of travel or transportation for an Officer or informant; the lease of an apartment, business front, luxury-type automobile, aircraft or boat, or similar effects which create or establish the appearance of affluence; and the purchase, within reasonable limits, of meals, beverages, entertainment and similar expenses for undercover purposes.

2. Purchase of Evidence (P/E):

This category includes the purchase of evidence and/or contraband such as narcotics and dangerous drugs, firearms, stolen property, counterfeit tax stamps, etc., which are required to determine the existence of a crime or to establish the identity of a participant in a crime.

3. Purchase of Specific Information (P/I):

This category includes the payment of money to an informant for specific criminal intelligence information. All other types of informant expenses fall in the category of purchase of services and should be accounted for accordingly.

B. Fund Custodian:

The fund custodian is the Chief of Detectives. Only upon the order of the Commissioner or other duly designated Superior Officer is the fund custodian authorized to issue confidential funds. Confidential funds shall be issued to the Detective Division Investigative Services Captain in charge of Narcotics designated to administer that particular fund. Once issued the funds may be retained in a financial institution (e.g. bank, credit union, etc.) as needed.

C. Bookkeeper:

The bookkeeper is the Captain of the Detective Division who is designated to distribute the funds to the requesting Officers. The Investigative Services Captain in charge of Narcotics shall be designated as the bookkeeper, shall be responsible for preparing a monthly report outlining monthly expenditures. Such report shall be forwarded through the respective Detective Division Captain to the Chief of Detectives.

9.3 DISBURSEMENT OF CONFIDENTIAL FUNDS-PRIOR APPROVAL REQUIRED

- A. Use of confidential funds is subject to prior approval based on a finding that they are a reasonable and necessary element of an investigation. The approving supervisor must also insure that the controls over disbursement of confidential funds are adequate to safeguard against misuse of such funds. Approval of the disbursement of confidential funds must be in writing.
- B. In exercising authority to give prior approval to the use of confidential funds, the superior officer giving such approval should consider:
1. the significance of the investigation;
 2. the need for the requested expenditure to further the investigation;
 3. the anticipated expenditures in other investigations.
- C. The authority to grant prior approval for the disbursement of confidential funds is as follows:
1. A Lieutenant assigned to the Detective Division section to which the funds are assigned has authority to approve disbursement of confidential funds in the amount of \$8000.00 or less;
 2. The Captain in command of the Detective Division Unit to which the funds are assigned has authority to approve disbursement of confidential funds as needed with the prior approval of the Chief of Detectives.
 3. The Chief of Detectives has authority to approve disbursement of confidential funds in the amount of \$10,000.00 or less.
 4. Any disbursement of confidential funds in excess of \$10,000.00 must be approved by the Deputy Commissioner overseeing the Detective Division and then only after having informed the Commissioner of such disbursement.
- D. The authorization to disburse confidential funds must specify the information that is to be received, the amount of the disbursement, and when dealing with an informant, the informant's assumed name or code number.

9.4 EXPENDING CONFIDENTIAL FUNDS

- A. If prior approval has been received, confidential funds for the purchase of services, the purchase of evidence or the purchase of information, shall be advanced to the

officer on receipt form P-173A

- B. After receiving the confidential funds from his/her supervisor, the investigating Officer must use the money to make the payments. Confidential funds shall be used specifically for the purchase of services, the purchase of evidence, or the purchase of information. If the funds are not expended for that purpose, they must be returned to the supervisor. Confidential funds shall not be used for another purpose. Each Narcotics Detective will be given a bank of \$500.00 to use for the purchase of services, evidence or information to use when the particular merits of an investigation warrant such an expenditure as determined by that investigator. These banks will be strictly monitored by Narcotics Supervisors so that a complete and accurate accounting can be made at all times.
- C. When purchasing evidence (P/E) or purchasing information (P/I) the payments should be made and witnessed by two law enforcement officers. In unusual circumstances, a non-sworn employee or an officer of another law enforcement agency may serve as the witness. Documentation of payments to informants is critical and shall be accomplished on a receipt for purchase of information (form P-173). In all instances, the original signed receipt must be submitted to the section supervisor for review and record keeping.

9.5 RECEIPTS FOR PURCHASE OF INFORMATION (P-173)

The officer expending funds to pay an informant must prepare a "Receipt for Purchase of Information" (form P-173). A Receipt for Purchase of Information shall identify the exact amount paid to and received by the informant on the date the form was executed. Cumulative or anticipatory receipts are not permitted. The receipt shall not be altered in any way once it has been completed.

A. The Receipt For Purchase of Information shall contain:

1. The Detective Division Section initiating the payment;
2. A description of the information/evidence received;
3. The amount of payment, both in numerical and word form;
4. The date on which the payment was made;
5. The signature of the informant/payee;
6. The signature of the officer making the payment;
7. The signature of at least one other officer witnessing the payment;
8. The signature of the first line supervisor authorizing and certifying payment.

B. The Officer shall forward to his/her supervisor the receipt signed by the informant payee together with a memorandum detailing the information that was received. The supervisor shall compare the informant's signature on the receipt with the informant's signature contained in the informant file. The supervisor shall also evaluate the quality of information provided by the informant in relation to the degree of expense the Department incurred and such evaluation shall be included with the report prepared by the officer making the payment.

9.6 RECEIPTS FOR PURCHASE OF SERVICES

When confidential funds are used for the purchase of services, such purchases need to be supported by canceled tickets, receipts, lease agreements, etc., unless by so doing the personal safety of the officer or informant is unduly jeopardized. If such supporting documentation is not obtained, the Detective Division Unit Captain, or his/her immediate subordinate, must certify in writing that the expenditures were necessary and (s)he must proffer an explanation why the documents were not obtained.

9.7 PAYMENTS TO INFORMANTS

A. Any person who is to receive payments which are to be charged against PE/PI funds should be established as an informant (refer M.O.P. Chapter 17). This includes persons who may otherwise be categorized as sources of information or informants under the control of another agency. The amount of payment must be commensurate with the value of services and/or information provided by the informant. Consideration should be given to:

1. the level of the targeted individual, organization or operation;
2. the amount of the actual or potential seizure;
3. the significance of the contribution made by the informant to the desired objectives.

B. There are various circumstances in which payments to informants may be made:

1. Payments for Information and/or Active Participation

When an informant assists in developing an investigation, either through supplying information or actively participating in it, (s)he may be paid for his/her service either in lump sum or in staggered payments. Payments should be held to a minimum in circumstances in which information leads to a seizure but there are no arrests involved.

2. Payments for Informant Protection

When an informant needs protection, the Department may absorb reasonable costs for his/her relocation. These expenses may include travel for the informant and his/her immediate family, moving and storage of household goods, and living expenses at the new location for a specific period of time (not to exceed 6 months). Payments for these expenses may be either lump sum or as they occur, and should be neither excessive nor extraordinary.

3. Payments to Informants of Another Agency

When a payment is to be made to another agency's informant, the informant must first be established with the Buffalo Police Department. These payments should not be a duplication of a payment from another agency; however, the sharing of a payment with another agency is acceptable.

9.8 ACCOUNTING AND CONTROL PROCEDURES

All Commanding Officers in whose units a confidential fund has been established shall be responsible for maintaining the following minimum accounting and control procedures:

- A. there shall be an accurate and up to date record which identifies funds received, funds expended and the current balance;
- B. records shall identify the source and documentation of funds received;
- C. the person authorizing each disbursement of funds shall be indicated;
- D. records shall reflect the name of the Department employee to whom the funds were disbursed and the purpose for which the funds were expended;
- E. all receipts and/or other documentation for expenditure of funds must be retained;
- F. all expenditures must be correctly attributed to the proper account (i.e. PE/PI/PS);
- G. a monthly accounting of all funds received and expended must be provided.

9.9 DISTRICT DETECTIVE UNITS AND OTHER DETECTIVE UNITS USE OF CONFIDENTIAL FUNDS

From time to time Detectives and other detective units that do not have an established confidential fund may need access to such funds. In these instances the investigating officer needing such funds shall, through his/her commanding officer, forward a request to the Chief of Detectives. If the Chief of Detectives believes that the expenditure is justified (s)he shall arrange to appropriate such funds. All the rules and procedures outlined in this section will govern the use of such funds by District detective units and any other unit that does have an established confidential fund.

10.0 COVERT POLICE OPERATIONS

10.1 POLICY

It is the policy of the Buffalo Police Department to employ covert police operational methods whenever such methods are best suited to accomplish a recognized law enforcement objective. Covert police operations are dangerous, time consuming and susceptible to claims of impropriety, and as a result must be closely supervised.

