

CHAPTER 2: AIDED AND ACCIDENT CASES

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1.0 MOTOR VEHICLE ACCIDENTS - GENERALLY

1.1 POLICY

It is the policy of the Buffalo Police Department to respond to all incidents involving motor vehicle accidents and to render assistance to the involved parties. It may not be necessary to investigate or file accident reports in those instances in which the damage is minor and there are no physical injuries or other aggravating factors.

1.2 DEFINITIONS

A. Motor Vehicle

Motor vehicle as defined in Title 1, Article 1, Section 125 of the Vehicle and Traffic Law. Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except:

1. electrically driven invalid chairs being operated or driven by an invalid
 - a) electric personal assistive mobility devices operated outside a City with a population of one million or more
2. vehicles which run only upon rails or tracks
3. snowmobiles as defined in Title XI, Article 47
4. all-terrain vehicles as defined in Title XI, Article 48 B (Refer to the statute for a more comprehensive definition).

B. Motor Vehicle Accident

A motor vehicle accident is any accident involving a motor vehicle in motion, including the vehicle's load or contents, that results in death, injury, or property damage.

1.3 RESPONSE TO SCENE

Members of the Department will be dispatched to all reported instances of motor vehicle accidents.

1.4 RESPONSIBILITY TO INVESTIGATE AND REPORT

Officers dispatched to the scene of a motor vehicle accident or coming upon a motor vehicle accident shall thoroughly investigate and complete all proper reports when the accident involves any of the following:

- A. death or injury;
- B. damage to public or private property, other than the motor vehicles;
- C. city involved accidents;
- D. damage to the motor vehicles in excess of \$1,000.00;
- E. impairment due to alcohol and/or drugs;
- F. hazardous materials;
- G. occurrences on private property;
- H. hit and run accidents.

2.0 MEMBERS DUTIES - GENERALLY

2.1 DISPATCHERS DUTIES

Any member of the Department receiving a call of a motor vehicle accident shall cause a patrol car to be dispatched to the scene.

A. In instances of injury, an ambulance shall be dispatched.

B. The Buffalo Fire Department shall be dispatched if:

1. there exists a threat of fire or explosion;
2. hazardous materials may be involved;
2. an accident victim is trapped in the car;
3. there is a seriously injured victim.

C. The Accident Investigation Unit (AIU) shall be dispatched in instances of serious physical injury or death or when City property has been damaged.

D. The District Supervisor shall be dispatched in instances of City involved accidents involving a Department vehicle, fatal accidents and serious physical injury accidents that may prove fatal.

E. The Internal Affairs Division (IAD) will be dispatched in instances of City involved accidents involving a Department vehicle.

F. In instances in which the motor vehicles sustained minor damage and the accident is not of a kind specified in MOP 2/1.4 A through H, the 911 call taker or other Department member receiving the call, shall caution the caller that while a patrol car will be dispatched, its arrival may be delayed. The motorists shall be advised that they need to exhibit their driver's license and insurance card to one another and to exchange information concerning their name and residence. The motorists shall also be reminded of their duty to report the accident to the Department of Motor Vehicles on form MV104.

2.2 RESPONDING OFFICERS

A. Initial Procedures

1. Safely proceed to the scene as quickly as possible.
2. Utilizing the overhead flashing lights, position the police car at the accident scene so that it protects the scene from any further damage. Direct traffic away from the scene using hand signals and gestures (refer M.O.P. Chapter 7). Road flares, traffic cones, additional Police vehicles and other traffic control devices should be used when necessary.

3. Keep motorists and pedestrians a safe distance from the scene.
4. Carefully check for fire hazards, electrical wires, hazardous material or any other circumstance that could jeopardize life and safety.
5. Call for ambulances and/or the fire department, and render first aid where appropriate.
6. Call for a tow truck if needed.
7. Clear the roadway as soon as possible
8. Check for damage to City property, signage, fire hydrants, etc.

Investigation

1. Locate all drivers and witnesses and separately obtain a description of the accident from each.
2. Conduct a field sobriety test of any driver that appears to be impaired by alcohol or drugs.
3. Check for valid driver's licenses, registrations and insurance coverage.
4. Take appropriate enforcement actions when evidence indicates that traffic violations were a contributing factor.
5. Check the vehicles for physical damage and determine if the damage is consistent with the accident description given by the drivers and witnesses.
6. Check for engineering or environmental factors (e.g. traffic signs or signals, lighting, road defects, grade of the road, etc.) and determine if they contributed to the accident.
7. Gather all information necessary for the Police Accident Report (form MV104A) and complete the report.
8. Provide each motorist with form MV-104 and advise them of their responsibility to submit the report to the Department of Motor Vehicles within 10 days.
9. Cause to be removed from the scene any vehicle that is disabled or is impounded, and any debris that would create a hazard to other motorists.

2.3 SUPERVISORS RESPONSIBILITIES

- A. Check the Police Accident Report (MV104A) submitted by members of his/her command for completeness and accuracy.
- B. Respond to the accident scene and prepare the MV104A whenever a member of the Department is involved in a motor vehicle accident in a city owned vehicle in the Supervisor's district and notify the Internal Affairs Division (refer to M.O.P. Chapter 2).
- C. Respond to and take command of accident scenes involving:
 - 1. fatalities;
 - 2. serious physical injuries that may prove fatal;
 - 3. accidents requiring multiple officers to handle;
 - 4. accidents in which his/her presence is requested by the investigating Officers.
 - 5. City involved vehicles.

2.4 COMMANDING OFFICERS RESPONSIBILITIES

Commanding Officers shall maintain in the stationhouse an Accident Log which shall serve as a record of traffic accidents that have occurred in their district. It shall include:

- A. An accident number, starting with number one (1) on January 1st, and running consecutively until December 31st of each year;
- B. Date and location of accident;
- C. Type of accident:
 - 1. Property damage only;
 - 2. Injury;
 - 3. Fatal;
 - 4. Hit and Run;
 - 5. City Involved.

3.0 EXCEPTIONAL CIRCUMSTANCES

3.1 HIT AND RUN ACCIDENTS

A. Responding Officers

In addition to the duties specified in section 2.6 of this Chapter, the responding officers will:

- 1. conduct the initial investigation and close the case, if possible;
- 2. take appropriate enforcement action;
- 3. if the initial investigation does not result in closing the case, broadcast a description of the hit and run vehicle and its driver;

4. in addition to preparing the MV104A, prepare a P203 and have the complainant sign it;
5. in instances involving physical injury (VTL 600-2) prepare a crime report;
6. forward the case to the Accident Investigation Unit for follow up investigation.

B. Supervisors

Supervisors shall be responsible for:

1. carefully checking all reports for accuracy and completeness;
2. making sure that the responding officers conducted an appropriate preliminary investigation.

C. Accident Investigation Unit - Hit and Run Squad

The Hit and Run Squad is responsible for the follow up investigation of hit and run accidents not closed by the responding officer.

3.2 MOTOR VEHICLE ACCIDENTS INVOLVING TRUCKS OR BUSES

In addition to the procedures outlined in Chapter 2, Section 2.6 the Supplemental Police Accident Report MV-104S Truck and Bus must be completed for each qualifying vehicle and attached to the corresponding MV-104A for certain trucks, tractor-trailers, and buses involved in motor vehicles accidents when:

A. The vehicle is:

1. a truck, tractor, truck-trailer or tractor-trailer having at least six tires in contact with the road surface, or;
2. any vehicle displaying a hazardous material placard; or,
3. a bus with seating capacity for more than fifteen (15) persons, including the driver;

AND

B. The accident results in at least one of the following conditions for any person or any vehicle involved:

1. a fatality; or,
2. a person injured severely enough to require transportation from the scene for immediate medical attention; or,
3. a vehicle had to be moved, up-righted or otherwise assisted by emergency equipment (other than for a flat tire).

3.3 CITY INVOLVED ACCIDENTS

A. Non-Police Department Vehicles

Officers responding to a motor vehicle accident involving City property other than Police Department vehicles shall in addition to the procedures outlined in Chapter 2,

Section 2.6:

1. Prepare an MV-104A in every case; and,
2. Take appropriate enforcement action; and,
3. Request the assistance of the Accident Investigation Unit.

B. Fire Hydrants

The responding officer shall prepare an MV104A for motor vehicle accidents involving fire hydrants. In addition, the investigating officer shall request the Radio Dispatcher to notify the City Division of Water so that the hydrant can be repaired.

C. Pot Holes

An MV104A shall be prepared for any damage to a vehicle resulting from a pot hole. The District shall report the location of the pot hole in the District blotter and to the Office of Citizen Services by means of the "311" Call and Resolution Center.

D. Motor Vehicle Hearings, City Involved Accidents

When a member of the Department is to attend a trial or motor vehicle hearing in which the City is involved, the member shall notify the Corporation Counsel assigned to the Department through official channels at least forty-eight (48) hours before the scheduled time of the trial or hearing.

E. In cases involving Police Department vehicles:

1. The Supervisor in charge of the district in which the accident occurred shall respond to the scene and contact the Internal Affairs Division (the Supervisor shall be responsible for preparing the MV104A and a Supervisor's Internal Report);
2. The Supervisor shall request the assistance of the Accident Investigation Unit which unit shall conduct a thorough investigation and issue summons when enforcement action is indicated (AIU shall be responsible for preparing the AIU Internal Report);
3. The Supervisor shall instruct the Officers involved in the accident to prepare an Intra-departmental Memorandum describing in elaborate detail the circumstances leading up to the accident.
4. The Supervisor shall check the Officer's report for completeness and accuracy and forward the report along with the MV104A and the Supervisor's Internal Report through the chain of command to the appropriate Deputy Commissioner. Each intermediate member of the chain of command will review the reports and make an independent evaluation of the surrounding circumstances. They will make recommendations for additional training or disciplinary action where appropriate.

Distribution: original with MV104A attached- appropriate DPC

Copy – Chief of District
Copy - Commanding Officer IAD
Copy - Supervisor of Fleet Maintenance
Copy - AIU
Copy - Command file/Captains Office

5. The AIU Internal Report will be reviewed and signed by the commanding Officer of AIU and it shall then be forwarded through the chain of command to the appropriate Deputy Commissioner.

