



**WHITLEY COUNTY SHERIFF
DEPARTMENT**

SHERIFF TODD SHELLEY

P.O. BOX 118

WILLIAMSBURG, KY 40769

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WCSDKY.COM

Monday – Friday from 08:00am – 04:00pm

POLICY AND PROCEDURES

This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employees.

OPEN RECORDS REQUEST

All open records request for the Whitley County Sheriff Department must be submitted on Form **OAG-01**. They must be submitted by a residence of the commonwealth. They can either be submitted by mailing them to, the Whitley County Sheriff Department, 200 Main Street suite 1 Williamsburg, Ky 40769 or by emailing them to cbaker192@wcsdky.org The Whitley County Sheriff Department will respond to all requests to inspect records within 5 days.

Whitley County Sheriff Department
Employment At-will Statement

- A. It is this policy of the Whitley County Sheriff Office that all employees who do not have a written contract for a specific, fixed term of employment are employed at-the-will of the sheriff for an indefinite period.
- B. Employees who do not have a written contract approved by the Whitley County Sheriff as may be permitted by law, are employed at- will and may be terminated at any time, for any reason, with or without cause or notice. Conversely, employees may terminate their employment at any time and for any reason.
- C. This policy may not be changed by any individual representative of the Sheriff Office or by any agreement, oral or written in the interviewing or recruiting of prospective employees.
- D. This policy may not be modified by any statements contained in this Policy and Procedures Manual or any other employee handbook, employment applications, or any other materials provided to applicants and employees in connection with their employment. None of these documents, either singly or combined, create and express or imply a contract concerning any terms or conditions of employment for

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a definite period, or express or imply a contract concerning any terms or conditions of employment. Similarly, the Sheriff's policies and practices with respect to any matter are not to be considered as creating any contractual obligation on the Sheriff's part or stating in any way that termination will occur only for "just cause." Statements of specific grounds for termination set forth in this Policy and Procedures Manual or in any other Sheriff documents are examples only, not all-inclusive lists, and are not intended to restrict the Sheriff's right to terminate at-will.

Personnel Records

- A. Immediately, on the first day of employment, all new employees shall report to the Sheriff Office Bookkeeper or appropriate designee to supply any information needed to complete personnel records, execute payroll withholding authorization and enroll in the applicable employee benefit programs.
- B. A personnel file to be maintained by the Bookkeeper or appropriate designee shall be created for each employee. All relevant information, including application forms, resume, evaluation forms, disciplinary or commendation memoranda and any other material deemed relevant to the employee's permanent record will be kept in the file which shall be accessible to each respective employee. The file shall contain:
1. The employee's name, address and telephone number where the employee may be reached.
 2. Position title.
 3. Hiring date.
 4. Application.
 5. Salary.
 6. All changes in status as a employee.
 7. Documented compliance with labor standards, EEO-4, I-9 requirements.
 8. Performance appraisals and evaluations.
 9. Commendations and disciplinary memoranda; and
 10. Whatever additional information this ordinance, other governing laws, or the sheriff requires.
- C. It shall be the obligation of the employee to maintain current information in the personnel file by notifying the Bookkeeper or appropriate designee of all changes in personal or family status, home address, home telephone number or any other changes which would affect payroll withholding or employee benefits.
- D. Every change in the status of the employee shall be recorded in the personnel file.
- E. A separate file on equal employment opportunity data shall be maintained.
- F. Employee medical records of a confidential nature shall be maintained separately from other employee files.
- G. Personnel records of the Sheriff's Office shall be public records as defined and controlled by the appropriate Kentucky Revised Statutes. They will be retained in accordance with the retention schedules adopted by the State Archives and Records Commission.

Pay periods and Pay days

Pay periods will begin on Sunday nights at 12:00am and go through Saturday nights at 12:00am two weeks at a time. Pay day will be the following Tuesday after the previous pay period. (For Deputies qualifying for KLEFPF it will be paid the last Friday of every month.

False Credentials

If it should come to the attention of the Sheriff, either during their introductory period or thereafter, that an employee was hired on the basis of false credentials, said employee will be subject to immediate demotion or dismissal.

Equal Opportunity

The Sheriff's Office seeks to provide equal opportunity to all of its employees and applicants for employment and to prohibit discrimination based on race, color, sex, religion, national origin, disability, age or because the individual is a smoker or nonsmoker. The Sheriff's Office promotes equal opportunity in matters of hiring, promotion, transfer, compensation, benefits, and other conditions of employment.

Hours of Work

- A. Employees shall be at their places of work in accordance with prescribed schedules.
- B. All employees are subject to be called out to work. All employees called out who work shall be compensated for hours actually worked.

Lunch Break

All employees are entitled to a Thirty (30) minute break during their work schedule. All Deputies are paid during this time. It should be noted that while on a lunch break, they are subject to calls. Every effort is made to allow them a lunch break without interruption.

Overtime

- A. An employee will receive overtime pay for hours worked in excess of forty (40) hours per week. Employees shall receive overtime pay at the rate of one and one-half (1.5) times the hourly wages for actual hours worked in excess of Forty (40) hours in any work week.
- B. Time off with pay (including vacation leave, sick leave, holidays, jury duty, funeral leave, etc.) may not be considered as hours worked for overtime pay purposes.
- C. Holidays for which employees are paid, but which are not worked, cannot be used for computing overtime.

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- D. All employees shall notify the Sheriff or Chief Deputy the same day that an excess of eight hours is worked.
- E. All employees that are subpoenaed to court and are not scheduled to work shall notify the Sheriff or Chief Deputy the same day of court and advise them of the hours in court. All employees shall attach their subpoena with time in court and outcome in court to their time sheet.

Compensatory Time

The purpose of this order is to establish the guidelines concerning compensatory time.

It shall be the policy of the Whitley County Sheriff's Office that compensatory time will be paid for approved overtime in lieu of cash payment for said overtime as defined in KRS 337.285:

1. Each employee can receive payment of approved overtime by compensatory time in lieu of cash payment according to KRS 337.285, or at the pleasure of the sheriff, payment in cash for any overtime hours worked during any pay period. Departmental policy is that each employee is only allowed to accrue 160 hours of compensation time.
2. Compensatory times off requests are granted as long as it does not unduly disrupt the minimum staff level that is attempted to be maintained at all times.
3. It shall be the responsibility of each individual supervisor to monitor all overtime. A supervisor must approve all overtime.
4. All deputies working full time, and all other full-time office personnel, including clerical Employees, shall earn compensatory time after 40 work hours, at a rate of one and one-half hours per hour overtime according to KRS 337.285.

US Army Corps of Engineers Lake Detail.

The Whitley County Sheriff Department will pay a set rate of \$30.00 per hour for all lake detail hours worked in connection with the US Army Corps of Engineers grant. (As of 06/06/2021)

Donation of Compensatory, Sick, and Vacation time.

- A. If an employee has an emergency situation due to sickness of the employee or their immediate family member. An employee May donate Sick, Vacation, or Comp Time to another employee in need. This donation of time will be in writing and placed in the employee's personnel file.