10.2 COVERT POLICE OPERATIONS – DEFINITION

Covert police operations entail all those investigative methods in which an investigation is conducted clandestinely or in which the investigator is undetected or his/her status as a law enforcement officer is not revealed. Covert police operations include among other things, undercover and decoy operations.

10.3 ANALYZING CRIMES, VICTIMS AND SUSPECTS

Prior to conducting a covert police operation a supervisor must identify the types of crimes that are to be investigated, the victims usually associated with these types of crimes, and suspects that may be responsible. Based on these factors, the supervisor must determine the type of police operation best suited to accomplish his/her objective. Covert police operations shall not be undertaken frivolously and shall be employed only when other more traditional police methods would not serve equally well.

10.4 DETERMINING LEGAL RAMIFICATIONS

- A. Prior to employing a covert police operation, the supervisor must carefully consider all potential legal consequences. (S)he must not only consider the nature of the evidence that needs to be collected but also the manner in which it is obtained, so that it can successfully withstand legal challenge. For example, in a decoy operation the officer-decoy should not entrap an otherwise unwilling subject, or in an investigation using electronic eavesdropping, the supervisor must ensure that the investigating officers strictly comply with all legal requirements in obtaining and executing the court order.
- B. The supervisor must also be aware of any potential for illegal or unethical conduct on the part of the investigating officers which could arise due to the nature of the covert operation and (s)he must minimize this potential.

10.5 TACTICAL PREPARATION

- A. Based on the attendant circumstances the supervisor must prepare detailed procedures for the execution of the covert operation, including procedures for foreseeable contingencies. Whatever the procedures adopted, foremost in the planning shall be consideration for the safety of the officers involved. Covert operations shall not pose an undue risk to the safety of an officer or cooperating witness.
- B. Only one supervisor shall be in charge of the covert operation and such supervisor shall provide close supervision. Due to the nature of covert operations it is imperative that participating officers strictly comply with all the procedures that have been established by the supervisor. In the event that the covert operation is being conducted in conjunction with another agency, the Supervisor will act as the liaison with the outside agency.
- C. When necessary, supervisors shall arrange to provide appropriate undercover vehicles, communications equipment, disguises, and false identities to members of the covert operation.
- D. Supervisors must arrange for the funds necessary for the officers involved in the covert operation (refer to M.O.P. Chapter 17 above).
- E. Supervisors must determine how communications are to be conducted and must provide a means of emergency communications.

- F. The supervisor shall thoroughly familiarize members of a covert operation with the operational plan and its objectives, the target area, potential suspects and any dangers they may confront.

11.0 SURVEILLANCE

11.1 POLICY

It is the policy of the Buffalo Police Department to use surveillance techniques to collect information when necessary and appropriate. Surveillance operations as described in this section must be approved by a superior officer. Department members must fully comply with all legal requirements associated with non-consensual electronic surveillance.

11.2 SURVEILLANCE – DEFINITION

For purposes of this section, surveillance shall mean the gathering of information concerning the activities and identities of individuals by covertly observing and/or listening to targeted persons, places, vehicles or things. It does not include the routine observation of persons, places, vehicles or things that occur during police patrol.

11.3 OBJECTIVES OF SURVEILLANCE

A. Gathering Criminal Intelligence

Gathering criminal intelligence is the most common form of surveillance. Its purpose is to gather as much information as possible about a crime, activity, person, place, vehicle or thing. It is used for:

1. developing leads and information received from other sources,
2. uncovering evidence of criminal activity,
3. assessing the reliability of informants,
4. locating targeted persons by surveilling their associates and usual haunts or verifying the whereabouts of individuals during specific times,
5. locating hidden contraband,
6. obtaining information to be used in applications for electronic surveillance,
7. obtaining information to be used in subsequent interviews or interrogations,
8. obtaining admissible legal evidence for subsequent court use.

B. Protecting Undercover Officers or Informants

Surveillance may be used to protect an undercover officer and to corroborate their testimony.

11.4 PRIOR APPROVAL REQUIRED

Because surveillance, as defined in this section, is an investigative method that is time consuming and manpower intensive, it must be approved by a superior officer. The superior officer must decide if surveillance is the best investigative method to use under the circumstances and whether the commitment of time and personnel justifies the anticipated results. Approval for surveillance must be granted in writing.

11.5 INVESTIGATING OFFICERS' RESPONSIBILITIES

If a surveillance operation has been approved by a superior officer, the investigating officers shall:

- A. familiarize themselves with all pertinent information concerning the target of the surveillance and the surveillance operation;
- B. familiarize themselves with the location of the surveillance, the surrounding area, potential escape routes, and the type of inhabitants, including their peculiar linguistic characteristics and manner of dress;
- C. be familiar with the circumstances under which the surveillance may be broken off to respond to crimes in progress;
- D. be familiar with the circumstances under which it is necessary to make an immediate arrest;
- E. secure necessary equipment, supplies, vehicles and funds;
- F. attire themselves in clothing that is appropriate for that type of operation (Department identification shall be carried with the surveilling officers unless precluded by the type of operation) and attempt to blend into the area;
- G. prepare reports that minimally include:
 - 1. the identity and a detailed description of persons and vehicles observed;
 - 2. any activity that occurred;
- H. keep their supervisor informed of any relevant information or developments.

11.6 SUPERVISOR/SUPERIOR OFFICER RESPONSIBILITIES

If a surveillance operation has been approved by a supervisor/superior officer the supervisor/superior officer shall:

- A. determine if any other unit or agency is surveilling the same target;
- B. collect information concerning the individuals and locations targeted, minimally including:
 - 1. background and history of the target,
 - 2. arrest and criminal history data,
 - 3. associates,
 - 4. place frequented,
 - 5. mannerisms and habits,
 - 6. vehicles used and routes traveled,
 - 7. weapons possessed;

- C. formulate the method for conducting the operation;
- D. select the surveillance team;
- E. secure all required surveillance equipment and funds;
- F. thoroughly brief the surveillance team.

11.7 USE OF SURVEILLANCE EQUIPMENT

- A. All surveillance equipment shall be maintained by the ***Chief of Detectives or his designee***. ***The Chief of Detectives or his designee*** shall be responsible for the security, maintenance and use of such equipment. (S)he shall conduct periodic inventories to insure that all surveillance equipment is properly accounted for.
- B. Only those employees who are familiar with the use of surveillance equipment shall be allowed to operate such equipment.
- C. Employees requesting the use of surveillance equipment must submit their request to ***the Chief of Detective or his designee***. Such equipment shall be signed out when being used and signed back in when it is no longer needed. Requests for Penn registers and telephone surveillance shall be submitted at least ten days prior to the anticipated date of use so that necessary arrangements can be made with the telephone company.

12.0 POLYGRAPH

12.1 POLICY

All polygraphs administered for the Buffalo Police Department will be done by an outside company that is contracted to do so by the City of Buffalo. The company currently utilized is Western NY Polygraph Service, 295 Main St Suite 1074, Buffalo, NY 14203.

12.2 LIMITATIONS ON USE OF THE POLYGRAPH

The polygraph shall be used only in the following circumstances:

- A. Criminal investigations being conducted by a Sworn member of the Buffalo Police Department;
 - 1. Polygraph examinations shall be used only after all investigative leads have been exhausted and all other investigative methods have proven fruitless;
 - 2. No victim of a sexual assault will be asked to submit to a polygraph examination to determine the truth or falsity of statements made by the victim (refer CPL 160.45);

3. Juveniles shall not be administered a polygraph examination unless their parent, guardian, or other person responsible for their care has given written consent and such parent, guardian or other person responsible for their care is present during the examination;
4. The Polygraph Protection Act of 1988 prohibits an employer from taking any action (e.g. discipline, discharge, denial of employment, denial of promotion, etc.) against an employee based solely on the employee's refusal to submit to, or his/her failure of, a polygraph examination. For this reason, no employee of the Department shall discuss the results of a polygraph examination, or in any manner convey information concerning the results of that examination to the person's employer. Any report generated as a result of a criminal investigation during which a polygraph examination was administered may indicate that the examination was conducted, but it may not include the results of that examination.

B. Criminal investigations being conducted by an outside law enforcement agency.

Where possible the Department shall assist outside law enforcement agencies in conducting polygraph examinations, however, no such examination shall be conducted when the investigation involves employee related crimes.

C. Screening of applicants.

At the request of a sworn member of the Department, a polygraph examination may be administered to screen applicants seeking employment with the Department.