Distribution: original - appropriate DPC
Copy - appropriate Chief
Copy - district command file
Copy - AIU file

6. AIU shall maintain accurate and up to date files of all police related motor vehicle accidents.

3.4 MOTOR VEHICLE ACCIDENTS CREATING DANGEROUS CONDITIONS

Refer to M.O.P Chapter 2 (*DANGEROUS CONDITIONS AND HAZARDOUS MATERIALS*)

3.5 SERIOUS PHYSICAL INJURY OR FATAL ACCIDENTS

The following procedures shall be followed in addition to those procedures outlined in Section 2.6 of this Chapter:

- A. The responding officers shall request the presence of their Supervisor as well as notify the Accident Investigation Unit, in the event of any motor vehicle accident that involves:
 1. a fatality;
or
 2. serious physical injury that may prove fatal.
- B. The responding officers shall protect the accident scene until all evidence has been collected, photographs taken, and measurements made, by the Accident Investigation Unit. In cases of death, the Medical Examiner shall be notified. Where death occurs at the accident scene and there is no chance of reviving the victim, the body shall not be moved until photographs are taken and the Medical Examiner directs its removal.
- C. The responding officers shall have the vehicles impounded and prepare the necessary paperwork (refer to M.O.P. Chapter 2);
- D. Notification of next of kin. The member of the Accident Investigation Unit investigating the fatal or serious physical injury accident together with the District

Supervisor shall be responsible for notifying next of kin Refer to M.O.P. Chapter 2.

- E. The Accident Investigation Unit is responsible for fully investigating fatal and serious physical injury accidents.

3.6 ACCIDENTS AT OR NEAR A SCHOOL CROSSING

In addition to the procedures outlined in Chapter 2, Section 2.6 whenever a motor vehicle accident occurs at, or near, the scene of an intersection where a school Crossing Guard is on duty, the district supervisor shall obtain a detailed statement from the Crossing Guard on an Intra- Departmental Memorandum, describing the circumstances leading up to the accident.

Distribution: Original and 1 copy to City Court Booking with Accident Report
Copy - Accident Investigation Supervisor

3.7 ACCIDENTS REPORTED AT THE STATIONHOUSE

A. When a person reports a motor vehicle accident at any stationhouse and the accident involved a fatality, an MV104A shall be prepared, the Accident Investigation Unit's assistance requested, and the on duty supervisor notified.

B. When a person reports a motor vehicle accident at any stationhouse and the accident resulted in personal injury, an MV104A shall be prepared if the accident did not occur more than five days previous. When more than 5 days have elapsed since the accident, the driver shall be advised to report the accident to the Department of Motor Vehicles on form MV-104. A notation shall be made in the District Complaint Book indicating the name of the person reporting the accident and the date, time and location of the accident. No MV-104A need be prepared.

C. When a person reports a motor vehicle accident at any stationhouse and the accident resulted in property Damage only, it is not necessary to prepare an MV- 104A. A notation shall be made in the District Complaint Book indicating the name of the person reporting the accident and the date, time and location of the accident. The person shall be provided with an MV-104 and instructed to complete and file the report with the Department of Motor Vehicles.

3.8 ACCIDENTS ON THE NYS THRUWAY

Motor vehicle accidents occurring on the NYS Thruway including the entrance and exit ramps, within the territorial limits of the City of Buffalo, shall be investigated by the New York State Police Thruway Detail. The NYS Police Thruway Detail will be responsible for dispatching ambulances, tow trucks and for providing other services for this stretch of roadway.

4.0 HANDLING ACCIDENT VICTIM'S PROPERTY

4.1 POLICY

It is the policy of the Buffalo Police Department to safeguard the property of accident victims and to take reasonable steps to prevent theft or further damage.

4.2 VEHICLES

Refer to M.O.P. Chapter 2 for instructions regarding towing vehicles.

4.3 PERSONAL PROPERTY

A. Personal property will be secured in the victim's vehicle if:

1. the vehicle is capable of being secured; and
2. the value of the property is not substantial (i.e. no single item of property has an approximate value in excess of \$50.00, or the property does not have an approximate aggregate value in excess of \$200.00); and
3. there exists no immediate threat of theft.

B. Property exceeding the above limitations must be inventoried.

C. Property not secured in the victim's vehicle will be handled as outlined in M.O.P. Chapter 18.

D. For vehicles involved in accidents that are towed to the Auto Pound, refer to M.O.P. Chapter 2 for the handling of personal property.

5.0 PREPARATION AND HANDLING OF ACCIDENT REPORTS

5.1 POLICY

It is the policy of the Buffalo Police Department to prepare all accident reports completely and accurately and that Accident Report Form MV104A will be prepared in accordance with the directions set forth by the NYS Department of Motor Vehicles.

5.2 SUPERVISORS TO EXAMINE AND APPROVE

District supervisors shall examine each accident report for completeness, accuracy and sufficiency before (s)he signs it. Reports not meeting the supervisor's approval shall be returned to the investigating Officer(s) to be corrected and the corrected report shall be re-submitted before the end of the Officers' shift.

5.3 FORWARDING REPORTS

A. Accident reports, whether complete or incomplete, shall not be retained in any command for longer than a twenty-four (24) hour period after Police first received the report of the accident.

- B. Additional information received for incomplete accident reports shall be placed on either an MV-104A or P-202, as the case dictates, and forwarded to CCB, using the same district accident report number and event number.

5.4 USE OF REPORTS IN COURT

Officers requiring accident reports for use in Court shall obtain a photo static copy from the District Station file, or if unavailable in the District, a request for the copy shall be made to City Court Booking.

6.0 VEHICLE TOWING AND STORAGE

6.1 POLICY

It is the policy of the Buffalo Police Department to have a vehicle towed whenever it comes under the control of the Department and it is necessary to safeguard the vehicle and its contents from damage or theft; or when the vehicle is evidence or an instrumentality of a crime; or when a vehicle presents a hazard or inconvenience to the public.

The Buffalo Dart Street garage staff will maintain a record of all vehicles removed or towed at the direction of an Officer.

6.2 CITY TOW TRUCK

The City tow truck is operated by the Department of Parking. Members of the Police Department requiring the use of a tow truck for an official function shall contact the City tow truck through the Police Radio Dispatcher.

6.3 WHEN VEHICLES MAY BE TOWED

A. Damaged, broken down, or illegally parked vehicles may be towed when:

1. the vehicle is obstructing traffic or creating a hazardous traffic condition
2. the vehicle is blocking a driveway;
3. the vehicle is illegally parked in a handicapped zone;
4. the vehicle has been abandoned or the vehicle has no license plates affixed;
5. the vehicle is obstructing street repairs, snowplowing, or other necessary work in the roadway; it is parked on a snow emergency route during a snow emergency, or towing is necessary to facilitate a special event (e.g. parade, street festival, etc.).

B. Recovered stolen vehicles shall be towed to the Auto Pound. (Refer to M.O.P. Chapter 2 - Private Tow trucks).

C. Vehicles will be towed to the Seneca Street Police Garage when:

1. There was a fatality or serious physical injury motor vehicle accident

2. It is impounded by the officers for further investigation (e.g. equipment check, criminal investigation);

D. Vehicles will be towed to the Auto Pound when;

1. It is not drivable and the owner is unable to make arrangements for immediate private towing;
2. The vehicle is unable to be secured and there is a threat that the vehicle may be stolen or further damaged.
3. Vehicles shall be towed if they are an integral piece of evidence that needs to be preserved for a successful prosecution of the charges. Vehicles shall not be routinely towed incident to arrest.
4. Vehicles seized pursuant to VTL 511-b shall be towed;
5. Vehicles used in a criminal transaction rendering them eligible for forfeiture, shall be towed.
6. Vehicles which are parked illegally and are scofflaws, shall be towed.

E. Vehicles may not be impounded for the following reasons:

1. Solely for an expired Driver's License
2. Solely for an expired Registration
3. Solely for an expired Inspection Sticker

6.4 NYS STATE CLEAR ROAD POLICY ON NYS THOROUGHFARES

The Kensington Expressway, the Scajaquada Expressway, Route 198 and the Skyway complex are thoroughfares in the City that are maintained by New York State. The Police Department adheres to the NYS Clear Road Policy.

A. Disabled vehicles in a lane or in a location which may interfere with traffic, or that constitutes an immediate hazard, shall be towed.

B. Disabled vehicles that are located off the roadway or in a location that is not interfering with traffic or pose no immediate hazard shall be handled as follows:

1. Personal Repairs
Personal repairs are allowed provided the necessary equipment is available at the scene, or repairs to the vehicle can be made at the scene within a 24 hour period. Vehicles left more than 24 hours shall be towed.
2. Abandoned Vehicles
Any motor vehicle with no license plates affixed shall be considered abandoned and shall be towed.
3. Recovered UUV
Recovered UUV's shall be towed.

6.5 GENERAL TOWING PROCEDURES

In **each** instance in which a vehicle is to be towed, the member of the Department shall:

- A. determine if the vehicle is stolen or wanted;
- B. request that the Dispatcher send a tow truck and provide the dispatcher with the year, make, color, plate number and location;
- C. gather all necessary information and fully complete a “*Vehicle Tow Report*” (P-31, distribution is on the form);
- D. notify the vehicle's owner, if possible.
- E. The “*Buffalo Police Department Vehicle Inventory*” form (P-1373) **MUST** be completed if vehicle is open or accessible.

6.6 TOWING PROCEDURES IN SPECIFIC CASES

In addition to complying with the procedures outlined in Chapter 2, Section 6.12, officers must also comply with the following procedures in specific circumstances.

A. Illegally parked vehicles

When an illegally parked vehicle is to be towed, the officer shall:

1. issue a PVB summons;

B. Vehicles held for a safety check

When a vehicle is impounded to determine if the vehicle's equipment meets the requirements mandated by the Vehicle and Traffic Law, the officer impounding the vehicle must:

1. safeguard the vehicle until the tow truck arrives;
2. direct the tow truck operator to tow the vehicle to the Seneca Street Police Garage;
3. specify on the P-31 the type of equipment violation suspected (e.g. brakes, steering, etc.);
4. the vehicle shall not be released until after the desired safety check has been completed.
5. Garage personnel are to notify Officer and the owner of the vehicle once completed.