Purchase of accumulated Compensatory time.

- A. In the event that funds are available, the Sheriff at his discretion may purchase accumulated compensatory time, up to 80 hours from each employee.

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Holidays

A. The following holidays are declared paid holidays at the regular rate of pay for all Sheriff's Office employees.

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| 1. New Year's Day | 7. Veteran's Day |
| 2. Martin Luther King, Jr. Birthday, | 8. Thanksgiving Day |
| 3. Good Friday | 9. The Day after Thanksgiving Day, |
| 4. Memorial Day | 10. The 24th of December (Christmas Eve Day), |
| 5. Independence Day | 11. The 25th of December (Christmas Day), |
| 6. Labor Day | 12. The 31 st of December (New Year's Eve). |

The Whitley County Sheriff Office will follow and use the days off for the afore mentioned holidays designated by the Whitley County Fiscal Court.

B. When it is essential for an employee to work on a declared holiday, he/she shall be compensated for actual hours worked at regular rate. In no case will compensatory time be given to any employee who, by virtue of their work schedule, does not work on an official Sheriff's Office holiday.

C. In order for an employee to be paid for a holiday, he/she must work the last scheduled day before and the first scheduled day after the holiday.

D. If an employee is absent without leave on the day before or after a holiday, holiday pay shall be forfeited.

Vacation

A. All full-time employees shall be entitled to vacation leave at the following rates:

<u>Years of Service</u>	<u>Vacation Time</u>
<u>Year One</u>	<u>One Week - after six months of employment</u>
<u>Year two</u>	<u>One Week and 3 days</u>
<u>Year Four to Ten years</u>	<u>Two Weeks</u>
<u>- Year Ten and beyond</u>	<u>Three Weeks</u>

B. Vacation requests must be approved three weeks in advance by the Sheriff and or Chief Deputy.

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- C. Absences on account of sickness, injury, or disability in excess of that authorized for such purposes may, at the request of the employee, be covered by vacation time.
- G. Vacation time is annually, January 1st- December 31st. All vacation time must be taken annually, no carry overs. (With the exception of extenuating circumstance which must be approved by the Sheriff.)
- F. Employees are not entitled to receive pay for unused vacation leave at end of year or at termination of employment.

Sick Leave

- A. All full-time employees shall be entitled to sick leave credit with pay at the rate as presented below:

Years of Service

Days Per Year

All Years - Starting after six months of employment.

(Five (5) Days Total)

- B. Sick Leave shall not be carried over from year to year. Sick leave credit may be utilized by employees when they are incapacitated from the performance of duties due to sickness or injury or when they are quarantined. An employee may use up to five (5) sick days in the event of serious illness in the employee's immediate family. The immediate family for these purposes shall be deemed to include the parents, spouse, children, brothers and sisters in any case, the immediate in-laws. All foreseeable leave for such purposes shall require specific prior written approval from the Sheriff. Absence may require a certificate of a medical doctor giving information as to the circumstances involved.
- C. An employee on sick leave shall inform the Sheriff or Chief Deputy of the fact and the reason as soon as possible; failure to do so by 9:30 a.m., on the first day of illness may be cause for denial of sick leave with pay for the period of absence.
- D. Absence for part of a day that is chargeable to sick leave shall be charged proportionately on a quarterly basis per the following i.e., 2 hours and no less than 1/4 day.
- E. Employees are not entitled to receive pay for sick leave on unused sick leave at end of year or at termination of employment.

DISABILITY LEAVE

Any employee who suffers injury or illness as a result of service-connected accident or illness shall be compensated at the negotiated rate with the workers compensation insurance company.

Employees shall continue to receive sick leave and vacation leave while on disability leave due to service-connected accident or illness for a period of three months after the accident or illness.

No other benefits are implied.

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MATERNITY LEAVE

Maternity leave may be granted for full-time employees with temporary disability due to pregnancy, childbirth, or any impairment thereof, and miscarriage for a period not to exceed three calendar months without pay. An additional period, not to exceed sixty days, may be granted, if required by a medical doctor, without pay.

BEREAVEMENT (FUNERAL) LEAVE

Employees working full-time may be granted up to two working days off without loss of pay in case of death in the immediate family, including parents, grandparents, spouse, brother, sister, children, and immediate in-laws.

SPECIAL LEAVE

In addition to authorized leaves, the Sheriff may authorize an employee to be absent without pay for personal reasons for a period or periods not to exceed ten (10) working days in any calendar year.

MILITARY LEAVE

Any employee occupying a full-time position with the Sheriff's office who is a member of the National Guard or any reserve component of the Armed Forces of the United States, or the Reserve Corps of the United States Public Health Service, shall be entitled to leave of absence without pay for a period not exceeding fifteen calendar days in any one year for the purpose of attending annual mandatory training. (If additional time is needed, the employee may use vacation leave.)

JURY DUTY

When an employee is required to serve on a jury, he/she shall be compensated at the normal rate of pay while serving on jury duty. All employees serving on jury duty shall be absent from work only during the times required by the courts.

Employees dismissed from jury duty must report to their respective workstation with the Sheriff's Office.

Employees summoned as a plaintiff or defendant in a proceeding involving or arising from outside employment or personal business shall not be entitled to leave with pay but may use accrued vacation leave during the absence.

TIME OFF TO VOTE

All employees entitled to vote in any election shall be given up to two hours off on Election Day to vote, with pay.

HEALTH INSURANCE

The Sheriff's Office pays for individual health and dental insurance. In the event an employee is out of work due to illness, regardless of cause, the Sheriff's Office limits the payment of the health insurance premium for a period not exceeding three months.

Employees are covered under COBRA. In summary, COBRA provides that each qualified beneficiary who would lose coverage under the group health plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan at their expense for a limited time.

RETIREMENT

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The Whitley County Sheriff Office does not have a mandatory retirement age.

RETIREMENT BENEFITS

Sheriff Office employees contribute amounts at the rate determined by Congress to Social Security.

The Sheriff Office employees contribute to the Hazardous or non-hazardous County Employees Retirement System.

POLITICAL ACTIVITY

No employee, as a condition of employment or continued employment, shall be required to contribute to or campaign for any candidate for political office.

No employee of the Sheriff Office shall engage in political activity during his/her assigned duty hours.

LAY OFF

The Sheriff may layoff an employee because of lack of work or funds.

HARASSMENT

The Sheriff Office is committed to maintaining a work environment free of discrimination and harassment.

Harassment on the basis of race, color, religion, gender, national origin, age or disability constitutes discrimination in the terms, conditions and privileges of employment. Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual.

Harassing conduct includes, but is not limited to the following:

1. Epithets, slurs, negative stereotyping, threatening, or intimidating acts, that relate to race, color, religion, gender, national origin, age, or disability.
2. Written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of race, color, religion, gender, national origin, age or disability and that is placed on walls, bulletin boards, or elsewhere on the employer's premise, or circulated in the workplace.