D. Internal Department Investigations of Non-Sworn Personnel.

Polygraph examinations may be administered to non-sworn Departmental personnel in the conduct of internal investigations. The use of the results of the examination or the employee's failure to take such test shall comport with all applicable laws.

By virtue of the collective bargaining agreement between the City and the Police Benevolent Association, all members of the PBA are exempt from submitting to a polygraph examination.

12.3 PROPRIETY OF USING THE POLYGRAPH

A. The use of the polygraph is a time consuming process. It entails extensive pre-test preparation, the administering of the test itself, and then careful interpretation of the test results. Investigating officers contemplating the use of a polygraph examination shall be very selective in determining who should be subjected to such a test. Usually, time constraints in a particular case will preclude all suspects associated with that case from being examined.

B. The use of a polygraph examination is an alternative when:

1. all leads have been exhausted, and

2. all other investigative techniques have proven fruitless, and
3. there are logical suspects that have not been eliminated, or
4. the statement of a suspect or victim contradicts all or most of the evidence.

12.4 REQUESTING A POLYGRAPH EXAMINATION

- A. An investigating officer wishing to make use of a polygraph examination shall forward a written request to the Chief of Detectives through his/her own commanding Officer. The request shall include the name of the subject to be tested, the Event number and a general description of the circumstances upon which the test will be based.
- B. If the Chief of Detectives approves the request, (s)he shall notify the investigating officer and arrange for the services of the polygraph examiner. The polygraph examiner shall be furnished with the investigating officer's original request.

12.5 PRE-TEST PREPARATION

- A. At least one day prior to the scheduled examination date, there shall be a pre-test conference between the investigating officer and the polygraph operator. At this pre-test conference the investigating officer shall be prepared to furnish the examiner with all information concerning every detail of the case under investigation. This pre-test conference may be dispensed with at the discretion of the polygraph operator, if (s)he is satisfied that (s)he has sufficiently detailed information to conduct a meaningful examination.
- B. A subject shall not ordinarily be scheduled for a polygraph examination unless accompanied by an investigating officer familiar with the case. Investigative reports alone are usually not sufficiently comprehensive to provide the examiner with an accurate background of the case.
- C. Persons who are to be subjected to a polygraph examination must be mentally alert and free from mental defects. They cannot be under the influence of alcohol or drugs while being tested.

13.0 GAMBLING INVESTIGATIONS

13.1 POLICY

It is the policy of the Buffalo Police Department that even though gambling investigations are to be conducted by the Narcotics and Vice Enforcement, other sworn members are not relieved of their obligation to enforce laws relating to illicit gambling operations. Refer to M.O.P. Chapter 17 above.

13.2 RECEIVING COMPLAINTS OF ILLICIT GAMBLING ACTIVITY

- A. Any information or any complaint concerning illicit gambling activity shall be

referred to Narcotics and Vice Enforcement for further investigation. If the information is from an employee of the Department, the employee shall prepare an Intra-Departmental memorandum that is to be forwarded to the Narcotics and Vice Enforcement through his/her own commanding officer. The report shall be as detailed as possible.

- B. Narcotics and Vice Enforcement shall maintain a file for any information or complaint concerning illicit gambling activity. These files shall be kept confidential and the information shall be disseminated to other law enforcement officers outside of Narcotics and Vice Enforcement only on a need to know basis. The information contained in these files shall be reviewed annually and any unsubstantiated information that has been in the file for more than two years shall be purged.
- C. The file shall indicate the name of Narcotics and Vice Enforcement Officer who was assigned to investigate and the results of that investigation. Each complaint shall be investigated to the fullest possible extent.
- D. The file shall also contain a record of information conveyed to and received from outside agencies.

13.3 GAMBLING ARRESTS

When a gambling arrest is made by a sworn member not assigned to the Narcotics and Vice Enforcement, the arresting officer shall forward through the chain of command to the Narcotics and Vice Enforcement, a copy of the arrest documents. If there is any pertinent information concerning the arrest that is not included in the arrest documents, the arresting officer shall also forward through the chain of command an Intra-Departmental Memorandum relating those facts.

14.0 LIQUOR INVESTIGATIONS

14.1 POLICY

It is the policy of the Buffalo Police Department that even though liquor law investigations are to be conducted by Narcotics and Vice Enforcement, other sworn members are not relieved of their obligation to enforce laws relating to violations of the Alcohol Beverage Control Law. Refer to M.O.P. Chapter 17 above.

14.2 FORWARDING INFORMATION TO THE NARCOTICS AND VICE ENFORCEMENT

Any suspected violation of the liquor laws that requires further investigation shall be forwarded through the employee's commanding officer to Narcotics and Vice Enforcement section.

14.3 HANDLING EVIDENCE - LIQUOR VIOLATIONS

At least two ounces from each container having illicit alcohol shall be obtained and submitted as evidence. Refer to M.O.P. Chapter 5.

14.4 LIQUOR LAW RELATED ARRESTS

- A. Any sworn member of the Department making an arrest for a liquor law violation may request the assistance of Narcotics and Vice Enforcement.
- B. The Commanding Officer of any unit other than Narcotics and Vice Enforcement, whose members make an arrest for a liquor law violation shall forward to Narcotics and Vice Enforcement, an Intra-Departmental Memorandum which minimally contains the following:
 - 1. the name of the person arrested;
 - 2. the name of the person in charge of the premises at the time of the arrest;
 - 3. the address of the place of arrest;
 - 4. the location of the premises in the building;
 - 5. the liquor license number, if any;
 - 6. any pertinent information related to the arrest.
- C. Information concerning the violation of federal liquor laws shall be referred to the Bureau of Alcohol, Firearms and Tobacco.

14.5 REQUESTS FOR HEARING BEFORE THE ALCOHOL CONTROL BOARD

- A. When sufficient cause exists, the Commanding Officer of the District in which there arises a problem with a person licensed to distribute liquor, shall forward an Intra-Departmental Memorandum to the Police Commissioner requesting a hearing before the Alcohol Control Board. The reasons for the request shall be outlined in detail. The Commanding Officer of Narcotics and Vice Enforcement may also submit such a request to the Commissioner.
- B. If the Commissioner approves of such request, it shall be forwarded to the ABC Board and the State Liquor Authority. The Commissioner's Office shall notify the Commanding Officer of the date of any scheduled hearing.
- C. No member of the Department shall voluntarily appear as a witness for the licensee when a hearing is initiated by this Department. If a member is subpoenaed to appear at such a hearing as a witness for the licensee, the member shall notify his/her commanding officer and be guided by his/her instructions.

15.0 NARCOTICS INVESTIGATIONS

15.1 POLICY

It is the policy of the Buffalo Police Department that even though investigations of illicit drug are to be conducted by Narcotics and Vice Enforcement, other sworn members are not relieved of their obligation to enforce laws relating to drugs. Refer to M.O.P. Chapter 17 above.

15.2 RECEIVING COMPLAINTS REGARDING ILLICIT DRUGS

- A. Any information or any complaint regarding illicit drugs shall be referred to Narcotics and Vice Enforcement for further investigation. If the information is from an employee of the Department, the employee shall prepare an Intra-Departmental memorandum that is to be forwarded to Narcotics and Vice Enforcement through his/her own commanding officer. The report shall be as detailed as possible.
- B. Narcotics and Vice Enforcement shall maintain a file of any information or complaints regarding illicit drugs. These files shall be kept confidential and the information shall be disseminated to other law enforcement officers only on a need to know basis. The information contained in these files shall be reviewed annually and any unsubstantiated information that has been in the file for more than two years shall be purged.
- C. The file shall indicate the name of the Narcotics and Vice Enforcement Officer who was assigned to investigate and the results of that investigation. Each complaint shall be investigated to the fullest possible extent.
- D. The file shall also contain a record of information conveyed to and received from outside agencies.

15.3 RESPONSIBILITY OF NARCOTICS AND VICE ENFORCEMENT FOR DRUG INVESTIGATIONS

Narcotics and Vice Enforcement shall be responsible for all ongoing investigations regarding illicit drugs. Persons not assigned to that unit shall not actively engage in drug investigations without the explicit permission of their Commanding Officer and the permission of the Commanding Officer of Narcotics and Vice Enforcement. All search warrants involving narcotics must be executed with the assistance of the Narcotics and Vice Enforcement and must be done in accordance with that unit's guidelines and procedures.

15.4 HANDLING DRUG EVIDENCE AND DRUG PARAPHERNALIA

Refer to M.O.P. Chapter 5.

15.5 SEIZING CASH AS FORFEITURE ASSETS

Refer to M.O.P. Chapter 5.