C. Vehicles held for evidence processing

When a vehicle is impounded because it may contain evidence associated with a crime (e.g. fingerprints, hair fibers, DNA, etc.), the officer impounding the vehicle shall:

1. safeguard the vehicle until the tow truck arrives;

2. direct the tow truck operator to tow the vehicle to the Seneca Street Police Garage and secure it in the evidence bay, if available;
3. follow the Tow Truck to the garage in order to retain the chain of custody;
4. make an application for a search warrant with the help of a Detective, if necessary;
5. prepare form P-274A (Hold For Investigation) and attach it to the vehicle's windshield;
6. prepare form P-77-C (Request for Fingerprint) specifying the type of evidence suspected, and fax the P-77 to the Evidence Collection Unit;
7. indicate on the P-31 that the vehicle is being held for evidence processing;
8. do not authorize release of the vehicle until after all testing has been completed and the District Attorney's Office has approved.

D. Vehicles held as evidence

When a vehicle is impounded because it was used in the commission of a crime or is the instrumentality of a crime (e.g. hit and run, vehicular manslaughter, vehicular assault, etc.), the impounding officer shall;

1. safeguard the vehicle until the arrival of the tow truck;
2. direct the tow truck operator to tow the vehicle to the Seneca Street Police Garage and to secure the vehicle inside;
3. follow the Tow Truck to the garage in order to secure chain of custody;
4. prepare form P-274A (Hold for Investigation) and attach it to the windshield;
5. indicate on the P-31 that the vehicle is being held as evidence;
6. if the vehicle is to be examined for fingerprints, Form 77C shall be faxed to the Evidence Collection Unit;
7. do not authorize release of the vehicle until approved by the District Attorney's Office.

E. VTL 511-2 and 511-3

In circumstances in which vehicles are held in conjunction with charging the operator with the crime of aggravated unlicensed operation of a motor vehicle in the first or second degree (VTL 511-2 or 511-3) the Officer impounding the vehicle shall:

1. comply with the requirements of VTL 511-b;
2. direct the tow truck operator to tow the vehicle to the Auto Pound;
3. indicate on the P-31 that VTL 511-b was the reason for the tow;
4. will not authorize release of the vehicle without the approval of the District Attorney's Office or Officer in charge of the case.

F. Forfeitures

When a vehicle suspected of being subject to state or federal asset forfeiture laws is seized, the officer seizing the vehicle shall:

1. safeguard the vehicle until the tow truck's arrival;
2. direct the tow truck operator to tow the vehicle to the Seneca St Garage;

3. prepare the Record/Receipt Of A Seized Asset and forward it to the Chief of Detectives office;
4. indicate on the P-31 that the vehicle is being held for asset forfeiture;
5. the member of the Detective Division assigned to the handling of seized assets shall then be responsible for the disposition of the property to the appropriate state or federal agency.

G. Parking Violations and Mini-Tows (refer to Training Bulletin 2006-03)

1. When a Police Officer finds an illegally parked vehicle that requires mini-tow, (s)he will:
 - a. Issue a Parking Violation Summons.
 - b. Immediately call radio dispatch that a mini-tow is required.
 - c. Provide dispatch with the make, plate number and location of vehicle.
 - d. Then writes in comment section on the PVB summons the time of call to dispatch and make, plate number and location of vehicle.
 - e. Leave the PVB summons on the vehicle windshield.
 - f. Leave the box in the middle of the PVB Summons ticket empty that states **MINI-TOW: IF BOX IS CHECKED ADD \$40 TO FINE AMOUNT.**
 - g. Leave the scene and proceed back in service to attend to other duties.
2. The Tow Truck Operator who is an employee of the Police Department is advised by radio dispatch to go to location of vehicle:
 - a. Tow Truck Operator arrives at scene where dispatch advised him of location of vehicle.
 - b. (S)he then puts an X in the Mini-Tow box on the PVB summons indicating that a Mini- Tow has occurred and fills out the tow log that indicates vehicle make, license plate, where the vehicle was located and moved to and the ticket number. The tow truck driver will also put his/her initials next to the appropriate area on the PVB summons box.
 - c. If the vehicle matching description is there, he/she calls radio dispatch and verifies with dispatch make and plate number.
 - d. (S)he moves vehicle from illegally parked location.
 - e. (S)he confirms this in writing in his/her **TOW LOG** that is submitted to his/her supervisor at the Seneca Street Police Garage at the end of his/her shift. After this form is submitted to his/her supervisor, the supervisor submits this form to the Division of Parking Enforcement on the next business day.
 - f. If by the time the tow truck operator arrives the citizen has removed the vehicle, the tow truck operator notifies dispatch that the subject vehicle is gone on arrival and **MINI-TOW NOT PERFORMED.**
 - g. Because the vehicle is already gone, the box indicating a fine for the mini-tow remains unchecked.

3. Division of Parking Enforcement

- a. Parking enforcement receives the tow log on the first business day following mini-tow. They serve as an additional check – but in theory the citizen may pay ticket before weekly verification occurred.
- b. The tow log will be attached to the office copy of the PVB summons, thus validating the mini-tow.
- c. Parking Violations Bureau will enter the summons information, along with the corresponding mini-tow.

6.7 PERSONAL PROPERTY IN A TOWED VEHICLE

Whenever a vehicle is to be towed, the officer requesting the tow shall:

- A. inspect the vehicle for obvious damage;
- B. if the vehicle is unlocked, conduct a thorough and complete inventory of all the contents of the vehicle, including an inspection of the glove compartment and trunk, if they are unlocked, and the opening and inspection of any unlocked and unsealed containers;
- C. complete the Vehicle Inventory form while conducting the inventory, noting the disposition of each item of inventory (i.e. left in the car, delivered to Property Office or returned to owner or other person);
- D. secure the property in the vehicle unless:
 1. any single item of property has an approximate value in excess of \$50.00, in which case it shall be seized for safekeeping, or the property has an approximate aggregate value in excess of \$200.00; or,
 2. there exists a reasonable threat that if left in the vehicle, the property will be lost or stolen; or,
 3. the property constitutes contraband or evidence.
 4. if the property is not secured in the vehicle, and it is not contraband or evidence, hold it for safekeeping (refer to M.O.P. Chapter 18) and process the property as specified in M.O.P. Chapter 18.

6.8 PRIVATE TOW TRUCKS

A. Prohibition on Calling

Employees of this Department shall not recommend nor summon any private tow truck directly. The employee shall request same from the Dispatchers.

B. Recovered stolen vehicles

When a member of the Department recovers a vehicle that has been reported stolen, and the arrival of the tow truck will be delayed in excess of thirty (30) minutes, the Radio Dispatcher may call for the services of a private towing service. The Radio

Dispatcher shall maintain a written log of all instances in which a private tow truck has been called to tow a recovered vehicle. The log shall include a description of the vehicle, the name of the towing company and the date and time of contact. The log shall be forwarded to the Administration Deputy Commissioner's Office weekly.

C. Accidents on the Skyway, Route 33 or Route 198

When there is an accident on the Skyway, Route 33 or Route 198, the Radio Dispatcher or the 911 Lieutenant is authorized to contact a private towing company if the City Tow Truck is unable to respond within 20 minutes. The Dispatcher will contact the towing company next on the list that has been provided by parking enforcement. If the company next on the list is unavailable that fact will be noted on the log.

D. Non-requested appearance on the scene

Under circumstances in which a tow truck appears at the scene of an incident, and the tow truck has not been summoned by the owner or operator of any of the vehicles, officers shall advise the owner or operator that (s)he is free to select the service of his/her choice and that (s)he is not obligated or mandated, to accept the non-requested service.

E. Rendering Assistance

When the operator or owner of a damaged vehicle is present and able to arrange for towing, (s)he shall be allowed to arrange for the towing service of his/her choice.

6.9 RESPONSIBILITIES AFTER TOWING

Once a vehicle is towed, the Parking Violations Bureau is responsible for the overall care and custody of that vehicle. Only a member of the Parking Violations Bureau can release a vehicle to its owner.

A. Exception

Those vehicles having evidentiary value or having been used in the commission of a crime or being held for a safety check (refer to M.O.P. Chapter 2), shall remain in the custody of the Police Department:

1. until the safety check has been completed, in the case of a safety check as specified in M.O.P. Chapter 2;
2. until the District Attorney's Officer authorizes the release of the vehicle, in the case of evidence
3. as specified in M.O.P. Chapter 2.

7.0 NON-VEHICULAR ACCIDENTS

7.1 POLICY

It is the policy of the Buffalo Police Department to attempt to eradicate circumstances and conditions, coming to any employee's attention, which could potentially result in non-vehicular accidents.

7.2 NON-VEHICULAR ACCIDENT DEFINED

A non-vehicular accident is any unintended happening or mishap, resulting in physical injury or property damage, not involving a motor vehicle in motion.

7.3 RESPONSIBILITY

Sworn members of the Department becoming aware of circumstances or conditions that could potentially cause physical injury or property damage; shall attempt to eradicate such circumstances or conditions. Attempts to eradicate circumstances or conditions that threaten physical injury or property damage shall include, but not be limited to, alerting property owners or their agents, and notifying appropriate governmental or quasi-governmental agencies.

7.4 INVESTIGATION

- A. Members shall thoroughly investigate and report all incidents in which the City may become liable, or which involves City property in any way, (e.g. falling trees or branches, holes in street, raised curbing, fire hydrants, etc.).
- B. When the City is not involved, members shall prepare a P-73 through your chain of command to keep at the station-house, of any non-vehicular accident that involves injury to persons or damage to property.
- C. Fire Hydrants - Any member of the Department who receives a report of a damaged fire hydrant, or notices that a fire hydrant is damaged, shall, in addition to subdivision "A" above, also cause the Water Division to be notified.
- D. Bicycle Accident - Any non-motor vehicle bicycle accident on a public road that results in death or serious physical injury shall be investigated.

7.5 REPORTS

A. Contents. All reports of non-vehicular accidents shall contain:

- 1. Incident number;
- 2. Date and time of incident;
- 3. Exact location of incident;
- 4. Facts surrounding the incident;
- 5. Measurement and diagrams, if necessary.