Employees encountering harassment should tell the offending person that their actions are inappropriate and offensive. The employee shall document in writing to the Sheriff as soon as possible all incidents of harassment in order to provide the fullest basis for investigation and to protect the employee for further harassment.

Sexual harassment deserves special mention. Inappropriate sexual advances, requests for sexual favors, and other physical, verbal, or visual conduct based on sex constitute sexual harassment.

Sexual harassment may include explicit sexual propositions, sexual innuendo, suggestive comments, sexual orientated "kidding" or "teasing", "practical jokes", jokes about gender-specific traits, foul or obscene language or gestures, displays of foul or obscene printed or visual material, and physical contact, such as patting, or pinching another's body.

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All employees are responsible for helping assure we avoid harassment. If you feel that you have experienced or witnessed harassment, you are to notify the Sheriff. Written reports are to be made as soon as practicable, preferably within 24 hours.

The Whitley County Sheriff policy is to investigate all such complaints. To the fullest extent practicable, the Sheriff will keep complaints and the terms of their resolution confidential. If an investigation confirms that harassment has occurred, the Sheriff will take corrective actions in accordance with the nature and extent of the offense.

The Sheriff recognizes that false accusations of harassment and sexual harassment can have serious effect on innocent men and women. Individuals falsely accusing another of harassment or sexual harassment will be disciplined in accordance with the nature and extent of his or her false accusation.

The Sheriff encourages any employee to raise questions he or she may have regarding the harassment policy or sexual harassment with the Sheriff.

PUBLIC APPEARANCE AND STATEMENTS

Employees shall not publicly criticize or ridicule the Sheriff's Office, its policies, or other officers by speech, writing, or other expressions, where such speech, writing or other expressions is defamatory, obscene, and unlawful, tends to undermine the effectiveness of the agencies, interferes with the maintenance of discipline, or is made with reckless disregard for truth or falsity. Officers shall not address public gatherings, appear on radio or television, email, face book, topics or other electronic communications, prepare any articles for publication, act as correspondence to a newspaper or a periodical, release or divulge investigative information or any other matters of the Sheriff's Office without pre-approval from the Sheriff or Chief Deputy.

Social Networking/Internet Postings

- I. **Purpose:** The purpose of this policy is to direct the employees of the Whitley County Sheriff Department with respect to the use of the internet, the world-wide web, and social networking as a medium of communication impacting this office.

- II. **Policy:** The internet, blogs, twitter, the world-wide web, social networking sites and any other medium of electronic communication shall not be used in a manner which is detrimental to the mission and function of the Sheriff Office.

It is essential for every employee of the Sheriff Office to recognize that the proper functioning of any law enforcement/public safety agency relies upon the public's confidence and trust in the individual employees and the Sheriff Office to carry out the law enforcement and public safety functions. Therefore, any matter which brings individual employees or the agency into disrepute has the corresponding effect of reducing public confidence and trust in our office, thus, impeding our ability to work with and serve the public. Professionalism is the most significant factor in high level performance which in turns builds the public confidence and trust. While employees have the right to use personal/social networking pages or sites, as employees of the Sheriff Office, they are public servants who are held to a higher standard than the general public with regard to standards of conduct and ethics. As such, the policy of the Sheriff Office is to maintain a level of professionalism in both on-duty and off-duty conduct that fulfills the mission of our office. Any publication, through any medium which is potentially adverse to the operation, morale, or efficiency of the Sheriff Office will be deemed a violation of this policy.

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III. On Duty Procedures:

- A. Employees of the Sheriff Office are prohibited from using agency computers for any unauthorized purpose including surfing the internet or participating in social networking sites.
- B. Employees of the Sheriff Office are prohibited from posting, or in any other way broadcasting, without prior Sheriff's approval, information on the internet, or other medium of communication, the business of the Sheriff Office to include but not limited to:
 - 1 Photographs/images relating to any investigation of the Sheriff Office or any other law enforcement agency.
 - 2 Video or audio files related to any investigation of the Sheriff Office or any other law enforcement agency.
 - 3 Video, audio, photographs, or any other images etc. which memorialize a law enforcement related action of the Sheriff Office or any other law enforcement agency.
 - 4 Logos/Uniforms/Badges or other items which are symbols associated with the Sheriff Office or any other law enforcement agency.
 - 5 Any other item or material which is identifiable to the Sheriff Office or any other law enforcement agency.

IV. Off Duty Procedures:

- A. Employees of the Sheriff Office who utilize social networking sites, blogs, twitter or other mediums of electronic communication in their off-duty time shall maintain an appropriate level of professionalism and appropriate conduct so as not to broadcast in a manner which is detrimental to the mission and function of the Sheriff Office.
 - 1 Employees shall not use references in these social networking sites or other mediums of communication that in any way represent themselves as an employee of the Sheriff Office without prior Sheriff's approval. This shall include but not be limited to:
 - i. Text which identifies the Sheriff Office.
 - ii. Photos that depict the logos, patches, badge or other identifying symbol of the Sheriff Office.
 - iii. Accounts of events which occur within the Sheriff Office.
 - iv. Any other material, text, audio, video, photograph, or image which would be identifiable to the Sheriff Office.
 - 2 Employees shall not use a social networking site or other medium of internet communication to post any materials of a sexually graphic nature.
 - 3 Employees shall not use a social networking site or other medium of internet communication to post any materials which promote violence or weaponry.
 - 4 Employees shall not use a social networking site or other medium of communication to post or broadcast any materials which would be detrimental to the mission and function of the Sheriff Office.
- B. Employees of the Sheriff Office are prohibited from using their title as well as any reference to the Sheriff Office in any correspondence to include emails, postings, blogs, twitter, social network sites such as Facebook, unless the communication is of an official nature and is serving the mission of the Sheriff Office. This prohibition also includes signature lines in personal email accounts. An employee may seek Sheriff's approval for such use.

Interlocal Cooperation Agreement

The KY South I75 Interlocal Cooperation Agreement with Whitley, Clay, Knox, Laurel, and Rockcastle Counties is now approved. This gives us arrest powers in all the counties in the agreement. If you make an arrest in any of the Counties you have to take them to the jail of the county you are in. You will go to court in the county of the arrest. Any Arrest Warrants or Search Warrants will be in the Jurisdiction of the county you are in. If you arrest a person in Whitley on another county Warrant you still bring them to Whitley County Jail.

This ability to make arrest in the counties on the agreement does not mean you will go and patrol these other counties. This is to help if you get a case in Whitley and you need to go to another county.

Our policy on going to another county is as follows: Before you go to another county you will notify your supervisor for permission. You will notify the Sheriff's Office of the county you are going too and tell their supervisor what you are doing. If you are in the County and something happens, and you have to make an arrest let the Sheriff's Office know in the county you are in. If the Sheriff in the county you are in wants the arrest or case let them have it. If Deputies from another county wants our assistance, help them, just let your supervisor know the situation. This agreement is meant to help all counties. Do not do anything that will hurt this agreement. The Sheriff of that County is still the main Law Enforcement Official, treat them as such. Any questions please contact The Sheriff or The Chief Deputy.