15.6 SEIZING VEHICLES AS FORFEITURE ASSETS

Refer to M.O.P. Chapter 2.

15.7 INFORMING THE COMMISSIONER OF MAJOR DRUG INVESTIGATIONS

The Commanding Officer of Narcotics and Vice Enforcement shall keep the Chief of Detectives informed of all substantive ongoing drug investigations. Through the chain of command, the Chief of Detectives shall keep the Commissioner informed of all major ongoing drug investigations.

16.0 CRIMINAL INTELLIGENCE UNIT

16.1 POLICY

It is the policy of the Buffalo Police Department to collect and preserve criminal intelligence information regarding specific persons, places and crimes and to disseminate this information in a manner that is useful to investigative units throughout the Department.

16.2 CRIMINAL INTELLIGENCE – DEFINITION

Criminal intelligence is any information, from whatever source received, that implicates a person or place as being involved in an ongoing criminal activity, or is information directly related to the criminal activity of any person or place. It includes information concerning organized crime, vice, illicit drug activity, terrorism, gangs, civil disorders, etc. Personal information that has no bearing on any criminal activity shall not be collected by employees of this Department.

16.3 FORWARDING CRIMINAL INTELLIGENCE INFORMATION

Employees of the Department who come into possession of criminal intelligence information shall report all pertinent facts in explicit detail on an Intra-Departmental Memorandum. The report shall be forwarded through the chain of command to the Intelligence Unit. Unless the information is time sensitive it shall be reported on the monthly criminal intelligence report.

16.4 PROCESSING CRIMINAL INTELLIGENCE DATA

- A. The Intelligence Unit shall be responsible for gathering, investigating and disseminating criminal and other pertinent intelligence information as appropriate throughout the Department and to other local, state and federal agencies. Members assigned to this unit will be responsible for initiating, developing and investigating information sources in the areas including but not limited to; criminal gang, biker organizations, organized crime and Homeland Security intelligence. Members will serve as a resource to other Department members for undercover surveillance and technology. Members will be assigned case investigations, surveillance as well as other duties as directed by their Commanding Officer.
- B. Raw data shall be evaluated and verified when possible. Unverified raw data shall be classified as such and shall be used only with the utmost care. Criminal intelligence data shall be filed in a manner so that it is cross-referenced and easily retrievable.
- C. All existing Department record systems (i.e. arrests, calls for service, crime reports, etc.) should be reviewed in conjunction with data obtained in the field, to generate useful criminal intelligence.
- D. For covert operations refer to M.O.P. Chapter 17 above.
- E. For surveillance operations refer to M.O.P. Chapter 17 above.

- F. Criminal intelligence information shall be disseminated to the appropriate investigative units when it appears that such information has a bearing on current criminal activity or may prove useful in an active investigation.
- G. Per the Commissioner of Police, there are no limitations on the duration of time the Buffalo Police Department will keep criminal intelligence.
- H. Criminal intelligence will be removed or redacted whenever the Commanding Officer in charge of the Intelligence Unit deems it not worthy of keeping, investigating or disseminating.

16.5 CRIMINAL INTELLIGENCE FILES

Criminal intelligence files contain highly sensitive information. These files must be kept separate from other Department files and their confidentiality must be strictly maintained. The Commanding Officer of the Intelligence Unit shall specify which employees have access to the criminal intelligence files and only those authorized employees will be granted access. Dissemination of information to an outside law enforcement agency shall be made only on a need to know basis.

17.0 HOMICIDES, SUICIDES, SERIOUS ASSAULTS

17.1 POLICY

It is the policy of the Buffalo Police Department to thoroughly investigate all possible criminal activity that results in death or serious physical injury to any person. This includes the identification and processing of all potential evidence. The Homicide Squad shall be responsible for investigating all criminal cases resulting in death and criminal cases involving serious physical injuries that may result in death. It is the duty of all members of the Department to cooperate with members of the Homicide Squad.

17.2 PRELIMINARY INVESTIGATION

Successful homicide investigation often depends upon the initial actions taken by patrol officers. A rapid and intelligent response is imperative to preserve the crime scene. While in route to the scene of a possible homicide or of a serious assault in which death may result, the responding officers shall be observant for anyone acting in a suspicious manner or of any suspicious vehicle. The five primary responsibilities at the crime scene are as follows:

A. Determine if the victim is alive or dead (refer to M.O.P. Chapter 2)

If life is detected, render all possible aid to the victim and summon an ambulance. If the victim is to be taken to a medical facility, or any other place, make an outline of the body before it is moved.

B. Take Immediate Steps to Apprehend the Perpetrator

1. If the suspect has left the scene and his/her identity is known or if there is a description of a suspect, such information shall be immediately broadcast

along with the direction of flight, a description of any vehicle, the suspect's possible destination, and any other pertinent information.

2. If a suspect is at the scene (s)he shall be detained for the Homicide Squad.
 - a. Patrol Officers shall not discourage suspects from talking but they also shall not interrogate them. Generally, they shall wait for a member of the Homicide Squad to advise the suspects of their Miranda rights. In the event that a member of the Homicide Squad is not immediately available and a suspect insists on confessing or telling his/her side of the story, the patrol officer shall at that point advise the suspect of his/her Miranda rights and ensure that such rights are clearly understood and knowingly waived. The Patrol Officers shall attempt to get the suspect to a Detective of the Homicide Squad as soon as possible.
 - b. If a patrol officer is requested to transport a homicide suspect, they shall not interrogate him/her. If the suspect volunteers information or talks about the case, the officers shall listen, remember and later make notes of any statements said to them.
 - c. Safeguard the Crime Scene and Detain all Possible Witnesses and Suspects

1. The immediate crime scene is the location where the body has been discovered. Additional crime scenes may include:
 - a. the location from where the body was moved;
 - b. the location where the assault actually occurred;
 - c. the location of a vehicle used to transport the body.

It is important that responding officers be aware of the possibility that there are other related crime scenes and that they take steps to effectively secure these scenes.

2. It is often difficult to determine exact boundaries of a crime scene but they generally include the site where the initial action took place; the escape route; and the location where any physical or trace evidence may be located. Any area considered to be a crime scene shall be secured by using crime scene tape. In determining the crime scene patrol officers shall:
 - a. make a quick and objective evaluation of the scene based upon:
 - i. location of the body
 - ii. presence of physical evidence
 - iii. eyewitness statements
 - iv. presence of natural boundaries (e.g. room, house,

enclosed area, etc.).

- b. secure the largest possible area because the scene can always be narrowed later;
3. In any event, the patrol officers shall not examine the contents of a crime scene. The scene should be stabilized by isolating the body and the immediate area, including any visible evidence from any other person. It is imperative that the body and the immediate surrounding area be preserved exactly as they were when first discovered.
4. No unauthorized or unnecessary person may be allowed into the crime scene. Only those persons with a valid and specific investigatory or medical purpose shall be permitted entry. Other patrol officers, including supervisory personnel, who do not have a legitimate investigatory or medical purpose for entering the crime scene must be excluded. It will be the responsibility of the first patrol officers on the scene to document all entries into the crime scene on the "Crime Scene Integrity Control/Sign in Sheet" (Form P-296).
5. A great deal of attention usually attends a homicide investigation. This attention may make it difficult to properly safeguard the crime scene. In such cases it may be necessary to establish a secondary secure area where police personnel and other officials may assemble without disturbing the crime scene.
6. If witnesses are detained they shall not be allowed to move around or to engage in conversation with each other.

A. Notify the Immediate Supervisor

The first officers on the scene shall contact their immediate supervisor. The immediate supervisor will be responsible for requesting the assistance of the Homicide Squad. If members of the Homicide Squad are not on duty, the supervisor shall contact the 911 Communications Lieutenant who will determine whether the Homicide Squad is needed. The on-call Homicide Squad members will respond when summoned by the Duty Inspector or on-duty Captain performing Duty Officer responsibilities and they shall request the Crime Scene Technician, Crime Scene Unit and Medical Examiner in appropriate cases. The first Officer on the scene shall be in charge until the arrival of the immediate supervisor.