B. Types of Reports to be Prepared and Distribution:

- 1. PROPERTY DAMAGE ONLY - CITY NOT INVOLVED
- 2. Intra-Departmental Memorandum in duplicate.
Distribution: Original to City Court Booking
Copy to: Command File
- 3. PROPERTY DAMAGE ONLY - CITY INVOLVED

4. Intra-Departmental Memorandum
Distribution: Original to: City Court Booking
Copy to: Corporation Counsel
Copy to: City Department Involved
Copy to: Command File
5. ALL PHYSICAL INJURY NON-VEHICULAR ACCIDENTS
6. Intra-Departmental Memorandum
7. MV 104C (When applicable)
Distribution: Original to Corporation Counsel (City Involved Cases)
Copy to: City Court Booking
Copy to: Command File

8.0 DANGEROUS CONDITIONS AND HAZARDOUS MATERIALS

8.1 POLICY

It is the policy of the Buffalo Police Department to expeditiously respond to incidents involving dangerous conditions and to minimize the danger to life, health and property.

8.2 DEFINITIONS

- A. Dangerous condition - As used in this section, "dangerous condition" means any unusual event or circumstance, of whatever origin, that creates an imminent risk of serious injury or extensive property damage. It includes, but is not limited to, natural disasters such as floods and tornadoes, and man made events such as hazardous material exposures.
- B. Hazardous material - As used in this section, "hazardous material" means any article, substance or chemical, that when exposed in uncontrolled circumstances creates a serious danger to health and safety.

8.3 GASOLINE SPILLS

In incidents involving gasoline spills, the responding officers shall keep all persons a sufficient distance from the site of the spill and shall request the assistance of the Fire Department.

8.4 NATURAL GAS LEAKS

In incidents involving natural gas leaks occurring inside a building, the building shall be immediately evacuated and the officer shall notify Dispatch to call the National Fuel Gas CO and the Buffalo Fire Department. Windows shall be opened if such can be accomplished without unduly endangering the officers. In no event will the officer use any electronic appliance or device or use a light switch to turn lights on while in the building.

8.5 ELECTRICAL HAZARDS

In instances in which an electric power line or a utility pole is down, sparking, or creating

an unsafe condition, the responding officers shall:

- A. Have the radio dispatcher or stationhouse contact the utility company;
- B. Keep all vehicular and pedestrian traffic away and remain on the scene until there no longer is any danger;
- C. Not touch any part of, or attempt to move anything in contact with the power source that is creating the dangerous condition, until the utility company has de-energized the system.

8.6 HAZARDOUS MATERIAL EXPOSURES
Refer to M.O.P. Chapter 11

9.0 SICK AND INJURED PERSONS

9.1 POLICY

It is the policy of the Buffalo Police Department to aid and comfort victims of illness and injury and to summon medical assistance when necessary, however members of the Department will not ordinarily respond to rescue squad calls or routine ambulance calls unless there are extenuating circumstances and are requested to do so by the Fire Department or ambulance service. If an Officer is requested at the scene, he/she shall prepare a P-71 (Aided Case Report).

9.2 RENDERING AID

When a person is sick or injured, the officer at the scene shall request the assistance of the Fire Department and/or an ambulance where appropriate, render first aid when necessary, attempt to make the victim as comfortable as possible under the circumstances, and provide whatever assistance the officer deems prudent.

9.3 TRANSPORTATION OF SICK OR INJURED

- A. Whenever a person needs emergency medical attention, an ambulance will be summoned.
- B. When summoning an ambulance, the officer shall provide a brief description of the nature of the sickness or injuries to the radio dispatcher so that Ambulance Dispatch and Inspection (ADI) can be advised for an appropriate dispatch.
- C. It is rarely, if ever, in the victim's best interest to be transported by police vehicle. Police vehicles shall not be used to transport persons who are sick or injured unless the victim is extremely critical and his/her life would be jeopardized by waiting for the arrival of an ambulance. In such cases, the officer shall contact the radio dispatcher and have him/her alert the hospital to have the emergency staff ready to provide optimum care.

9.4 RESCUE SQUAD CALLS AND ROUTINE AMBULANCE CALLS

Members of the department will not as a matter of course respond to rescue squad calls or routine ambulance calls. All calls of this nature shall be referred to the Fire Department or ambulance dispatcher, as the case may require. If the Fire Department or Ambulance Service later determines that the presence of the police is necessary, officers shall be dispatched and they shall take necessary action and render all reasonable assistance. In incidents involving rescue or ambulance calls involving infants and young children, members shall respond to ascertain that the incident is not suspicious in nature, and shall inform the dispatcher of same.

9.5 POISON CONTROL

Call the Poison Control center – 1-800-222-1222

9.6 SERVICES OF THE CLERGY

When a person suffering from sickness or injury requests the notification of a Clergy member, the Officer at the scene shall contact the 911 Communications Lieutenant. When a person is seriously ill or injured but because of his/her physical condition is unable to request a Clergy member, and the Officer is able to determine the person's religious denomination, a Clergy member shall be notified as though a request had been made. The 911 Communications Lieutenant shall notify a clergy member who is of the appropriate denomination. The 911 Communications Lieutenant shall maintain an up to date list of Departmental Chaplains who can be contacted.

9.7 APPARENT DROWNINGS

In circumstances in which a person disappears under the surface of a body of water, the senior on-scene Supervisor of the affected command, shall notify the 911 Lieutenant who in turn shall activate the Underwater Rescue and Recovery Team (URRT). All on-duty URRT personnel respond to the scene for evaluation. The URRT Commander is to be called. If URRT is not needed, all URRT personnel shall return to service and the Commander leaves the scene. Depending on the temperature of the water and length of time submerged, some victims may be revived if rescued in a timely fashion. Refer to M.O.P. Chapter 11.

10.0 INCIDENTS INVOLVING ANIMALS

10.1 POLICY

It is the policy of the Buffalo Police Department to treat animals in a humane manner, to protect the public from vicious and rabid animals, and to fully cooperate with those agencies charged with the responsibility of dealing with animals and the health consequences associated therewith.

10.2 ANIMAL BITE CASES

A. Members of the Department will not routinely respond to incidents involving animal bites.

1. If the victim of the animal bite seeks treatment at a hospital, the hospital is responsible for contacting the Health Department.
2. If the victim does not seek medical treatment at a hospital, an Animal Bite Investigation Report (P-91) shall be completed over the phone by the person assigned to desk duty in the district in which the event occurred.
 - a. If a report is prepared by a member of the Department, the member shall prepare the report in quadruplicate and call the Erie County Health Department, 961-6800 or after hours, 898-4225 ECMC Emergency Medical Response, to report the incident:
 Distribution: 3 copies to City Court Booking
 1 copy to command file
 - b. City Court Booking will forward two (2) copies to the Health Department at the following address:
 Erie County Department of Health
 503 Kensington Avenue
 Buffalo, New York 14214
3. Response required.
 In any of the following circumstances, members of the department will respond to incidents involving animal bites:

- a. the victim is severely injured and requires an ambulance; or,
- b. the animal remains at large and is a threat to injure others; or,
- c. the owners of the animal are unknown and the officers may be of assistance in establishing identity; or,
- d. any situation that may require the immediate assistance of a police officer at the scene.

B. Members of the Police Department will cooperate fully with personnel of the Health Department who are addressing dog bite complaints.

10.3 DOG CONTROL VIOLATION SUMMONS

A. Issuing the Summons

If any violation of any City Ordinance occurs relating to the licensing, identification or control of dogs, the owner shall be issued a Dog Control Violation Summons, citing the applicable violation.

B. Service of the Summons

The summons must be served personally to the owner. Officers are advised to issue the summons at the owner's home or place of business.

Distribution: Original (white copy) to PVB
 Green copy to Traffic Records
 Green Envelope to defendant.

C. Supporting Depositions

If the officer did not witness an infraction for which a Dog Control Violation Summons is to be issued, a Supporting Deposition (BPD-5) shall be obtained from witnesses (see M.O.P. Chapter 3).

D. Commanding Officers to Account for Dog Violations Summons

The Commanding Officer of each District shall attach an Intra-Departmental Memorandum to each Dog Violations Summons Book. The Officer issuing the summons shall record the date and time of issuance, the summons number and the Officer's name on the Intra-Departmental Memorandum. Commanding Officers shall investigate instances in which summonses are missing and forward the results of their investigation on an Intra-Departmental Memorandum to the Internal Affairs Division, through the chain of command.

10.4 VICIOUS, WILD OR RABID ANIMALS

A. Officers shall attempt to confine the vicious, wild or rabid animal in an enclosed area if such can be accomplished without unduly jeopardizing the safety of the officer or others.

B. The officer shall request the assistance of a member of the Small Animal Shelter, or if unavailable, the Erie County SPCA, whenever circumstances permit.

C. If it is not possible to confine the vicious, wild or rabid animal, or the safety of any person would be jeopardized by waiting for the arrival of a member of the Small Animal Shelter or SPCA, the officer shall notify his/her supervisor, who shall immediately respond to the scene and take command.

1. The Supervisor shall take whatever action is necessary to minimize danger to the Officers and the public.

a. If there does not exist any other practical alternative, the supervisor may order that the animal be destroyed. The owner's permission shall be obtained prior to destroying a vicious or rabid animal, if practicable. In issuing such an order, the supervisor must make sure that no one will be placed in jeopardy as a result of the discharge of a firearm. Only one officer will be designated by the supervisor to perform this task.

b. EXCEPTION: If the officer or another person is in the process of being attacked by an animal and is in imminent danger, the officer may discharge his/her firearm to ward off the attack. However even under these circumstances, no officer shall discharge a firearm where the possibility exists that any person will be struck by a bullet as a result.

2. If a firearm is used, a BPD-1 is to be filed.

D. Rabid Animals

1. Animals suspected of being rabid shall not be shot through the head.
2. The body of a suspected rabid animal must be identified and held for rabies tests.
3. The Erie County Health Department, Room 800, Edward A. Rath, County Building, Communicable Disease Control, 961-6800, shall be notified by telephone, and form P-91 forwarded in such cases.

10.5 STRAY, INJURED OR DEAD ANIMALS

The Small Animal Shelter, 380 Oak Street, phone 851-5694, will accept calls for dog bite cases, stray, injured, dead, or vicious small animals, between 0800 and 2200 hrs. Police may deliver small animals to the shelter everyday including holidays, but not on Sundays.

10.6 SPCA EMERGENCY SERVICE

The Erie County SPCA will respond to all emergency calls for injured animals in Erie County on a 24 hour basis. From 0800 hours to 2000 hours, calls will be received on a special phone line - 875-7363 and answered by a staff member, who will transmit the call to an SPCA Agent. DO NOT GIVE THIS PHONE NUMBER TO THE PUBLIC.