Sexual Assault Kits Policy

(Applicable State Statutes: KRS 15.334, KRS 15.440, KRS 17.175, KRS 216B.400, KRS 403.707, KRS 524.140)
KACP Standard: 27.5

- I. **Purpose:** Entering DNA (deoxyribonucleic acid) evidence from sexual assault evidence kits increases the likelihood of prosecution. The importance of DNA evidence in sexual cases cannot be overstated. Not only does DNA evidence carry weight in court, but it may prevent future sexual assaults from occurring. Even if the perpetrator is not prosecuted, their DNA may be added to the national database, making it easier to connect to the perpetrator to a future crime or a past crime.
- II. **Policy:** The policy of this department will be that when notification of alleged sexual assault is received from a collecting facility, generally a hospital, clinic or medical provider that the procedures and timelines outlined in the policy below be utilized.
- III. **Definition:**
 - A. Sexual Assault Evidence Kit (SAEK)- A container that includes a checklist, materials, and instructions, along with envelopes and containers to package and specimens collected during the exam. The contents of the kit may include:
 - a. Bags and paper sheets for evidence collection
 - b. Comb
 - c. Documentation forms
 - d. Envelopes
 - e. Instructions
 - f. Materials for blood samples
 - g. Swabs

IV. Procedures:

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- A. Once DNA is collected, there is a protocol for how the evidence is handled and used in an investigation. The evidence will be provided to law enforcement who will send it to the crime lab. The lab will analyze the material and develop DNA profiles that are unique to a specific person. The lab works with law enforcement officials to compare these profiles to the DNA of potential suspects. If the perpetrator is unknown, they compare these profiles against a large database run by the FBI called CODIS, the Combined DNA Index System. This way, law enforcement can identify suspects that the victim does not know or is not familiar with.
- B. When this department receives notification that a sexual assault examination has been conducted by a collecting facility/ medical kit has been performed under KRS 216B.400 and a sexual assault evidence kit has been completed and is ready for pick up a member of this department shall within 5 days of notification respond to the facility and take custody of it. The Chief of the Department shall designate the office or bureau responsible for the collection of these kits.
- C. The Chief of Police or their designee shall ensure that all evidence retrieved from a collecting facility be transmitted to the Department of Kentucky State Police forensic laboratory within 30 days of its receipt by this department.
- D. This Department shall handle the evidence sexual assault evidence kit in compliance with best practices associated with crime scene evidence collection:
 - a. In cases where no criminal report has yet been generated, the receiving officer will generate a department case number.
 - b. The receiving officer will prepare, and evidence form and maintain a proper chain of custody by documenting the date, time, and the name of the person who turned over the sexual assault evidence kit to him.
 - c. On arrival at the department the receiving officer shall ensure the sexual assault evidence kit is turned into property/ evidence custodian or placed in a department authorized temporary storage facility. The facility must be designed to preserve the evidentiary value of the sexual assault evidence kit while it awaits transfer to the Kentucky State Police forensic laboratory.
- E. The decision to report the crime rests completely with the victim. It is not required for the victim to file a criminal complaint. Having a sexual assault forensic exam ensures that the forensic evidence will be safely preserved while the victim decides how to proceed. Regardless of the victim's decision, this department shall collect the sexual assault evidence kit and comply with stated procedures of this policy.
- F. In cases where a victim receives treatment at a collection facility in the jurisdiction, but it determined the sexual assault occurred outside the jurisdiction if this department officer shall:
 - a. Respond to the collection facility to receive the evidence.
 - b. Ensure that evidence will be collected and maintained in accordance with this department's property and evidence storage policy, as stated above.
 - c. Ensure that the departments will transmit the evidence to a department with jurisdiction of the sexual assault within 10 days of its receipt by this department.
- G. Suspect Standard:**
 - a. During the course of investigation, a suspect sample (DNA) may be obtained by the department.
 - b. A suspect standard, if available, shall be transmitted to the Kentucky State Police forensic laboratory with the sexual assault evidence kit received from a collection facility.
 - c. If the suspect standard is not available at the time of the transmission of the sexual assault evidence kit, it shall be transmitted to the Kentucky State Police forensic laboratory by the obtaining agency as quickly as practical once it is collected.
- H. Victim Notification**

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- A. This department will work collaboratively with the Kentucky State Police forensic laboratory and the prosecutorial authority regarding victim notification on the progress of testing and whether the testing resulted in a match to other DNA samples.
 - a. This department will work collaboratively with the Kentucky State Police forensic laboratory and the prosecutorial authority regarding victim notification if any of the evidence is going to be destroyed.
 - b. The investigator(s) assigned to a sexual assault investigation is not required to immediately disclose to the victim the identity of any person to whom the evidence matched. This department may delay notice until a suspect is apprehended, or the Commonwealth's Attorney consents to the notification.

V. Kentucky State Police forensic laboratory

- A. Kentucky State Police forensic laboratory will analyze and classify all sexual assault evidence kits it receives. In cases where a suspect has been identified, the Kentucky State Police forensic laboratory may give priority to analysis and classification of sexual assault evidence kits where the reference standard for comparison is provided with the kit.
- B. Kentucky State Police forensic laboratory testing times: Except as provided in subsection Section 3. KRS 17.175(3) (E) by July 1, 2018, the average completion rate for the analysis and classification shall not exceed ninety (90) days, and by July 1, 2020, the average completion rate for this analysis and classification shall not exceed sixty (60) days.
- C. Officers of this department shall use the above testing completion turnaround times to guide them when making request for testing results.

VI. Property and Evidence Function:

- A. It shall be the responsibility of the property/evidence custodian to ensure the sexual assault kit received from a collection facility is maintained in such a manner as to preserve the integrity of the evidence. The property/evidence custodian shall forward all sexual assault kits to the Kentucky State Police forensic laboratory in accordance with this policy.
- B. Auditing:** It is the policy of the department that during department audition procedures of the property and evidence room the auditor shall examine all sexual assault kits held by this department to ensure compliance with this policy and Kentucky State Law. Any discrepancies or violations of the policy and Kentucky State law. Any discrepancies or violation so the policy shall immediately be reported to the Chief of Police in writing.

VII. Disposal

No item of evidence collected by this law enforcement agency shall be disposed of except as provided by KRS 524.140. Destruction of evidence in violation of the statute could result in conviction of a Class D Felony. Prior to any decision to dispose of evidence, the property/evidence custodian shall consult with the Commonwealth Attorney's office to ensure compliance with KRS 524.140.

Notes on Hospital Standards:

KRS 216B.400 sets forth the standards for hospitals, or "sexual assault examination facilities" KRS216B.015.

KRS216B400 (4) - The Secretary of the Justice Cabinet, in conjunction with SART AC, shall develop a statewide "medical forensic protocol". Also, this section states that physicians and SANE nurses shall provide both basic medical care related to the incident, as well as a sexual assault examination upon request of an office or prosecutor (with the victim's consent) or upon the request of the victim.