B. Take Notes of all Pertinent Facts

The first officers on the scene shall make a note of all pertinent facts including:

- a. the time they were first notified, their location, and from whom

- the report was received;
- b. the time, light conditions, the weather and other pertinent environmental factors at the crime scene;
- c. the names and addresses of witnesses and any other person who may have information concerning the incident;
- d. the identity of the victim if such can be determined without in any way, disturbing the body;
- e. any conversations the officer had with the suspect or any witnesses, or any conversations between suspects or witnesses that the officer may have overheard;

17.3 HOMICIDE SQUAD - FOLLOW UP INVESTIGATION

A. Homicide Squad Responsibility

The Homicide Squad shall be notified and will be responsible for the follow up investigation of all:

1. suicides,
2. serious assaults in which the life of the victim is in jeopardy,
3. deaths resulting from criminal activity,
4. deaths occurring under suspicious circumstances,
5. unidentified dead bodies,
6. police related shootings that result in injury to any person,
7. cases assigned by the Commissioner or the Chief of Detectives.
8. deaths occurring while the person was in the custody of the Department.
9. infant and child deaths excluding those resulting from motor vehicle accidents.

B. Homicide Squad in Charge at the Scene

The ranking member of the Homicide Squad who is at the scene shall be the Officer in charge, subject to oversight by the Commissioner, Deputy Commissioners or Chiefs. (S)he shall lead the investigation and all Department members will work under his/her direction. All members of the Department shall extend their utmost cooperation to the Homicide Squad.

C. Crime Report and Death Report

It is the responsibility of the Homicide Squad to prepare the Death Report (Form P-178) and the Crime Report (P-1191). Electronic Mail messages shall be sent by the Homicide Squad and that squad shall also forward appropriate forms to the respective districts.

D. Documentation of the Scene

The documentation of the scene by photographs and/or video will be performed by the Photography Unit in all those incidents cited in section A, above.

17.4 EVIDENCE COLLECTION

The Crime Scene Unit shall be exclusively responsible for collecting and processing all evidence involving incidents specified in M.O.P. Chapter 5.

17.5 SEARCHING THE DECEASED

Only the Medical Examiner, and no one else, shall search the body of the deceased. An Officer at the scene shall witness the search and, at the request of the Medical Examiner, sign the property envelope which lists the items found on the body. The Medical Examiner will retain the envelope and the property but (s)he shall not take or retain evidence.

17.6 DYING DECLARATIONS

A. When Taken

A member of the Department investigating an incident in which the victim is mortally injured and will probably not survive, shall attempt to obtain a dying declaration.

B. Requirements

Before a dying declaration is admissible in court it must appear that:

1. the victim would have been a competent witness had (s)he lived;
2. the victim was at the point of death;
3. the victim sensed his/her impending death and had no hope of recovery;
4. the declaration related to the cause of the victim's death;
5. the victim died as a result of the injuries.

C. Questions to be Asked

If it appears that the victim believes (s)he is about to die, the member shall take the victim's dying declaration. If a doctor is available, the doctor should be asked to inform the victim that (s)he is about to die and that there is no hope of recovery. Witnesses shall be secured if possible. Leading questions should not be asked. The following preliminary questions need be asked:

1. What is your name?
2. Where do you live?
3. Do you believe that you are now about to die?
4. Do you have any hope of recovering from your injuries?
5. Are you willing to make a true statement of how you were injured?

D. Signature of Victim and Witnesses

The questions and answers shall be reduced to writing and signed by the victim if possible. Even if the victim dies without signing the statement, each witness shall sign his/her name and address in the lower left corner under the caption "Witnesses."

17.7 SERVICES OF THE CLERGY

Refer M.O.P. Chapter 2.

17.8 MEDICAL EXAMINER

Refer M.O.P. Chapter 2.

17.9 NOTIFYING NEXT OF KIN

Refer M.O.P. Chapter 2.

17.10 WRITTEN REPORT OF THE PRELIMINARY INVESTIGATION

The member of the Department conducting the preliminary investigation prior to the arrival of the Homicide Squad shall prepare an Intra-Departmental Memorandum (P-73 – there is an on-line form available for homicides on Departmental Forms in Lotus Notes) relating in specific detail all of his/her observations and any other matter pertinent to the investigation. This report shall be forwarded to the Homicide Squad.

17.11 POST MORTEM EXAMINATION

A. Observer Required

Post mortem examinations involving deaths being investigated by the Homicide Squad shall be observed by a qualified member of the Unit designated by the Commanding Officer. A Crime Scene Technician and/or a member of the Crime Scene Unit may also be requested to attend the post mortem, if the Homicide Squad determines it to be necessary.

B. Cooperation

The member designated to observe a post mortem examination shall fully cooperate with the pathologist, the Medical Examiner and the District Attorney.

C. Written Account

The member designated to observe a post mortem examination shall prepare a detailed, written, accurate memorandum that reflects all pertinent details of the examination.

D. Objects Removed from the Deceased

The member designated to observe a post mortem examination shall obtain all objects of evidentiary value that are removed from the victim. These items of evidence will be handled in conformance with procedures previously outlined in this Chapter. If a member of the Crime Scene Unit is present (s)he shall maintain possession.

E. Reports

The member designated to observe a post mortem examination shall prepare sufficient copies of written reports (e.g. autopsy report, etc.) regarding the post mortem examination to supply all authorized personnel and the CPS Lab with a copy.

18.0 SEX OFFENSE INVESTIGATIONS

18.1 POLICY

It is the policy of the Buffalo Police Department to thoroughly investigate all incidents

involving sex offenses and to identify and process all evidence that might have an impact on such cases. The investigation of sex offenses will be conducted by the Special Victims Unit and it is the duty of all members of the Department to fully cooperate with members of this unit.

18.2 PRESERVING EVIDENCE

Sworn members responding to a complaint of a sexual assault shall:

A. Identify and preserve evidence;

B. Advise the victim to refrain from:

1. Washing, showering or bathing;
2. Changing clothes;
3. Douching;
4. Using a mouthwash.

18.3 RECORDING FACTS OF THE CRIME

Officers must diligently make a detailed record of the offense, paying particular attention to any fact which may aid in the identification of the perpetrator or which may assist further investigation. The modus operandi of the sex offender is especially important since the offender tends to repeat his/her actions.

18.4 WRITTEN NOTIFICATION OF NEAREST RAPE CRISIS CENTER

Section 642(2b) of the NYS Executive Law requires that the Department provide victims of sexual offenses with a written notification of the address and telephone number of the nearest rape crisis center. When a member of this Department is called upon to investigate a sexual offense, (s)he shall provide the victim a copy of form P-164. If the victim is a juvenile, the member shall give a copy of the form to the parent, guardian, or other person responsible for the juvenile's care.

18.5 STATEMENTS OF VICTIMS AND WITNESSES

A. Victim Protection

The Buffalo Police Department shall ensure that victims of sex offense and/or incest are afforded the proper protections in accordance with the provisions of 642, subdivision 2-a of the Executive Law.

1. The Buffalo Police Special Victims Unit shall provide a private setting for the interviewing of victims of sexual offenses. For the purposes of this subdivision "private setting" shall mean an enclosed room, from which the occupants are not visible or other identifiable and whose conversations cannot be heard from outside the room.

Only those persons directly and immediately related to the interviewing of a particular victim, the victim, a social worker, rape crisis counselor, psychologist, or other professional providing emotional support to the victim, (unless the victim

objects to the presence of such person and requests the exclusion of such person from the interview), and where appropriate, the parents of the victim, if requested by the victim, shall be present during the interview of the victim.

B. Detailed Information Required

Statements shall contain detailed information concerning the description of clothing, the vehicle, the perpetrator, jewelry worn, tattoo marks, etc.. The actual words used by the perpetrator to warn, coax, or intimidate the victim are crucial.

C. Taking Statements Generally

Refer M.O.P. Chapter 3.

D. Taking Statements From Juveniles

1. The Department shall make a good faith effort to have a juvenile victim of a sex offense interviewed by a Department member who is the same gender as the victim except where, for good cause, the Special Victims Unit member doing the interview determines that an alternate procedure would be more effective. Any alternative procedure must protect the sensitivity and dignity of the victim.
2. Every attempt shall be made to have a relative of the juvenile victim present during questioning.
3. Whenever possible, interviews with juvenile victims shall be conducted at the Child Advocacy Center.

18.6 MEDICAL EXAMINATION OF VICTIM

A. Written Consent Required

Prior to a medical examination after a sexual assault, the victim must sign a written consent form. If the victim is a minor, the parent, guardian, or other person responsible for the minor's care, must sign the form. Forms are available at the hospital.

B. Hospitals

Victims may be taken to any hospital for treatment and examination, except that minors shall be taken to Children's Hospital or to a child advocacy center after SVU has been notified.

C. Rape Kits

Refer M.O.P. Chapter 5.