From 2000 hours to 0800 hours an SPCA Agent can be contacted by means of a pager. The pager number is 696-8562 - a message should consist of a phone number that the SPCA Agent can call for a complete description of the emergency location.

If the Local Dog Control Officer is unable to be contacted for an injured or stray dog, the SPCA will respond.

10.7 DESTRUCTION OF INJURED ANIMAL

When an animal is critically injured and there is little chance for its survival, and the services of the Small Animal Shelter and the SPCA are either not available or would be substantially delayed, the animal may be destroyed employing the guidelines established in M.O.P. Chapter 2 above.

10.8 ANIMAL CRUELTY - REPORT TO SPCA

Cases of cruelty, neglect or other mistreatment of animals shall be reported to the Erie County Society for the Prevention of Cruelty to Animals, 205 Ensminger Road, Town of Tonawanda, New York, 875-7360.

11.0 DEAD HUMAN BODY

11.1 POLICY

It is the policy of the Buffalo Police Department that when members of the Department encounter a human body that appears to be dead, the member shall verify that the person has, in fact, expired; determine if there is some criminal or suspicious activity related to the death; and, safeguard the body and its property until properly disposed of. The deceased person's remains will be treated in a dignified manner and the survivors of the

deceased shall be accorded the utmost respect.

11.2 PRELIMINARY INVESTIGATION

Officers responding to an incident involving a dead human body shall;

A. Examine the body to determine if there is any sign of life. This can be done by:

1. feeling for the pulse of the person;
2. placing a mirror or piece of glass in front of the mouth of the victim, and observing the presence or absence of vapor on the glass/,mirror from the breathing process;
3. watching for the rising and falling of the chest;
4. examining the eyes of the victim for reaction to:
 - a. light from a flashlight or match,
 - b. finger or hand passed in front of person's eyes to note reaction to moving object,
 - c. light thumb pressure placed on person's eyeballs.

NOTE: No one but a qualified physician can officially pronounce a person dead

B. Having determined that there are no signs of life, the officer must search for any facts, circumstances or conditions that might tend to indicate that criminal or suspicious activity attended the death, or that a suicide has occurred. If such facts, circumstances or conditions are detected, the officer shall proceed as outlined in M.O.P Chapter 17.

C. The Medical Examiner's Office must be contacted in every case of death. That office will instruct the officers as to how the body should be disposed of (e.g. private funeral director, morgue, etc.). The Medical Examiner shall not be requested to appear at the scene to routinely pronounce a person dead when the person died of natural causes in his/her own home or in a place of business. M.O.P Chapter 2 outlines those circumstances in which the Medical Examiner's presence at the scene is required.

D. Members of the Department shall not search the body of the deceased.

- a. In those instances in which the Medical Examiner's presence is required, only the Medical Examiner shall perform the search and no one else. An officer at the scene shall witness the search, and, at the request of the Medical Examiner, sign the property envelope listing the items found on the body. The Medical Examiner will retain the property and the envelope. The Medical Examiner does not take or retain evidence.
- b. In all other instances, either a member of the deceased's family or the Public Administrator will perform the search. In such instances, the officer shall make a memorandum of items of personal property found on the body.

- E. The officers discovering the body shall be responsible for preparing the Death Report (Form P-178).

Distribution: Original to City Court Booking
1st Copy to Homicide Unit
2nd Copy to Medical Examiner
3rd Copy to Command file

In instances in which the services of the Public Administrator are needed, an additional copy shall be provided to him/her.

11.3 UNIDENTIFIED DEAD HUMAN BODY

In incidents involving a dead human body whose true name and address are unknown, the Homicide Unit shall be called to investigate. The Homicide Unit shall be responsible for notifying City Court Booking so that a description of the unidentified body can be entered into the NYSPIN System. The Homicide Unit will also be responsible for ascertaining the identity of the deceased and contacting next of kin.

11.4 NOTIFICATION OF NEXT OF KIN

Notification of next of kin in cases of death is one of the most difficult tasks that a member of the Department can be called on to perform. In the face of this difficulty the member must maintain his/her professionalism and focus attention on the needs and well being of the deceased's survivors.

- A. The responsibility for notifying the next of kin rests with members of the Department in the following manner:

1. In all cases in which the Homicide Unit is required to appear, the member of the Homicide Unit who possess the most information in the investigation;
2. In cases of fatal or serious physical injury, which are a result of a motor vehicle accident, the member of the Accident Investigation Unit in charge of the investigation together with the Supervisor on duty in the District in which the fatality occurred;
3. When the request for notification of next of kin originates from an outside agency, any member designated by a superior officer;
4. In any other case, the senior officer assigned to investigate.

- B. General Guidelines:

1. Gather sufficient information concerning the victim's death so that the survivor's questions can be answered correctly. Officers must refrain from revealing unusually graphic details or gruesome accounts of the death.
2. Take care to correctly identify the victim's closest relative. Gather information concerning the relative. Any currently existing medical, psychological or emotional condition should be considered when making the notification. The presence of friends, clergy or other relatives to assist the survivor after notification has been made can be especially helpful.

3. The telephone shall not be used to notify the next of kin. If the survivor is at home, the officer should enter the dwelling prior to revealing news of the death. If notification is to be made anywhere other than at the survivor's home, a quiet room should be used. This will better enable the officer to evaluate and deal with reaction to the information.
 4. The news of the death should be revealed in a concise, straightforward, and compassionate manner. The words "dead" or "death" should be used since euphemistic expressions may only serve to confuse the survivor.
 5. Reaction to news of this sort is unpredictable. The officer's goal is to control the situation as best as possible, and to restore some sense of order and stability, being ever mindful of the need for compassion
 6. The officer shall remain with the survivor sufficiently long enough to help the survivor obtain assistance from any other person or agency that may prove beneficial.
- C. Requests to or from outside police agencies to deliver notifications of death. The 911 Communications Lieutenant shall be responsible for coordinating the notification of next of kin through outside police agencies.
1. In instances in which the notification is to be made outside the City of Buffalo, the 911 Communications Lieutenant shall request that the local police agency notify the next of kin. The 911 Communications Lieutenant shall provide the local police agency with all pertinent details concerning the death and request that agency apprise the Buffalo Police Department when notification of next of kin has been accomplished.
 2. In instances in which death has occurred outside the City, and notification of next of kin is to be accomplished within the City limits, the 911 Communications Lieutenant shall elicit all pertinent details concerning the death and request the supervisor of the district within which the next of kin resides, to designate an officer to make the notification. Once notification has been made, the designated officer shall so inform the 911 Communications Lieutenant who will, in turn, apprise the requesting agency.

11.5 NOTIFICATION OF CLERGY

In instances involving a dead human body or the notification of next of kin, the services of the clergy may be helpful. Officers needing the assistance of the clergy should follow the guidelines established in M.O.P. Chapter 2.

11.6 NOTIFYING NEXT OF KIN FOR SERIOUSLY INJURED OR SERIOUSLY ILL PERSONS

1. The Supervisor in charge of the specific case where the victim was injured shall notify the next of kin whenever possible. If for some reason he/she cannot, then his/her designee shall attempt to notify next of kin.
2. The District Lieutenant or his designee shall make notifications of seriously ill individuals when asked to by hospital staff or other outside agencies.

12.0 MEDICAL EXAMINER

12.1 POLICY

It is the policy of the Buffalo Police Department to notify the Medical Examiner's Office in all cases of death and to fully cooperate with the personnel of that agency. The Medical Examiner is not required to appear at the scene of every death and members of the Department shall comply with his/her directions.

12.2 CASES REQUIRING THE SERVICES OF THE MEDICAL EXAMINER

The Medical Examiner is responsible for investigating the death of any person who dies as a result of criminal violence, or neglect, or by casualty, or by suicide, or suddenly when in apparent good health, or when unattended by a physician, or in any suspicious or unusual manner.

A. TYPES OF DEATH REPORTABLE

1. Accidental - All forms, including death arising from employment.
2. Homicidal.
3. Suicidal.
4. Abortions - criminal or self induced.
5. Sudden deaths
 - a. when in apparent good health, or
 - b. when unattended by a physician, or
 - c. under any suspicious or unusual circumstances.

12.3 EXPLANATIONS

A. ACCIDENTAL

An accidental death is any death that is the unintended consequence of any non-criminal event. This includes, but is not limited to:

1. automobile accidents
2. drowning
3. electrical shock
4. burns and scalds
5. suffocation
6. crushing
7. explosion
8. poisoning
9. carbon monoxide
10. heat exhaustion
11. exposure
12. falls
13. firearms

B. HOMICIDAL

Homicide encompasses deaths which result from criminal conduct.

C. SUICIDAL

Suicide involves a person intentionally causing his/her own death.

D. ABORTIONS

Abortion includes any intentional death to an unborn child or to the mother.

E. SUDDEN DEATHS

Sudden deaths include:

1. Sudden death on the street, at home, in a public place, or at a place of employment.
2. Alcoholism.
3. Death under unknown circumstances, whenever there are no witnesses or where little or no information can be learned concerning the deceased person. Deaths of this type include those persons whose dead bodies are found in the open, in places of temporary shelter, or in their own home under conditions which offer no indication as to cause or causes.
4. Deaths which follow injuries sustained at a place of employment or when related to injurious occupational exposure.
5. All stillborn infants where there is a suspicion of illegal interference.
6. Death of persons where attending physicians cannot be found or death of persons who have not been under continuous treatment prior to death.

13.0 PUBLIC ADMINISTRATOR

13.1 POLICY

It is the policy of the Buffalo Police Department to safeguard the property of persons whose death it has investigated and to notify and assist the Public Administrator in appropriate cases.

13.2 SCOPE AND AUTHORITY OF PUBLIC ADMINISTRATOR

The Public Administrator in his/her proper County, shall have the authority to take possession and charge of:

- A. The real property, goods, chattels, personal estate, and credits of persons dying intestate (not having a will).
- B. Any real property, or any goods, chattels, or effects, within the County, of any person known to have left surviving him/her, a competent adult entitled by law to act as his/her personal representative, and has died intestate, whether within this State or elsewhere.
- C. Any goods, chattels, or effects, of such persons, which arrive in the County after his/her death.

13.3 PUBLIC ADMINISTRATOR'S SERVICES REQUIRED

The Office of the Public Administrator shall be called in the following cases:

- A. When a person dies leaving no known relatives; or,
- B. The deceased person's relatives are known but cannot be reached immediately; or,
- C. It cannot be readily determined who the responsible relatives are; or,
- D. Unusual circumstances are present that raise doubt as to the proper disposal of the deceased's property.