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KRS 216B.400(5), (6)- The facility shall inform the victim of available services for treatment of sexually transmitted infections, pregnancy (not to include abortion counselling or referral) and any other medical or psychiatric problems; the facility shall also inform the victim about crisis intervention and mental health services provided by regional rape crisis center.

KRS 216B.400 (7) - A minor may consent to this exam without a parent or guardian.

KRS 216B.400 (8), (9) - The crime victim's compensation board shall pay for the exams and the victim is not to be charged.

KRS 216B.400 (10) - A victim shall not be denied an examination due to refusing to report the assault to law enforcement.

If a victim chooses to report, the facility shall notify law enforcement within 24 hours.

If a victim chooses not to report, samples shall be stored, released and destroyed where appropriate in accordance with KAR to be promulgated by the Justice Cabinet and SART AC as mandated by KRS 403.707

All samples shall be stored for at least one year from the date of collection.

Notwithstanding KRS 524.140, samples collected during exams where the victim chose not to report within one year may be destroyed as set forth in the KAR required by KRS 403.707

VEHICLE PURSUIT POLICY

1. Purpose:

The purpose of this policy is to provide guidelines and directions for the establishment of responsibility for the operation of sheriff/police vehicles during a pursuit; for the initiation or discontinuation of pursuits; for the responsibility of participating deputies/officers and supervisor; and to provide the essential balancing of the necessity for the pursuit and more immediate apprehension of the fleeing subject against the risks involved.

In fulfilling office/departmental objectives, deputies/officers will occasionally encounter dangerous subjects who will attempt to avoid capture by fleeing in motor vehicles. In these cases, deputies/officers should attempt to anticipate flight and utilize tactics to prevent a pursuit. If tactics to prevent a vehicle pursuit fail, tactics should be utilized to minimize the duration of the pursuit, and if possible, to influence the subject vehicle's direction in ways that reduce the risk of harm to others.

2. Policy:

The office/department recognizes its responsibility to apprehend criminals and lawbreakers, but it also recognizes a responsibility to operate sheriff/police vehicles with due regard for persons. Deputies/Officers, operating under pursuit conditions, shall consider the need to pursue and periodically reevaluate the initial decision to pursue throughout its course. In initiating any pursuit, the deputy/officer shall consider the facts, driving environment, seriousness of the offense, need for apprehension, consequences, and due regard for persons. A deputy/officer operating an

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authorized law enforcement vehicle to overtake a motorist that is not yet aware that he or she is being overtaken is not a vehicle pursuit.

3. Definitions:

- A.** Terminate the pursuit: the law enforcement officer ends his or her involvement in the pursuit by slowing down to the posted speed limit and turning off his or her emergency lights and siren.
- B.** Aerial support: the use of aerial surveillance to monitor a pursuit or take over the pursuit allowing vehicles to back off to a supportive role.
- C.** Boxing-in: surrounding a violator's vehicle with emergency vehicles that are then slowed to a stop, forcing the violator's vehicle to do likewise.
- D.** Channelization: a technique where objects or vehicles are positioned in a manner intended to direct or redirect a fleeing vehicle into a clearly identifiable and unobstructed path.
- E.** Caravan: operating emergency vehicles in a line or alongside each other in a pursuit.
- F.** Deadly physical force: means force which is used with the purpose of causing death or serious physical injury or which the defendant knows to create a substantial risk of causing death or serious physical injury.
- G.** Interjurisdictional pursuit: Any pursuit that crosses into a neighboring jurisdiction, such as across municipal, county, or state line.
- H.** Paralleling: operating an emergency vehicle on streets or a route parallel to the pursuit route.
- I.** Primary unit: The authorized law enforcement vehicle that initiates a pursuit or any other unit, which assumes control of the pursuit.
- J.** Secondary unit(s): Any authorized law enforcement vehicle that becomes involved as a backup to the primary unit and follows the primary unit at a safe distance.
- K.** Precision immobilization technique (PIT) maneuver: a controlled deliberate contact with the rear of a fleeing vehicle by a marked law enforcement vehicle with the intention of spinning the vehicle in a predetermined direction to bring it to a stop.
- L.** Ramming: deliberate contact with a violator's vehicle by a marked law enforcement vehicle to force the violator's vehicle off the roadway.
- M.** Roadblock: a barricade or other physical obstruction across a roadway set up to stop or prevent the escape of a fleeing vehicle.
- N.** Stop stick/spike strip: a rigid column or a strip of belting containing specially designed hollow spikes which when deployed across a lane of roadway, penetrates tires, slowing the pursued vehicle usually to a complete stop.
- O.** Vehicle pursuit: an active attempt by a law enforcement officer operating an authorized law enforcement vehicle to apprehend a fleeing suspect who is actively attempting to elude the police.
- P.** Video recording (MVR): a recording device that records video and/or audio of a police event from a camera.

4. Procedure:

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A. Initiating the Pursuit: Deputies/Officers may only initiate a pursuit when there is reasonable suspicion that the driver or an occupant of the vehicle is fleeing from having committed a serious felony which includes:

1. Offenses where a suspect has killed a person
2. Assault in the first, second, or third degree
3. Kidnapping
4. Wanton endangerment in the first degree
5. Unlawful imprisonment in the first degree
6. Rape in the first degree
7. Sodomy in the first degree
8. Burglary in the first or second degree
9. Sexual abuse in the first degree
10. Robbery in the first or second degree
11. Escape in the first degree
12. Arson in the first degree
13. Or the attempt of any of the above offenses

Or

Prior to initiating the pursuit, the deputy/officer has reasonable suspicion that the driver is engaged in outrageous, reckless driving such that the necessity of immediate apprehension outweighs the level of danger created by the pursuit, excluding serious traffic offenses such as DUI, unless there are extenuating circumstances.

B. Pursuit Restrictions:

1. Only two properly equipped [emergency lights and siren] vehicles, a primary vehicle and a secondary vehicle, shall engage in a pursuit, unless additional vehicles are authorized specifically by the managing supervisor.
2. Deputies/Officers shall not continue a pursuit or assist in a pursuit unless immediate authorization for the pursuit is received from the managing supervisor – if one is on duty.
3. Deputies/Officers shall not set up roadblocks or deploy tire deflation devices without the approval of the supervisor.
4. Deputies/Officers shall not box-in a vehicle without supervisory authorization.
 - a) Low-speed box-in is a seizure and therefore may only be utilized in accordance with the department's response to active resistance policy.

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b) High-speed box-in is a seizure by means of force which may cause serious bodily harm or death and thus constitutes a use of deadly force. Before a supervisor may authorize the use of a "high-speed box-in" deadly force must be justified.