18.7 REQUESTING THE SPECIAL VICTIMS UNIT

The member of the Department first arriving on the scene of a sex offense shall request the presence of the Special Victims Unit (SVU). (S)he shall preserve the scene until a member of that unit arrives. The member of the SVU shall determine if it is necessary to have the Crime Scene Unit respond. The ranking member of the SVU will lead the investigation and members will be under his/her direction. All members of the

Department shall extend their utmost cooperation to the SVU in these matters.

18.8 WRITTEN REPORT OF PRELIMINARY INVESTIGATION

The member of the department conducting the preliminary investigation before the arrival of the Special Victims Unit, shall prepare an Intra-Departmental Memorandum (P-73) relating the physical and mental condition of the victim and/or suspect and shall include any remarks that victim and/or suspect may have made. This report shall be forwarded to the Special Victims Unit.

19.0 SEX OFFENDER MANAGEMENT

19.1 PURPOSE

The purpose for this policy is to provide guidelines for the management of sex offenders including data, monitoring and intelligence, dissemination of information, enforcement activities, compliance monitoring, mutual assistance, and to facilitate community notification.

19.2 POLICY

The Buffalo Police Department recognizes the danger posed by some sex offenders to the public, especially those violent offenders who commit predatory acts characterized by repetitive and compulsive behavior.

Consistent with applicable law, the Department will disseminate information concerning certain sex offenders to the public in order to alert vulnerable populations and protect the Buffalo community.

Further, the Department will participate in community notification to vulnerable populations designated under the Sex Offender Registration Act and this policy. The Department will also assist in the registration and address verification portions of the Act and take enforcement actions as deemed necessary.

19.3 DEFINITIONS

ACT: The Sex Offender Registration Act under the NYS Correction Law

DEPARTMENT: The Buffalo Police Department

DIVISION OR DCJS: The New York State Division of Criminal Justice Services

OFFENDER: Sex Offender as designated under the Act

REGISTERED SEX OFFENDER: A sex offender residing within the geographical jurisdiction of the City of Buffalo.

19.4 PROCEDURES

A. Monitoring

The department maintains a listing of registered sex offenders within the jurisdiction using the database maintained by the Special Victims Unit. The listing of sex offenders under the authority of the Department is accessible to members of the

department who shall apprise themselves on a regular basis of the offenders within their District.

The Special Victims Unit is responsible for monitoring compliance by sex offenders to include change of address, attendance, residence or employment at institutions of higher education, photographing, and other responsibilities of offenders.

Monitoring of Level 3 sex offenders and offenders with a sexual predator designation will be supervised by the Lieutenant of the Special Victims Unit, to ensure that such offenders are personally reporting every 90 days, as provided by law.

In contacts with sex offenders, all members of the Department will endeavor to note e-mail accounts, Internet accounts and social networking sites used or visited by the offender(s) to ensure compliance with the law.

B. Community Notification

1. To the extent permitted by law, the department will participate in community notification of Level 1, 2 and 3 offenders for offenders residing within the geographical jurisdiction of the City of Buffalo.
2. Community notification will be coordinated by the Special Victims Unit
3. In releasing information on individual offenders to entities with vulnerable populations, the Department will notify such entities in writing or via e-mail to address designated by such an entity for that purpose.
4. Prior to releasing information about a sex offender, members will ensure that the offender is subject to community notification, giving consideration to factors such as whether the offender has fulfilled his/her obligations under the Act (i.e. Level 1 offender who has met their 20th anniversary date for registration) who has been relieved of their obligation due to pardon, court order, or who is otherwise no longer subject to community notification. The public and entities with vulnerable populations will also refer to the DCJS telephone number 1-800-262-3257, where by they can inquire if a named individual is listed in the registry of sex offenders, will be educated by members of the Department on the existence of and use of the DCJS Sex Offender Registry online, and about the use of the NYS Alert System to receive information about registered sex offenders.

C. Determination of “Entities with Vulnerable Populations”

1. Consistent with Section 168-1(6) of the Correction Law, a listing of vulnerable entities shall be developed and maintained by the Special Victims Unit. Such listing will be updated at regular intervals as directed by the Lieutenant of the Special Victims Unit.
2. Additional criteria may also be used in assessing an entity with a vulnerable population such as consideration of the nature of the offense committed by an individual offender.

3. The Department will make affirmative notification to the Buffalo Public Schools of all registered sex offenders during the spring and fall semesters each year.
4. Upon receipt of an inquiry from an entity claiming to be or have a vulnerable population, the inquiry will be reviewed by a Detective in the Special Victims Unit for assessment. Those entities listed in subdivision (b) and (c) of Section 168-1 (6) will be deemed to be vulnerable entities. The assessment of other vulnerable populations will be the responsibility of the Lieutenant of the Sex Squad or his/her designee. If such inquiry is denied based upon determination by the Lieutenant that the entity is not a vulnerable population, it shall be subject to review by the Chief of Detectives. In the event that basis for review of records is reasonably believed to be for an improper purpose (i.e. vigilantism, harassment or illegal discrimination), access will be denied.

19.5 PHOTOGRAPHS OF OFFENDERS

1. The Department will photograph resident sex offenders who present themselves to the Department as required under Section 168-f of the Corrections Law.
2. Level 3 offenders must personally appear for a photograph within 20 days of the first anniversary of their initial registration, and every year thereafter during the duration of their registration period.
3. Level 1 and 2 offenders must personally appear for a photograph within 20 days of the third anniversary of their initial registration, and every 3 years thereafter during the duration of their registration period.
4. The duty to appear for an updated photograph is temporarily suspended when the sex offender is confined in a hospital or institution. However, the offender must personally appear for such photograph within 90 days after release from such hospital or institution, or at an alternate later date determined by the Department.
5. In addition to mandatory photographing detailed in the foregoing, members will endeavor to obtain voluntary photographs of a sex offender outside of the mandatory time periods in cases where the sex offender's appearance has changed dramatically since the time of the current file photograph. All such photographs will be forwarded via eJusticeNY to NYS DCJS.

19.6 OFFENDERS ADDRESS CHANGE

1. The Department will facilitate any change of address by a sex offender who presents himself/herself to the Department. The DCJS-3231 address change form will be completed.
2. The Department will promptly forward a copy of the change of address form to DCJS.
3. DCJS is responsible for providing notice to the law enforcement agency having jurisdiction over the offender's new address.

19.7 OFFENDERS ADDRESS VERIFICATION

1. Level 3 sex offenders and sexual predators are required to personally verify his/her address with the law enforcement agency having jurisdiction where the offender resides within 90 calendar days and must continue to do so for as long as an offender is deemed to be a Level 3 risk or a sexual predator (168-h Correction Law)
2. Members will complete the P-1382 sex offender 90 day verification form when an offender verifies his/her address with the Department. The Offender should sign the form. (If the offender provides a utility bill as proof of address, the member will note same on form)
3. Detectives of the Special Victims Unit will be detailed to conduct an independent physical verification of the offender's address at the direction of the Lieutenant or Chief of the effected District. Verification can be made by any of the following methods:
 - a) Personal visit to address
 - b) Interview with persons in vicinity
 - c) Vehicle registration verification at address
 - d) Other records and reports of the Department
 - e) Other information or observations made by the Member of the Department (Such observations should be noted in an incident report)

19.8 ENFORCEMENT

1. The Department will take appropriate enforcement action against:
 - a) Unlawful use of information disseminated under this policy or the Sex Offender Registration Act;
 - b) Noncompliance with personal address verification of Level 3 offenders and sexual predators every 90 days; and
 - c) Noncompliance with personal address verification of Level 3 offenders and sexual predators every 90 days; and
 - d) Noncompliance with annual verification of address
2. If the offender is a parole, the Department will share information concerning failure to register or verify with the Division of Parole as such failures may result in revocation of parole. If the offender is a probationer, the Department will share information regarding the failure to register or verify with the Probation Department as such failures may result in revocation of probation.

19.9 SUBDIRECTORY OF OFFENDERS

The Subdirectory is available on-line via DCJS website. In the event of public requests to view the subdirectory, the Department may provide access via a public-access computer, or may refer requesters to a public library.

A. NOTICES SENT TO THE DEPARTMENT IN ERROR

If the sex offender notification is sent to the Department in error, the Department will promptly notify the DCJS via telephone. (Law Enforcement Line 518-457-3175) that the notice was sent in error. The Department will either return or forward the notice, per the direction of the DCJS.