13.4 NOTIFICATION OF PUBLIC ADMINISTRATOR

The Public Administrator is an appointed position that changes from time to time. The 911 Communications Lieutenant and all commands shall maintain a current address and telephone number for the Public Administrator.

13.5 PROTECTION OF PROPERTY

Whenever a person's death comes to the attention of the Department under circumstances requiring the services of the Public Administrator, the Department member shall protect the deceased's property until relieved by a competent authority. In addition, the officer shall include in the Death Report (form P-178) the following information (one copy of the Death Report to be forwarded to the Public Administrator):

- A. the time the Public Administrator was first notified and the time that (s)he arrived;
- B. the condition of the premises;
- C. when the officer is relieved by another member of this Department, the name of the relieving officer and the time relieved.

13.6 UNAVAILABILITY OF PUBLIC ADMINISTRATOR

When the Officer is unable to contact the Public Administrator, the officer's supervisor must respond to the scene. The Supervisor will contact the 911 Communications Lieutenant, and the Duty Inspector to determine how best to secure the deceased person's property until the Public Administrator can be contacted. The greater the value of the property; or the higher the risk to the property; the greater the precautions that need to be taken.

14.0 FOUND CHILDREN AND FOUND ADULTS WITH MEMORY LOSS ISSUES

14.1 POLICY

It is the policy of the Buffalo Police Department when encountering a found child, or when encountering an adult, who is unable to remember his/her name or place of abode, to make reasonable inquiry concerning the person's identity and residence. In the case of a found child, when the child's parents or guardians cannot be identified or located, or the

child appears to be suffering from abuse or neglect, the assistance of the appropriate social service agencies will be sought.

14.2 DEFINITIONS

- A. A found child is a child found on the street or in a public place, who does not know his/her place of residence and who has not yet been reported missing by a parent, guardian or other person entrusted with the child's care.
- B. A found adult is any adult found on the street or in a public place, who does not remember his/her name or place of abode and has not yet been reported as a missing person.

14.3 FOUND CHILDREN

A. CUSTODY

1. A member of the Department encountering a found child shall make reasonable inquiry concerning the identity and residence of the child, in the neighborhood in which the child was found. The officer shall also query the radio dispatcher to determine if the child may have been recently reported as missing.
2. If the initial inquiry is unsuccessful, the officer shall broadcast over the police radio a description of the child and the place where originally found.
3. The child shall then be taken to the stationhouse and the officer shall further investigate to determine if the child has been reported as missing.
4. If the officer is unable to determine the identity or residence of the child or locate the child's parents or guardian within one hour, Child Protective Services shall be requested to take custody of the child.

B. CARE OF THE FOUND CHILD

1. The officer bringing the found child to the stationhouse shall be responsible for his/her care. At the direction of the supervisor, the care of the child may be delegated to desk personnel.
2. A sick, injured, or apparently ill child, in need of immediate medical attention, shall be taken to Women and Children's Hospital for treatment. In cases that are not urgent, Child Protective Services shall be notified.
3. A police stationhouse is not an appropriate environment to house children for long periods of time. If the child's identity and residence cannot be established, and the child's parents or guardian located within one hour from the time of the child's arrival at the stationhouse, Child Protective Services shall be notified.

C. DISPOSITION OF THE FOUND CHILD

1. The found child shall be returned to the parents or guardian when possible, but only after the officer has determined that there has been no abuse or neglect and that the child's welfare will not be unduly threaten by such action.
2. The child shall be turned over to Child Protective Services in all other cases.
 - a. The name of the caseworker and a telephone number at which the caseworker can be contacted shall be elicited by the officer whenever a found child is released to Child Protective Services.

D. REPORT REQUIRED - P-71 AIDED CASE REPORT

The officer handling the case shall prepare an Aided Case Report (Form P-71) in each instance of a found child.

Distribution: Original to Child Protection
Copy to the Special Victims Unit
Copy to Command file

14.4 FOUND ADULTS WITH MEMORY LOSS ISSUES

A. INITIAL ACTION

1. When a member of the Department encounters a person who is unable to remember his/her name or place of abode, a reasonable effort shall be made to determine the person's name, address, family or friends.
2. If unable to do so, the person's description and the location where found, should be broadcast over the radio. The officer should attempt to determine if the person has been reported as missing, and if not, a CCB message should be transmitted with a description and the location where the person was found.
3. If the person's identity is not determined within a reasonable amount of time, an Aided Case Report (Form P-71) should be prepared and the person taken to the Erie County Medical Center Psychiatric Section.

Distribution: Original to ECMC with the person
Copy to the Special Victims Unit
Copy to Command File

15.0 MISSING PERSONS, RUNAWAYS, AND ABDUCTED CHILDREN

15.1 POLICY

It is the policy of the Buffalo Police Department to attempt to locate missing persons, runaways, and Amber Alert abducted children where possible and to comply with all NY State reporting requirements. Members of the Department will periodically apprise

family members of the status of open missing person investigations.

1. To thoroughly investigate all reports of missing children.
2. Every child under the age of 18, reported missing shall be considered “at risk” until significant information to the contrary is confirmed.
3. If the missing child either resides in or was last seen in the jurisdiction of the Buffalo Police Department, the Department will immediately initiate the required reporting process.
4. If the missing child resides in this jurisdiction but was last seen in another jurisdiction and the law enforcement agency responsible for that jurisdiction chooses not to initiate the required reporting process, the Buffalo Police Department will assume reporting and investigative responsibility.
5. The Buffalo Police Department will accept the report of a missing child even if custody has not been established.
6. Members of the Department will open a case when it can be shown that the child has been removed, without explanation from his/her usual place of residence.
7. In those instances where it has been determined that:
 - A. There are reasonable grounds to believe that an abduction has occurred;

AND
 - B. The officer believes that the missing child is in imminent danger of serious physical injury or death;

AND
 - C. There exists sufficient descriptive information about the victim and the abduction;

AND
 - D. The abducted party is a child whose age is 17 years or younger the supervisor shall:
 1. Immediately have the information entered into the National Crime Information Center (NCIC) system.

2. Take all necessary steps to request activation of the “Amber Alert System” (see M.O.P Chapter 2).

15.2 ACCEPT/INVESTIGATE WITHOUT WAITING PERIOD

A. Missing Person - a missing person is any person missing from his/her usual place of abode in the City of Buffalo. The Buffalo Police Department shall accept/investigate any of the following without any waiting period:

1. the person is a juvenile less than 18 years of age;
2. the person is a college student
3. the person's absence is inconsistent with his/her ordinary habits;
4. the person is a vulnerable adult who is unable to adequately care for themselves because of age, infirmity, or physical/mental handicap.
5. the person is in need of hospitalization, or requires medication.
6. the person is an unidentified person.
7. there exists the possibility that the person is the victim of foul play or has indicated an interest in committing suicide.
8. the person may be a victim of drowning, accident or disaster.
9. the person is a mental patient who has been admitted to a mental health facility. (Authorization to return the mental patient is outlined under the Mental Hygiene Law, Section 29.19);
10. the person is absent without an apparent reason under circumstances indicating involuntary disappearance.

B. The term "missing person" does not include any of the following:

1. a person for whom a warrant of arrest has been issued;
2. a person wanted in connection with the commission of a crime; **or**
3. a person of the age of eighteen years or older who voluntarily leaves his/her abode. If it is clear that an adult of sound mind has left voluntarily, and there exist none of the circumstances listed in Section A above, the officer shall explain to the complainant that the police have no authority to act in such cases or to compel the adult to return home.

However, in these cases, a NYS Police Missing Person Report (pp.3 and 4) shall be completed and forwarded to SVU for filing.

C. Runaway - A runaway is a missing person who is:

1. any person under the age of eighteen years, who has run away from home without just cause, or who, in the reasonable opinion of the officer, appears to have runaway without just cause, (FCA 718); **or**
2. any person under the age of eighteen years, who refuses to give his/her name or the name and address of his/her parent or other person legally responsible for the child's care, (FCA 718); or the officer reasonably doubts that the name or address given by the child is the actual name and address of the parent or other person responsible for the child's care (FCA 718).

D. Abducted Child Amber Alert Protocol Defined is:

1. An abduction of a child (under the age of 18) has occurred, **and**
2. The child is believed to be in danger of serious bodily harm or death, either due to the actions of another or due to a proven mental or physical condition.

The Buffalo Police Department does NOT send AMBER Alert messages. The determination to send an AMBER Alert is at the discretion of the NYSP.

NYSP COMSEC DETERMINES IF THE AMBER ALERT WILL BE ACTIVATED.

15.3 AMBER ALERT REPORTING PROCEDURE FOR ABDUCTED CHILDREN

The New York State **AMBER** Alert Plan is a voluntary partnership between law enforcement, broadcasters and others to immediately involve the public, especially motorists, in the search for an abducted child.

Investigating agencies submit information directly to the New York State Police Communications Section (COMSEC) in Albany. In turn, through use of the statewide Emergency Alert System (EAS) and other systems capable of rapidly disseminating information, details are sent to broadcasters and law enforcement agencies in the area of the abduction. Details may include descriptions of the child, abductor and/or involved automobiles. They can be seen or heard on:

- ❑ Television stations.
- ❑ Radio stations.
- ❑ Highway variable message signs.
- ❑ Lottery in-store ticket terminals.
- ❑ NYS Thruway Authority service areas.
- ❑ DMV issuing office message boards.
- ❑ New York State AMBER, New York State Police and DCJS Missing and Exploited Children Clearinghouse websites.

Experience has shown that excessive or inconsistent use of the **AMBER** Alert Plan diminishes program integrity and effectiveness. Not only is the relationship between broadcasters and law enforcement harmed, but the public can become apathetic. To maintain program integrity, stringent activation criteria have been established and are strictly followed.

NYS AMBER ALERT ACTIVATION PROTOCOL

The New York State **AMBER** Alert Plan can be activated when an investigating law enforcement agency confirms that:

1. An abduction of a child (under the age of 18) has occurred, **and**
2. The child is believed to be in danger of serious bodily harm or death, either due to the actions of another or due to a proven mental or physical condition.