5. Pursuits shall not be undertaken where the officer is operating a two- or three-wheeled police motorcycle.
6. If a pursuit is terminated by the primary vehicle, (unless for mechanical reasons), or the supervisor, then all officers shall terminate the pursuit.
7. Only properly equipped vehicles with emergency lights and siren shall initiate a pursuit.
8. In the event that an unmarked vehicle with emergency lights and siren initiates a pursuit, the unmarked vehicle shall give way and terminate the pursuit as soon as a primary and secondary marked vehicle is available to take over the pursuit unless otherwise authorized to remain in the pursuit by a supervisor.
9. Officers engaged in a pursuit shall not drive vehicles the wrong way (against the regular flow of traffic) on a divided highway, interstate, or expressway or any other street or highway designated for one-way traffic, despite allowances in the state vehicular code.
10. When a fleeing vehicle goes the wrong way against traffic, the primary deputy/officer may, whenever practical:
 - a)** parallel the vehicle in the correct lane of traffic.
 - b)** notify dispatch of a wrong-way driver;
 - c)** request assistance from outside agencies to shut down vehicular traffic on the highway coming in the fleeing subject's direction; and
 - d)** have communications notify department of transportation to activate reader boards to advise motorists of a wrong way driver.
11. Deputies/Officers shall not engage in a pursuit when they are transporting prisoners, witnesses, suspects, complainants or any person who is not a member of this department.

C. Considerations: Deputies/Officers, operating under pursuit conditions, may consider:

1. Time of day and day of the week.
2. Lighting conditions.
3. Vehicular and pedestrian traffic.
4. Type of roadway.
5. Condition of the roadway (e.g., dry, wet, paved, gravel, icy);
6. Weather conditions (e.g., clear, overcast, rain, fog);
7. Condition of the emergency vehicle and the condition and type of the fleeing vehicle.
8. Driving ability of the officer; and
9. Speeds of the emergency vehicle and the fleeing vehicle.

D. Responsibilities of the Primary Unit:

1. Immediately and continuously activate emergency lights and siren.
2. Immediately notify communications of:

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- a) his or her unit number.
 - b) the location, speed, and direction of travel.
 - c) reasons for the pursuit.
 - d) the description of the vehicle being pursued.
 - e) the number of occupants.
 - f) other agencies involved; and
 - g) location at the time the pursuit is terminated.
3. Provide updated information regarding direction of travel, speed, and other pertinent details until the secondary vehicle is available to take over the radio broadcast.
 4. Allow the secondary unit to assume all communications.
 5. Abandon the pursuit if any mechanical problems develop in the primary unit's vehicle.
 6. Terminate the pursuit if the hazardous circumstances or environmental factors present an unreasonable risk to public safety.

E. Responsibilities of the Secondary Unit:

1. The first deputy/officer arriving to assist the primary vehicle driver shall notify communications and becomes the secondary vehicle driver.
2. This deputy/officer shall receive immediate authorization from the supervisor to assist in the pursuit to the extent that a supervisor is available and monitoring the pursuit.
3. This deputy/officer shall activate and operate continuous emergency lights and siren from the point of entry into the pursuit until it is ended while following the primary vehicle at a safe distance and assume the radio communications for the primary vehicle driver.
4. If the primary unit vehicle becomes disabled, the secondary unit shall take over as the primary unit.

F. Responsibilities of the Supervisor:

1. Immediately assert control over the pursuit.
2. Control the number of authorized vehicles in the pursuit.
3. Immediately authorize continuation of the pursuit or order discontinuation depending on the hazardous circumstances and environmental factors present as communicated by the officer.
4. Order units to clear intersections in the likely path of the pursuit where appropriate.
5. Ensure that not more than two (2) vehicles engage in the pursuit unless additional vehicles are required based on the following circumstances:
 - a) the severity of the offense.
 - b) the number of occupants in the suspect vehicle; and
 - c) the likelihood of the suspects being armed.
6. Direct and approve necessary tactics in the pursuit including authorizing termination of the pursuit through approved use of force tactics.
7. Continuously evaluate the pursuit.

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8. Assign additional deputies/officers to traffic control, accident investigation, foot pursuit, and/or perimeter security.
9. Notify affected allied agencies, if necessary.
10. Order the discontinuation of the pursuit at any time hazardous circumstances or environmental factors present an unreasonable risk to public safety.
11. Respond to the scene of the termination of the pursuit.

G. Responsibilities of the Communications Center:

1. Assure that the supervisor of the pursuit is clearly identified and that the approval to initiate or continue the pursuit is broadcast.
2. Assure that pursuing deputies/officers (primary and secondary vehicle drivers) request supervisory approval and that all critical information is received from the officers involved and relayed to other units.
3. Keep the supervisor apprised of all relevant traffic problems and other actions that might impact upon the conduct of the pursuit.
4. Record all information received from the pursuing officer.
5. Clear the radio channel.
6. Conduct an inquiry of the license plate through NCIC.
7. Notify adjacent jurisdictions of the pursuit and the potential that it may enter their jurisdiction.
8. Continue monitoring the pursuit.

H. Uses of Force/Termination of Pursuit:

1. Roadblocks, the PIT maneuver, and tire deflation devices as well as the firearm, constitute seizures, i.e. a stopping of movement by a means intentionally applied. Officers should recognize that the use of a tactic that is likely to result in a serious crash constitutes deadly force and shall not be used unless deadly force is justified.
2. Use of firearms:
 - a) The use of firearms to affect the apprehension of a fleeing suspect is a use of deadly force.
 - b) Deputies/Officers shall not shoot at or from a moving vehicle unless:
 - 1) The deputy/officer has a reasonable belief that an occupant of the vehicle poses an imminent threat of death or serious physical injury to the officer or another person; or
 - 2) The deputy/officer has a reasonable belief that an occupant is using the vehicle in a manner that poses an imminent threat of death or serious physical injury to the deputy/officer or another person, and there is no avenue of escape.
3. Roadblocks: Only as a case of last resort where there is an imminent threat to public safety, and where authorized by a supervisor, may a roadblock be established. This decision to establish a roadblock shall consider:
 - a) The safety of the deputies/officers.
 - b) The risk of physical injury to the occupants of the pursued vehicle.