19.10 OFFENDERS FROM OTHER STATES

1. Section 168-k of the Correction Law requires that a sex offender from another state who meets the requirements for registration under the Act must notify DCJS within 10 days of establishing residence in New York State.
2. If an offender from another state approaches the Department in order to comply with the provisions of the Sex Offender Registration Act:
 - a) Members will make an incident report and forward said report to the Special Victims Unit;
 - b) Identify the person making the query;
 - c) The Special Victims Unit will notify the DCJS Sex Offender Registration Unit for assistance or referral 518-457-3175 or 518-485-8786

19.11 RECORDS OF RETENTION

Except for records filed in charms, all other records, inquires responses and correspondence will be maintained by the Special Victims Unit.

Records pertaining to the Sex Offender Registry as well as those records pertaining to the Departments primary records management system will be retained in accordance with the guidelines set forth in the Sex Offender Registration Act.

19.12 ASSISTANCE WITH BOARD REVIEW

The Department will cooperate fully and comply with the provisions of 168-m of the Corrections Law to provide all relevant information from its files concerning a sex offender provided that the records are not otherwise considered to be a protected record. Any such information provided would be sealed by the Board of Examiners of Sex Offenders and would be available to the sex offender. Therefore, any investigative material should be carefully scrutinized to ensure that its dissemination would not adversely affect a pending investigation.

19.13 ASSISTANCE WITH DIVISION OF PAROLE

The Department will provide information and assistance with the NYS Division of Parole for those matters involving civil management of sex offenders. In certain cases, a sex offender who is no longer under sentence of imprisonment but continues to pose a significant threat to the community may be under the supervision of the Division of

Parole. These cases are the subject of civil orders which include certain mandates, terms, conditions and prohibitions for the offenders who are the subject of such orders. In many respects, the condition of the civil orders may have the character and appearance of probation or parole conditions

20.0 MISSING PERSON INVESTIGATIONS

Refer to M.O.P. Chapter 2.

21.0 CHILD ABUSE/NEGLECT INVESTIGATIONS

Refer to M.O.P. Chapter 2.

22.0 PAROLEES

22.1 POLICY

It is the policy of the Buffalo Police Department to fully cooperate with the NYS Division of Parole as the Division of Parole fulfills its obligation to supervise parolees, and investigate and prosecute parole violations. Any information that tends to indicate the occurrence of a parole violation shall be forwarded to the NYS Division of Parole.

22.2 LIAISON WITH STATE PAROLE

- A. The Correspondence and Extradition Unit shall act as the liaison between the Department and the NYS Division of Parole.
- B. The NYS Division of Parole shall forward a duplicate copy of their warrants along with warrant form CPS-IS 313 to the City Court Booking for all parole violators wanted by their agency.
- C. City Court Booking shall maintain records of the wanted parole violators sent to them by the NYS Division of Parole.

22.3 ARREST OF PAROLE VIOLATORS

- A. When a sworn member of this Department arrests a parole violator it shall be the responsibility of City Court Booking to cancel the parole violation warrant and to notify the NYS Division of Parole as soon as possible. City Court Booking shall also notify the District in which the parolee resided.
- B. When a sworn member of the Department arrests a parolee and the parolee is charged with an offense in addition to the parole violation, a copy of the parole warrant shall be lodged as a detainer and forwarded with the prisoner to City Court.
- C. If the NYS Division of Parole makes the arrest, it shall be their responsibility to recall and/or cancel the violation of parole warrant and to notify City Court Booking.
- D. Persons arrested for parole violations are not entitled to bail.

22.4 REPORTING PAROLE VIOLATIONS

Employees of the Department shall not visit the home or place of employment of a parolee for the purpose of exercising supervision over that person. However, whenever possible, the habits and conduct of parolees should be discreetly observed. Any violation by a parolee of the terms or conditions of parole which are observed by Department employees should be reported to the Chief of Detectives by forwarding a Intra-Departmental Correspondence through the chain of command. The Chief of Detectives shall notify the NYS Division of Parole of the violation.

23.0 FEDERAL FUGITIVES AND WITNESSES

23.1 POLICY

It is the policy of the Buffalo Police Department to enlist the aid of the FBI in cases in which defendants facing felony criminal charges in New York State leave the state to avoid prosecution.

23.2 FUGITIVE FELON

A. Violation

It is a violation of the United States Code, Title 18, Section 1073, for a person to leave the state to avoid prosecution for, or custody or confinement after conviction of, a felony or an attempted felony.

B. Initiating Prosecution

When possible, prosecution against the fugitive shall be commenced in the courts of this state prior to the request for FBI assistance. However, if prompt action is necessary and it is impossible to immediately obtain court process, the investigating officer shall telephone the required information to the Correspondence and Extradition Unit. As soon as possible thereafter, (s)he shall then obtain the necessary court process and forward an Intra-Departmental Memorandum to the Correspondence and Extradition Unit confirming the telephone request.

C. Requesting FBI Assistance

The FBI may be called for assistance when:

1. the crime was a felony or attempt to commit a felony; and
2. all means of apprehending the suspect have been exhausted; and
3. there exists reasonable grounds to believe that the suspect has fled the state; and
4. the District Attorney's Office has given assurance that it will extradite the suspect if (s)he is apprehended outside the state.

D. Report Required

In requesting the assistance of the FBI in the apprehension of a fugitive felon, the

investigating officer shall prepare a complete report on an Intra-Departmental Memorandum containing the following information:

1. Identity of the fugitive;
2. Personal criminal history (BPD No., FBI No. Photographs and Fingerprints, if available);
3. Crime charged;
4. Type and status of court process outstanding;
5. Name of Assistant District Attorney agreeing to extradite;
6. Probable location of the fugitive, his/her destination, movements, relatives, associates, persons (s)he might contact to aid his/her flight, and any other information that may expedite apprehension.

E. Channeling the Reports

1. The Report shall be forwarded to the Correspondence and Extradition Unit and the investigating officer shall retain one copy for the Command files.
2. The Correspondence and Extradition Unit shall prepare a written application for the Chief of Detectives Office and forward the application to the District Attorney's Office, requesting that the facts be presented to the United States Attorney for issuance of a federal complaint.
3. Any additional information received by the investigating officer shall be forwarded to the Correspondence and Extradition Unit on an Intra-Departmental Memorandum. The Correspondence and Extradition Unit shall forward the information to the FBI.

F. Discontinuance

If the District Attorney no longer desires to return the fugitive, it shall be the duty of that office to notify the U.S. Attorney and the Correspondence and Extradition Unit. The Correspondence and Extradition Unit will notify the investigating officers.

23.3 FUGITIVE WITNESSES

A person who leaves this state to avoid giving testimony in a felony case can be returned by federal removal proceedings (United States Code, Title 18, Section 1073). In order to obtain the assistance of the FBI in these cases, the following conditions must be met:

A. Initiating Removal Proceedings

1. Criminal proceedings must have been actually instituted in a New York State action.
2. The witness must be under subpoena;
3. There must exist evidence to indicate that the witness fled to avoid giving testimony.

B. Report Required

When the above conditions have been satisfied, the investigating officer shall notify the Correspondence and Extradition Unit in the same manner as (s)he would for a fugitive felon (refer M.O.P. Chapter 17). The Correspondence and Extradition Unit shall promptly refer to the investigating officers any information received from the

FBI or any other sources.

C. Return of Witness

When information has been received that the fugitive witness has been apprehended, the Correspondence and Extradition Unit shall notify the Chief of Detectives and the District Attorney's Office. The Chief of Detectives and the District Attorney's Office shall take the appropriate action to obtain the return of the witness.

24.0 EXTRADITION

24.1 POLICY

It is the policy of the Buffalo Police Department to fully cooperate with the District Attorney's Office, the United States Attorney's Office and the FBI in the handling of extradition matters and to fully comply all applicable laws.

24.2 FUGITIVE FROM ANOTHER STATE - EXTRADITION WAIVED

A. Preliminary Action

When a fugitive from another state is arrested in this City on information furnished by the demanding state, the preliminary action shall be the same as if the prisoner had been arrested for a crime committed here (i.e. (s)he shall be fingerprinted, photographed and booked in the usual manner). In all arrest related documents it shall be indicated that the defendant is a "fugitive" for the demanding state consistent with CPL 570.34.

B. Arraignment

The prisoner shall be taken with all practicable speed for arraignment before a Judge assigned to a Special Term of Erie County Court. Arraignment shall be made upon a complaint made under oath by a member of the Correspondence and Extradition Unit.

C. Waving Extradition

The fugitive must be specifically asked by the arraigning judge if (s)he is willing to waive extradition. Any attempted waiver of extradition is invalid unless done so before the arraigning judge.