Even if formal activation criteria have been met, activation may be impractical:

Available information is not specific enough **and/or**

An extended period of time passed since the disappearance.

For example, an **AMBER** Alert specifying involvement of a white van (without a license plate number) could actually hinder an investigation by causing the public to inundate police agencies with possible sightings.

Notes:

1. "**Confirms**" is defined as having reasonable cause to believe that a child has been abducted. While confirmation is usually established through eyewitness accounts, eliminating other possibilities through investigation can also be used to reasonably conclude that a child has been abducted.
2. Familial abductions qualify only if a child is endangered by the actions of the abducting family member.
3. If preliminary investigation indicates that an **AMBER** Alert is warranted, submitting an activation request should be given a very high level of priority.
4. Whenever the NYSP COMSEC declines to issue an **AMBER** Alert, requesting agencies are referred to the NYS DCJS Missing and Exploited Children Clearinghouse (MECC) for possible issuance of a Missing Child/College Student Alert and to other NYSP investigative resources.

INVESTIGATING AGENCY AMBER ALERT ACTIVATION PROCEDURE

1. A preliminary investigation must be done prior to requesting an **AMBER** Alert activation.

Investigating agencies should not request activation based solely on information received from a caller.

All personnel shall be familiar with DCJS 1508/nysp cb-7 (REV 1/99) "Missing Person Data Collection Guide" booklet.

- When a person has been confirmed as missing, the DCJS 1608 (Pages 1 & 2) shall be completed immediately.
- The type of case shall be determined by using the codes listed on the backside of the form. Once the code has been determined and the individual confirmed as missing the immediate supervisor shall be notified.
- If confirmed as meeting the Amber Alert Criteria (see above "NYS Amber Alert Activation Protocol") the parent/guardian must sign the "NYS Amber Alert Authorization to Publicize" form. This form can be found in NYS DCJS 1508 booklet.
- The officer shall immediately submit the "NYS Amber Alert Submission" form which can be found in the "NYS Amber Alert Law Enforcement Guidelines and Activation Forms" to the 911 Communications Lieutenant. The form will then be immediately submitted through NYSPIN.

Once investigation confirms that an abduction has occurred, activation should be viewed as just one component of the investigation. Other actions should be taken simultaneously, in accordance with agency child abduction response plans.

2. Once an abduction has been confirmed, call the NYSP COMSEC AT (518) 457-6811 and advise that an activation request is being prepared.
3. Photographs or digital images of the child and abductor (if known) should be obtained and submitted as soon as possible.
4. The investigation agency must immediately enter missing child information

into DCJS and NCIC missing person files (File 6 – MENT).

- Immediate entry of missing child information into DCJS and NCIC files is required pursuant to State and Federal Laws.
- The entry should contain all available biographical information and details (i.e., description of clothing; unique marks and scars; circumstances.)
- The entry must specify “involuntary”, “endangered” or “disability”.
- Ensure that the missing child entry is formally cross-referenced with suspect and vehicle entries (if known.)

Note: Activation will not be delayed if a missing person entry has not been made. However, the entry must be made immediately following the activation request.

5. Investigating agencies must also send an abduction message (File 11A) via NYSPIN.
6. Immediately before transmitting an AMBER Alert, the NYSP COMSEC will call the investigation agency to verify that information has not changed.
7. New or revised information should be immediately forwarded to NYSP COMSEC.

Updated broadcasts should be requested only when new or revised information is substantial and is likely to strengthen public involvement.

8. In the event the child is recovered or the case is determined to no longer qualify (i.e., false report), immediately notify NYSP COMSEC via telephone to facilitate a cancellation broadcast.

INVESTIGATING AGENCY CONSIDERATIONS

1. Expect numerous calls from the public.

- Investigating agencies must be prepared to handle a large number of incoming inquiries and leads.
- Calls will be received at the area “911” center, as well as the “non-emergency” number submitted by the investigating agency.
- Use of a formal abduction response plan is strongly recommended. Model plans are available from the DCJS Missing and Exploited Children Clearinghouse.

2. Non-submitting agencies should take detailed information.

- Agencies in the area near a submitting agency should also expect numerous calls.
- Detailed information on every lead should be taken by the agency receiving the call and should be immediately forwarded to the investigating agency.
- Vital information may be lost if a caller is referred to another telephone number (i.e., he or she does not make a second call.)

3. Non-submitting agencies should be prepared to respond to leads.

- Non-submitting agencies may receive lead information requiring immediate action (i.e., sighting of a suspect vehicle.)
- For purposes of lead coordination, all information resulting from such a response should be promptly forwarded to the investigating agency.

4. Be prepared for pressure to activate cases that do not meet the protocol.

- It is likely that individuals will pressure for activation in cases that do not meet established protocols. Be prepared to explain why adherence to program protocol is necessary.
- Alternative methods of information dissemination, such as a DCJS Missing Child/College Student Alert and traditional media involvement are available in these cases and should be pursued immediately.

When a missing child or college student is deemed to be endangered, but the case does not meet AMBER alert activation criteria, an alternative alert system is available.

Known as a Missing Child/College Student Alert, information can be distributed electronically to every police agency in New York State, NYS Thruway travel plazas and toll barriers, broadcasters, Alert subscribers and others within minutes. Information is also placed on the NYS DCJS website. Unlike an **AMBER** Alert, EAS is not used to disseminate a Missing Child/College Student Alert and station managers decide when to broadcast information. Requests for a Missing Child/College Student Alert are made by contacting the DCJS Missing and Exploited Children Clearinghouse at 1-800-FIND-KID.

MISSING VULNERABLE ADULT ALERT

- The missing vulnerable adult alert follows the same protocol and is activated when a vulnerable adult (at least 18 years old or older) with Alzheimer's, Dementia, Autism or other cognitive disorder, brain injury or mental disability is reported missing and is at credible risk of harm.

DUTIES OF THE CITY COURT BOOKING UNIT

- Immediate entry of the missing child information into DCJS and NCIC files (file 6_
- Contains all available info
- Detailed description
 1. Clothing, unique marks
 2. Circumstances
 3. Specify "involuntary", "endangered" or "disability"
- Ensure missing child entry is formally cross referenced with suspect and vehicle entries if known
- Send abduction message via NYSPIN
 1. Use NYSPIN formatted abduction (F11a message)
- Be prepared for increased volume of phone calls. Forward calls to proper District/Unit/Squad

RECEIVING AN AMBER ALERT FROM NYSP

Upon activation of an **AMBER** Alert by NYSP, NYSP will notify the Central Court Booking Unit, 911, and Commissioner of Police of the **AMBER** Alert by FAX.

An e-mail confirming the **AMBER** Alert will also be sent from NYSP to Commissioners, Inspectors and the 911 Dispatch Lieutenants.

The on duty 911 Lieutenant will immediately broadcast Alert details to all available units. Patrols using LPR equipment should be advised to manually place involved vehicle plate number, if available, into respective LPR databases.

The on duty 911 Lieutenant will forward the E-Mail message to all Districts and verbally notify all Districts to print and post the E-mail immediately. The E-mail will also be forwarded to the Erie Crime Analysis Center for posting on Digital signage as soon as possible.

Officers using vehicles equipped with LPR should promptly search vehicle LPR database to determine if there is a record of past encounters. If an encounter is identified, information should be forwarded immediately to NYS DCJS by calling 1-800-346-3543.

Upon cancellation of the **AMBER** Alert, the 911 Lieutenant will immediately cause a message to be broadcast as well as send an e-mail to all Districts and the Erie Crime Analysis Center advising them of the cancellation.

15.4 REPORTING

In response to incidents involving a missing person, members of the Department shall:

- A. Determine if the person reported as being missing falls within the criteria set out in section Chapter 2, Section 15.6, above, (there is no minimum waiting period before a person is to be considered missing);
- B. If the person reported as being missing falls within the criteria set out in Chapter 2, Section 15.6, a State of New York Police Missing Person Report (pp. 3 and 4 of the State of New York Missing Person Data Collection Guide) shall be prepared;
- C. If a person reported as being missing, lives outside the City of Buffalo, the person making the report should be referred to the police agency in the jurisdiction in which the missing person resides. If that police agency deems it necessary, it can contact this Department through the 911 Communications Lieutenant;
- D. If a person reported as being missing was temporarily living in the City or who was visiting the City, a State of New York Police Missing Person's Report shall be prepared. In such case, the member accepting the report shall notify the 911 Communications Lieutenant who shall notify the police agency in the jurisdiction of the missing person's permanent residence, via teletype. The other police agency shall be requested to provide any pertinent information concerning the missing person;
- E. When an attempt is made to report a missing person at a stationhouse other than the one that covers the area of the missing person's residence, desk personnel shall prepare the report and arrange to have it delivered as soon as possible to the appropriate district.

15.5 SEARCH FOR PERSONS UNDER TWELVE YEARS OF AGE

- A. When a person under the age of twelve is reported missing, the member of the Department handling the incident shall immediately notify the supervisor who shall respond to the scene.

- B. The Supervisor shall direct his/her officers in conducting a search of the child's residence, the neighborhood of the residence, and the location where the child was last seen.
- C. The extent of the search will be determined by the age of the child and the circumstances surrounding the disappearance. Factors to be considered:
 - 1. age and sex of the child,
 - 2. attractive nuisances in the area,
 - 3. previous history of running away,
 - 4. recent disciplinary action by parent,
 - 5. mental and physical condition.
- D. A description of the missing person, the location where last seen, and the probable direction or destination, shall be broadcast over the police radio.
- E. The supervisor shall request the assistance of S.O.S, district detectives, K-9 units, the Erie County Sheriff's Department helicopter, or additional officers, when their presence may prove helpful in locating the missing child.
- F. The Supervisor shall keep his/her superiors informed of all pertinent information and any significant changes in the status of the case.

15.6 CHANNELING REPORTS

- A. After the NYS Police Missing Person Report (pp.3 and 4) has been completed, it shall be turned over to desk personnel at the stationhouse;
- B. Desk personnel will transmit a Departmental CCB message concerning the missing person and alert the City Court Booking unit;
- C. City Court Booking will enter the required information into eJustice/NCIC and file receipt of doing so;
- D. Where immediate investigation is required, the missing person report shall be brought to the attention of the Special Victims Unit, and in their absence, the 911 Communications Lieutenant.
- E. One copy of the NYS Police Missing Person Report will be forwarded to City Court Booking who shall retain a copy of the report and maintain an up to date, Department wide list of all missing persons.