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- c) The protection of citizens and their property.
 - d) Stationary roadblocks must be clearly visible at a distance sufficient to enable approaching vehicles to stop safely. The deputy/officer in charge of the roadblock shall notify communications of the exact location.
4. PIT maneuver: Only deputies/officers trained in this particular maneuver will attempt to employ this procedure and shall not use this maneuver in speeds over 40 mph, unless deadly force would be justified.
5. Stop sticks/spike strips:
 - a) Only deputies/officers trained in the use of stop sticks/spike strips shall deploy them. Deputies/Officers are responsible for making sure that their use is contained in the pursuit report. The deploying deputy/officer shall advise pursuing units and all other units that they should distance themselves from the pursued vehicle and be prepared to slow down before entering the deployment site. Other traffic shall be diverted from the site if at all possible.
 - b) Stop sticks/spike strips may be used with the on-duty supervisor's authorization on pursuits entering this jurisdiction where an outside pursuing agency is actively engaged to promote the safety of innocent persons in the vicinity.
 - c) Stop sticks/spike strips/tire deflation devices could, under certain circumstances, constitute the use of deadly force. As with any use of force tactic, prior to the deployment of such a tactic, officers must be trained with respect to the tactic.
 - d) Deputies/Officers shall not use tire deflation devices on motorcycles or ATVs unless deadly force would be justified.
6. In all cases, deputies/officers should employ high-risk traffic stop techniques at the end of pursuits.
- I. **Reasons for Discontinuation of Pursuit:** Any officer involved in a pursuit shall terminate the pursuit, and immediately notify communications of his or her point of discontinuation under any of the following conditions:
 1. **A deputy/officer whose emergency lights/siren malfunction during a pursuit shall terminate his or her involvement in the pursuit.**
 2. When ordered by a supervisor, or any other higher-ranking member of the office/department.
 3. When any deputy/officer involved in the pursuit believes the level of danger created by the pursuit outweighs the necessity for immediate apprehension.
 4. When the risk conditions have increased, and the subject's identity has been established to the point where later apprehension can be accomplished and there is no longer any need for immediate apprehension.
 5. When the location of the pursued vehicle is no longer known.
 6. When motorists/pedestrians are involved in an accident as a result of the pursuit, immediate assistance shall be given. If there is only the marked primary police vehicle, then this vehicle must stop to provide assistance.

Discontinuation of a pursuit requires the officer(s)/deputy(s) to abandon all active attempts to stop and/or follow the suspected vehicles and officer(s)/deputy(s) shall turn off all emergency equipment.

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A deputy/officer will not be disciplined when, in the deputy's/officer's opinion, circumstances warrant terminating the pursuit.

J. Interjurisdictional Pursuits:

1. Pursuits from this jurisdiction into another jurisdiction:
 - a) Notify, through communications, the other jurisdiction as soon as possible of the reasons for the pursuit, the vehicle description and if assistance is requested.
 - b) Under Kentucky law, a peace officer in actual pursuit may continue a pursuit across corporate or county lines for the purpose of making an arrest.
 - c) When pursuits enter an adjoining state, deputies/officers are required to follow that state's laws.
2. Pursuits from another jurisdiction into this jurisdiction:
 - a) The communications staff should determine the number of sheriff/police vehicles from the other jurisdiction that are involved in the pursuit, find out the circumstances of the pursuit to include the offense, vehicle description and if assistance is requested.
 - b) Supervisors will only approve assistance from this jurisdiction if the pursuit is justified under office/department policy, and the number is limited to only one vehicle from the outside jurisdiction. In the event that the pursuit is not justified under department policy, an officer may assist in a support capacity alone.
 - c) If the pursuit does not conform to this policy, deputies/officers shall not engage in the pursuit but may attempt to control intersections to promote the safety of innocent persons in the vicinity.
 - d) **Stop sticks/spike strips may be used with the on-duty supervisor's authorization on pursuits entering this jurisdiction where an outside pursuing agency is actively engaged to promote the safety of innocent persons in the vicinity.**
 - e) A supervisor from this jurisdiction may proceed to the point of completion of the pursuit as quickly as possible.
 - f) The initiating agency will remain in control of any pursuit that crosses into this jurisdiction and will remain responsible for the pursuit, unless requested otherwise. This provision only applies when the initiating agency has jurisdiction within the Commonwealth of Kentucky to pursue within this state.
 - g) Generally, deputies/officers will not continue with a pursuit that has passed through this jurisdiction, once the pursuit has left this jurisdiction.

K. Report and Review Process:

The on-duty supervisor conducts an immediate investigation of the circumstances of the pursuit and shall submit a written report regardless of whether the pursuit was terminated, or the subject was apprehended. The office/departmental Pursuit Report Form (or state-designated pursuit) shall be completed after a pursuit. In addition to providing the required information on the form, the supervisor will indicate in the narrative section the following:

1. The reasonable suspicion articulated for engaging in the pursuit.
2. An account of all violations committed during the course of the pursuit.
3. A summary of tactics employed to apprehend the subject.

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4. The exact point of the apprehension or termination of any pursuit.
5. If the subject is apprehended, there should be an account of the officer's/deputy's involvement in that arrest.
6. The supervisor's report will include the following:
 - a) Officers assigned to the pursuit and the assignment of all those involved in the pursuit in various roles;
 - b) A summary of any collisions or other incidents arising from or related to the pursuit;
 - c) A complete evaluation on the adherence of the pursuit's conduct to the department's pursuit policy; and
 - d) If the supervisor terminated the pursuit, the time and location that the pursuit was ordered terminated.
7. Collect copies of reports and police vehicle video from all deputies/officers involved in the pursuit;
 - a) Order and include a copy of the communications/dispatch tapes;
 - b) Review each report to ensure that all required information is present;
 - c) Conduct an analysis of the pursuit and complete the appropriate section of the pursuit report; and
 - d) Attach copies of the officers'/deputy's reports, including his or her report and forward the packet to patrol commander/chief of police/sheriff.
8. The patrol commander or designee of the chief of police/sheriff will either submit the report to any Accident/Safety Review Board or determine compliance with the statutes and policies and make a recommendation for further action (various forms of commendation, discipline, suspension, letter, verbal reprimand, and/or retraining).

L. Video Recordings:

Deputies/Officers may record pursuits utilizing video recordings. These recordings are for law enforcement purposes only and must be held and disseminated in accordance with K.R.S. 189A.100.

M. Training:

Deputies/Officers should be trained to utilize any equipment or tactic used during a pursuit.

N. Annual Report:

The office/department shall prepare an annual report evaluating the pursuit history and frequency during that year. This report shall assess the adequacy of the written policy, training and field implementation of the department's pursuit policy.

PROPERTY POLICY

All property that remains in the custody of the property clerk without any lawful claimant thereto, and which is contraband or which is subject to forfeiture and on which there will be no court action shall be ordered forfeited by the Circuit Court of the county not less than ninety (90) days after it comes into the possession of the property clerk. The order of forfeiture shall

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specify the manner of disposition of the property and shall be consistent with applicable provisions of the Kentucky Revised Statutes and federal law. If the property is ordered and sold the proceeds shall go to the Whitley County Sheriff Dept., if the property was seized by the sheriff or an agency or peace officer/deputy of the county.

FORFEITURE OF ASSETS

I. POLICY

The Kentucky Controlled Substance Act, KRS 218A.410 et seq., authorizes law enforcement agencies to seize and forfeit any property or contraband article which has been used, is being used, or was intended to be used in violation of any provision of the Act.

It is the policy of this Sheriff's Office to utilize the forfeiture provisions to the fullest extent possible in order to impact upon crime, yet protect innocent owners, while providing our agency with the maximum amount of economic benefit for the continued enforcement of the Kentucky Controlled Substances Act.

II. PURPOSE

The purpose of this policy is to standardize office/department policies and procedures used in seizing, maintaining and forfeiting assets pursuant to the provisions of law, and to ensure that seized property is seized and maintained in an efficient and lawful manner. The provisions contained in this policy are intended to guide our agency when involved in the seizure and forfeiture of property.