D. Commitment

After arraignment of the fugitive in Erie County Court, the presiding Judge commits the prisoner to the custody of the Erie County Sheriff's Department who in turn, delivers him/her to the Erie County Holding Center pending the arrival of Officers from the demanding state.

E. Notification of Demanding State

The Correspondence and Extradition Unit shall notify the authorities from the demanding state that they must retrieve the prisoner.

F. Surrender of Fugitive

When notified, a member of the Correspondence and Extradition Unit shall appear in

the District Attorney's Office to complete the formalities of returning the fugitive to the agents of the demanding state.

24.3 FUGITIVE FROM ANOTHER STATE - REFUSAL TO WAIVE EXTRADITION

- A. If a prisoner from another state refuses to waive extradition at his/her arraignment before a Judge of the Special Term in Erie County Court, the Correspondence and Extradition Unit shall immediately contact the authorities of the demanding state and instruct them to initiate extradition proceedings.
- B. Upon receipt of a New York State Governor's warrant and a Governor's warrant from the demanding state, the warrants shall be taken to the District Attorney's Office. The District Attorney's Office then makes arrangements for the arraignment of the fugitive on the Governor's warrant in Erie County Court.
- C. If the fugitive waives his/her right to a hearing on the Governor's warrant, the prisoner shall be turned over to the agents of the demanding state, if they are present. If the agents of the demanding state are not present, the fugitive shall be committed to the custody of the Erie County Sheriff's Department pending the arrival of the agents from the demanding state. The demanding state shall be notified of the fugitive's availability by the Correspondence and Extradition Unit.
- D. The District Attorney's Office shall see that the proper papers are returned to the agent of the demanding state. These shall include the authorization slip which accompanies the Governor's warrant and which directs the delivery of the fugitive to the agent named therein.

24.4 GOVERNOR'S WARRANT

The District Attorney's Office must petition the Governor's Executive Office for a Governor's warrant. The Governor's warrant must be returned to the Governor's Executive Chambers within 30 days of the final action thereon. Therefore, within 5 days of the conclusion the extradition process, the District Attorney's Office shall return such warrant, together with the report of action taken thereon, to the Executive Chambers in Albany.

24.5 FUGITIVE WANTED IN NYS - LOCATED IN ANOTHER STATE

Refer to CPL 570.

A. Check List of Requirements

When a prisoner wanted in NYS is to be extradited from another state, the Correspondence and Extradition Unit shall:

1. If the defendant is not yet under indictment, deliver all the necessary documents to the District Attorney's Office so that an indictment may be obtained.
2. In the case of a "John Doe" indictment warrant, submit to the District Attorney's Office proof that the fugitive is the defendant named in the "John

Doe" indictment warrant.

3. If the fugitive is already under indictment, notify the District Attorney's Office of the fugitive's apprehension and the state in which (s)he is being held in custody.
4. Obtain the District Attorney's authority to proceed with extradition and have him/her approve an expense account for such undertaking.
5. Obtain all legal documents associated with the extradition procedure including a certified copy of the indictment warrant and the complaint.
6. Contact the police authorities in the jurisdiction in which the fugitive is being held to determine whether (s)he is willing to waive extradition.
7. If the fugitive is not yet in custody, request the arrest of the fugitive pending the sending of extradition papers. Identification information shall be sent to the affected police authorities.

24.6 FUGITIVES WANTED BY NYS WHO WAIVE EXTRADITION

- A. When the Correspondence and Extradition Unit receives rendition papers signed by a fugitive who has waived extradition, that unit shall notify the District Attorney's Office, the Chief of Detectives and the Officer in charge of the case.
- B. The Correspondence and Extradition Unit shall prepare all necessary correspondence and requisitions and it shall furnish a copy of written instructions to the person who has been assigned to transport the prisoner from the place of detention to Buffalo.
- C. If a sworn member of the BPD is assigned to retrieve the fugitive (s)he shall:
 1. Proceed directly to the place where the prisoner is detained and present his/her credentials and the indictment warrant to the local police of that jurisdiction;
 2. Upon the officer's arrival in the state where the fugitive is being held (s)he shall inform the BPD Correspondence and Extradition Unit of his/her location and the time (s)he expects to leave with the fugitive;
 3. If there arise any legal technicalities that prevent release of the fugitive, the officer shall request the assistance of the local District Attorney, and if necessary, notify the Chief of Detectives, or in his/her absence, the 911 Communications Lieutenant.
 4. The officer should be prepared to leave with the fugitive immediately after gaining custody;
 5. Upon the officer's return to Buffalo, (s)he shall furnish the Correspondence and Extradition with all accompanying legal documents, which unit shall then forward them to the District Attorney's Office;
 6. If there is a necessity to lodge the fugitive in a jail while transporting him/her to Buffalo, the officer shall contact the police authorities at the place of layover. The officer shall produce his/her credentials, the signed extradition papers and (s)he shall request that they lodge the fugitive until such time as the officer can resume his/her journey.
 7. The Chief of Detectives or the 911 Communications Lieutenant shall be

informed immediately of any delay caused by unusual incidents or circumstances.

24.7 FUGITIVES WANTED BY NYS WHO HAVE REFUSED TO WAIVE EXTRADITION

- A. When a fugitive has been arrested in another state and refuses to sign a waiver of extradition, the Correspondence and Extradition Unit shall notify the District Attorney's Office and the officer in charge of the case. If the District Attorney's Office decides to go forward with the extradition process that office will prepare a demand form, etc. and request that a Governor's warrant be issued by the Executive Office in Albany.
- B. The District Attorney's Office, in its petition for a Governor's warrant, must prepare:
 - 1. The DA's application for issuance of a Governor's warrant,
 - 2. Copy of the indictment,
 - 3. Copy of the indictment warrant resulting from the indictment,
 - 4. Affidavit of the complainant,
 - 5. Photographs of the defendant (if available),
 - 6. Affidavit of Officers having knowledge as to the place of confinement of the defendant,
 - 7. Names of the person who will retrieve the fugitive,
 - 8. Copy of the Statutes defining the crimes with which the fugitive is charged.
- C. If not done so by the Executive Office, the Governor's warrant shall be forwarded to the asylum state by the District Attorney's Office.
- D. Upon notification by the asylum state that the fugitive is available for return to NYS, the District Attorney's Office shall contact the Correspondence and Extradition Unit. The Correspondence and Extradition Unit shall notify the Chief of Detectives and arrangements shall be made to retrieve the prisoner.
- E. When officers are assigned to retrieve a fugitive they shall follow the guidelines set forth in M.O.P. Chapter 17 above. After returning to Buffalo with the fugitive, the officer shall deliver the remaining copy of the papers to the District Attorney's Office. The officer shall obtain receipts for all expenses incurred and these receipts shall be delivered to the Department's Fiscal Management Section.

24.8 EXTRADITING FUGITIVES FROM A FOREIGN COUNTRY

- A. When a fugitive is to be extradited from another country, the District Attorney's Office forwards all legal documents to the NYS Executive Office and requests that a President's warrant be issued. The NYS Executive Office petitions the United States Secretary of State requesting that a President's warrant be issued. Upon issuance of a President's warrant, the U.S. Secretary of State forwards the warrant to the U. S. Ambassador in the asylum country. The U.S. Ambassador in the asylum country presents the warrant to the executive head of the asylum country. The executive head

of the asylum country then forwards the President's warrant to the proper authorities within that country.

- B. Upon notification by the authorities in the asylum country that the subject is able to be retrieved, the DA's Office shall notify the Correspondence and Extradition Unit which shall arrange for the fugitive's retrieval.

25.0 TASK FORCES

25.1 POLICY

It is the policy of the Buffalo Police Department to employ task forces, or to participate in task forces with other law enforcement agencies, when the Commissioner determines that a task force is the best means available to combat a particular police problem in a clearly defined geographical area.

25.2 TASK FORCE – DEFINITION

For purposes of this section a task force is the temporary assignment of personnel from various units or various Departments, who ideally possess unique talents peculiarly suited to address a clearly identified police problem in a given geographic area.

25.3 CREATING A TASK FORCE

Any time that the Commissioner determines that an intra-Departmental task force, or participation in a task force with other law enforcement agencies, is the best means to combat a particular police problem in a clearly defined geographical area, there shall be a written directive that:

- A. Identifies the particular problems the task force will address;
- B. Defines the authority and responsibility of the task force and its members and includes any written agreements with outside law enforcement agencies;
- C. Establishes what results the task force is expected to achieve;
- D. Identifies all resources that will be available to the members of the task force;
- E. Establishes a method for periodically evaluating the progress of the task force and the necessity for its continued existence.