15.7 SPECIAL VICTIMS UNIT RESPONSIBILITY

- A. SVU shall be responsible for the follow up investigation of all missing persons throughout the city.

- B. As soon as practicable after a person has been reported missing, SVU shall finish completing the NYS Missing Person Collection Guide booklet that has been forwarded by the Patrol Division, and SVU shall forward a copy of the report to City Court Booking except that the booklet need not be completed if the missing person has already been located.
- C. Whenever a missing person is located, SVU shall:
 - 1. cause a Department wide CCB message to be transmitted; and
 - 2. promptly notify City Court Booking.
- D. SVU shall maintain communication with the missing person's family until the missing person has been located. Contact shall be made no less than bi-weekly.
- E. SVU shall maintain a list of all persons reporting missing within the City of Buffalo. The list shall include:
 - 1. all persons currently missing;
 - 2. the date reported missing;
 - 3. the name of the complainant;
 - 4. the date the complainant was last contacted;
 - 5. the status of the case (e.g. still missing, found, etc.).
- F. SVU shall establish a procedure for identifying persons who have been missing for more than thirty (30) days. For those persons missing more than thirty (30) days, SVU shall forward pages 20 through 28 of the NYS Missing Person Data Collection Guide to the missing person's dentist. If there are several dentists, a separate copy will be made and sent to each. If the missing person did not have a dentist of record or if the dentist is unknown, page 21 will reflect that fact. Page 21 will then be forwarded to the Division of Criminal Justice Services (DCJS).

15.8 RUNAWAYS

Members of the Department apprehending a runaway shall:

- A. determine if there are any current juvenile warrants for the runaway;
- B. if there are no current warrants, return the runaway to his/her parent or other person legally responsible for the child's care, or as an alternative, the officer may take the runaway to a facility approved for such purposes by the State Department of Social Services;
- C. determine if the runaway has been reported missing and is currently listed as a missing person;
- D. cause CCB and NYSPIN messages reporting the runaway as missing to be canceled;

- E. if the child has runaway from within Erie County, but outside the City limits, the 911 Communications Lieutenant shall make arrangements for the child's return with:
1. the child's parents or other person legally responsible for his/her care, or
 2. the law enforcement agency of the locality from which the child has runaway;
- F. if the runaway is from a place outside of Erie County, the child may be placed in detention pending his/her return. The Detention Center must first be contacted and all required documentation presented before the runaway will be admitted.
- G. prepares a report containing the following:
1. Name and address of runaway
 2. age and date of birth
 3. school and grade attending
 4. time and place apprehended
 5. physical condition
 6. name and address of person to who released.

Distribution: Original to CCB

Copy to Command files

16.0 CHILD ABUSE/NEGLECT

16.1 POLICY

It is the policy of the Buffalo Police Department to protect children from abuse, neglect and maltreatment; to thoroughly investigate such incidents; and to make reports to and cooperate with Child Protective Services and other social service agencies in dealing with children in these circumstances.

16.2 DEFINITIONS

A. Child Abuse (section 1012(e) F.C.A.)

"Abused child" means a child less than eighteen years of age whose parent or other person legally responsible for his/her care;

- I. inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ, **or**
- II. creates or allows to be created a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ, **or**

- III. commits, or allows to be committed an offense against such child defined in article one hundred thirty of the penal law; allows, permits or encourages such child to engage in any act described in sections 230.25, 230.30 and 230.32 of the penal law; commits any of the acts described in section 255.25 of the penal law; or allows such child to engage in acts or conduct described in article two hundred sixty-three of the penal law provided, however, that (a) the corroboration requirements contained in the penal law and (b) the age requirement for the application of article two hundred sixty-three of such law shall not apply to proceedings under this article.

B. Child Neglect (section 1012(f) F.C.A.)

"Neglected child" means a child less than eighteen years of age:

- I. whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his/her parent or other person legally responsible for his/her care to exercise a minimum degree of care
- II. in supplying the child with adequate food, clothing, shelter or education in accordance with the provisions of part one of article sixty-five of the education law, or medical, dental, optometric or surgical care, though financially able to do so or offered financial or other reasonable means to do so; or
- III. in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that he loses self-control of his/her actions; or by any other acts of a similarly serious nature requiring the aid of the court; provided, however, that where the respondent is voluntarily and regularly participating in a rehabilitative program, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he loses self-control of his/her actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child's physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as set forth in paragraph (I) of this subdivision; or (II) who has been abandoned, in accordance with the definition and other criteria set forth in subdivision five of section three hundred eighty-four-b of the social services law, by his/her parents or other person legally responsible for his/her care.

16.3 HANDLING CHILD ABUSE/NEGLECT CASES

When a member of the Department comes upon a situation involving a case of suspected child abuse or maltreatment, the member shall:

- A. take immediate steps to see that the child receives emergency medical care, if required;

- B. determine whether the child needs to be immediately removed from the home;
- C. contact the NYS Child Abuse and Maltreatment Register 1-800-342-3720;
- D. arrest the perpetrator in appropriate cases.

16.4 REMOVAL OF THE CHILD FROM THE HOME

A. Authority

1. Temporary Removal **With** Consent

A Peace Officer acting pursuant to his/her special duties, or a Police Officer, may remove a child from the place where the child is residing with the written consent of the parent or other person legally responsible for his/her care, if the child is an abused or neglected child.

2. Emergency Removal **Without** Court Order

A peace officer, acting pursuant to his/her special duties, police officer, or a law enforcement official, or an agent of a duly incorporated society for the prevention of cruelty to children or a designated employee of a city or county department of social services shall take all necessary measures to protect a child's life or health including, when appropriate, taking or keeping a child in protective custody, and any physician shall notify the local department of social services or appropriate police authorities to take custody of any child such physician is treating, without an order under section one thousand twenty-two and without the consent of the parent or other person legally responsible for the child's care, regardless of whether the parent or other person legally responsible for the child's care is absent, if (i) such person has reasonable cause to believe that the child is in such circumstance or condition that his/her continuing in said place of residence or in the care and custody of the parent or person legally responsible for the child's care presents an imminent danger to the child's life or health; and (ii) there is not time enough to apply for an order under section one thousand twenty-two. If a person authorized by this section removes or keeps custody of a child, he shall (i) bring the child immediately to a place approved for such purpose by the local social services department, unless the person is a physician treating the child and the child is or will be presently admitted to a hospital, and (ii) make every reasonable effort to inform the parent or other person legally responsible for the child's care of the facility to which he has brought the child, and (iii) give, coincident with removal, written notice to the parent or other person legally responsible for the child's care of the right to apply to the family court for the return of the child pursuant to section one thousand twenty-eight of this act, and of the right to be represented by counsel in proceedings brought pursuant to this article and procedures for obtaining counsel, if indigent. Such notice shall also include the name, title, organization, address and telephone number of the person removing the child, the name, address, and telephone number of the authorized agency to which the child will be taken, if available, the telephone number of the

person to be contacted for visits with the child, and the information required by section one thousand twenty-three of this act. Such notice shall be personally served upon the parent or other person at the residence of the child provided, that if such person is not present at the child's residence at the time of removal, a copy of the notice shall be affixed to the door of such residence and a copy shall be mailed to such person at his/her or her last known place of residence within twenty-four hours after the removal of the child. If the place of removal is not the child's residence, a copy of the notice shall be personally served upon the parent or person legally responsible for the child's care forthwith, or affixed to the door of the child's residence and mailed to the parent or other person legally responsible for the child's care at his/her last known place of residence within twenty-four hours after the removal. An affidavit of such service shall be filed with the clerk of the court within twenty-four hours of serving such notice exclusive of weekends and holidays pursuant to the provisions of this section. The form of the notice shall be prescribed by the chief administrator of the courts. Failure to file an affidavit of service as required by this subdivision shall not constitute grounds for return of the child. (iv) Inform the court and make a report pursuant to title six of the social services law, as soon as possible. (c) Any person or institution acting in good faith in the removal or keeping of a child pursuant to this section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such removal or keeping. (d) Where the physician keeping a child in his/her custody pending action by the local department of social services or appropriate police authorities does so in his/her capacity as a member of the staff of a hospital or similar institution, he shall notify the person in charge of the institution, or his/her designated agent, who shall then become responsible for the further care of such child. (e) Any physician keeping a child in his/her custody pursuant to this section shall have the right to keep such child in his/her custody until such time as the custody of the child has been transferred to the appropriate police authorities or the social services official of the city or county in which the physician maintains his/her place of business. If the social services official receives custody of a child pursuant to the provisions of this section, he shall promptly inform the parent or other person responsible for such child's care and the family court of his/her action.

B. Duties Upon Removal

Whenever a member of the Department removes a child from the child's residence or retains custody of a child, under circumstances described in 2/16.12A, above, the member shall:

1. take the child to the stationhouse and request the assistance of Child Protective Services;
2. fully inform the Child Protection worker of the circumstances surrounding the removal of the child;
3. relinquish custody of the child to the Child Protection worker after obtaining the worker's name and telephone number;

4. arrange with the Child Protection worker to provide the parent or other person legally responsible for the child's care, written notice as required in Section F.C.A.1026, b, iii;
- C. Any person or institution acting in good faith in the removal or keeping of a child pursuant to the Family Court Act shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such removal or keeping.

16.5 REPORTS REQUIRED

When any member of the Department has reasonable cause to suspect that a child is abused or maltreated, the member must:

- A. prepare a "Report of Suspected Child Abuse or Maltreatment" (Form LDSF-2221-A);
- B. immediately make an oral report by telephone to the NYS Child Abuse and Maltreatment register at 1-800-342-3720 (local emergency numbers 830-3657 or 883-3658);
- C. forward a completed form LDSF-2221-A in a sealed enveloped to the Special Victims Unit, and the Special Victims Unit shall make and retain a copy of the report, forwarding the original to Child Protection and Abuse, 814 Ellicott Square, 295 Main Street, Buffalo, NY 14203;
- D. both the oral and written reports described in this section are mandated by the NYS Social Services Law;
- E. prepare a crime report if a crime has occurred.

16.6 FOLLOW UP PROCEDURE

The Special Victims Unit shall be responsible for follow up investigation of child abuse and maltreatment cases. It shall coordinate its efforts with those of Child Protective Service, especially in those circumstances where criminal prosecution of the offender is possible.