III. PROCEDURES

- A.** Seizure of vessels, vehicles, aircraft, currency, or other personal property or contraband articles.
 - a.** This sheriff's Office may seize property for forfeiture under the Act without process if it determines that:
 - a)** The seizure is incident to an arrest or a search under a search warrant; or,
 - b)** The property subject to seizure has been the subject of a prior final order of forfeiture; or,
 - c)** The Sheriff's Office has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or,
 - d)** The Sheriff's Office has probable cause to believe the property is subject to forfeiture pursuant to KRS 218A.410.
 - b.** Probable cause seizures taking place at the time of violations may be made without prior judicial approval.

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- c. Property not seized at the time of violations presently located on private premises should be seized pursuant to a court order authorizing entry onto the private premises, unless otherwise authorized by law.
- d. As soon as practicable following seizure, a Sheriff's Office supervisor shall make a diligent effort to determine ownership of the seized property, including the identification of the registered owner(s), title holder, and bona fide lien holder(s), if any.
- e. The Sheriff's Office shall give notice of the seizure to the owner(s) and /or bona fide lien holder(s) if any, once identified, within twenty-one (21) days after the identification is made. Such notice may be made by certified mail, return receipt requested.
- f. Following the Sheriff's Office determination not to proceed with forfeiture based upon innocent-owner considerations, the agency shall release the seized property to the lawful owner or his legally authorized designee.
- g. As soon as practicable after the seizure, the seizing deputy should complete an offense or seizure report, particularly describing the circumstances attendant to the seizure and forward same to the Commonwealth Attorney who will be handling the forfeiture action.

B. Seized vessels, vehicle and aircraft storage and maintenance.

- a. At the time of seizure, vessels, vehicles, aircraft's, etc. towed to a secure storage facility or other appropriate storage location as may be authorized by office/department supervisor.
- b. A complete inventory of the seized property and all containers, open or closed, found therein, shall be completed at the time of the seizure. As soon as practicable after seizure, the sheriff's office shall make a good faith attempt to release to the lawful owner all personal property (e.g., clothing) seized with items impounded and not being retained as evidence or for forfeiture. If the owner is unknown, has been arrested, or is otherwise unavailable to take possession of the property, the property shall be placed in a secure location to be released to the owner at a later date.
- c. **Any personal property seized as evidence shall be packaged and stored separately and handled in accordance with established procedures for the processing of evidence.**
- d. Reasonable attempts shall be made to maintain the property in time-of-seizure-condition. Although all rights, interest in and title to seized assets vest immediately in the seizing agency upon seizure, seized items shall not be used for any purpose until the rights, interest in and title to the seized property are perfected by final order of forfeiture. This section does not prohibit use or operation necessary for reasonable maintenance of seized property.
- e. If special maintenance is required to maintain seized property in time-of-seizure-condition as may be necessary with aircraft and vessels, the Sheriff's Office shall ensure that such maintenance is provided within a reasonable time after seizure, with such care continuing through the pendency of the forfeiture action. Appropriate agency forms should be maintained with seized property to document special or required maintenance.

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- f. Agency personnel shall make periodic inspections of all property which has been seized subject to forfeiture to insure continued the time of seizure conditions of the property is being maintained. Such inspections shall be documented appropriately.

C. Seizure and Forfeiture of Real Property

- a. The Sheriff's Office may seize real property only with process:
 - a) Real property subject to forfeiture may be seized pursuant to final judgement and order of forfeiture by the court with jurisdiction over the forfeiture action; or,
 - b) Real property may be seized prior to final judgement by the agency if it obtains a seizure order from the court following a hearing. Seizure prior to judgement is only permissible on a showing by the Commonwealth that seizure is necessary to preserve the property pending final judgement.
- b. Real property, which is seized prior to final judgement, must be maintained at time-of-seizure condition. On-going businesses, including agricultural enterprises, must be continued. For this reason, seizure of real property prior to final judgement of forfeiture is not recommended.
- c. Agencies with probable cause to believe that real property is subject to forfeiture will as soon as practicable consult with the appropriate Commonwealth Attorney to perfect the lien created in KRS 218A.410. A lien is preferred over pre-judgement seizure of real property.

D. Release of Seized Property

- a. If at the conclusion of the judicial process the claimant prevails, the seized property shall be released to the lawful owner immediately. Under these circumstances, the seizing agency shall not assess any towing charges, storage fees, administrative costs, maintenance costs, etc. against the claimant, unless so authorized by the appropriate court.
- b. In all other instances, if a seized vessel, vehicle, aircraft, etc. is to be released to the lawful owner, the seizing agency may assess against the owner the actual costs of towing, storage, and maintenance of the seized property. Absent settlement, administrative costs that do not reflect actual expenses shall not be assessed.
- c. Property, which has been seized as having evidentiary value, shall be treated accordingly, and shall NOT be released pursuant to this policy.

IV. RETENTION FOR OFFICIAL USE, SALE AND DISTRIBUTION

A. RETENTION OF VEHICLES

- a. Any vehicle seized and subsequently forfeited to this sheriff's office may be retained for official use.
- b. This sheriff's office may sell any vehicle retained. Funds from such sale shall not be considered as funds to be distributed.

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- c. Proceeds from sale of retained vehicles must be spent on a specific law enforcement purpose. "Specific law Enforcement Purpose" means any agency activity that materially facilitates enforcement of the law of the Commonwealth of Kentucky.
- d. This sheriff's office / police department must pay any bona fide perfected security interest on any forfeited vehicle retained for official use.

B. SALE OF FORFEITED PROPERTY

- a. All sales of property forfeited pursuant to the Controlled Substances Act must be advertised, public sales.
- b. The Commonwealth may transfer any forfeited real property sold by deed of general warranty.
- c. All bona fide, perfected security interests on forfeited property must be paid from proceeds of sale of such property.
- d. Controlled substances which have been forfeited but which have a lawful purpose may be sold to a proper buyer as determined by the regulations of the Cabinet for Human Resources.

C. DISTRIBUTION OF SALE PROCEEDS

Coin, currency, or the proceeds from the sale of property forfeited shall be distributed as follows:

- a. **Eighty-five percent (85%) shall be paid to the law enforcement agency or agencies which seized the property, to be used for direct law enforcement purposes; and**
- b. **Fifteen percent (15%) shall be paid to the Office of the Attorney General or, in the alternative, the fifteen percent (15%) shall be paid to the Prosecutors Advisory Council for deposit on behalf of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding, as determined by the court pursuant to subsection (9) of this section. Notwithstanding KRS Chapter 48, these funds shall be exempt from any state budget reduction acts.**

The moneys identified in this subsection are intended to supplement any funds otherwise appropriated to the recipient and shall not supplant other funding of any recipient.

- c. When money or property is seized in a joint operation involving more than one law enforcement agency, the apportionment of funds shall be made among the agencies in such a manner as to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture. Taking in to account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

V. REPORTING REQUIREMENTS

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A. SEIZURE REPORTS

- a. When this sheriff's office seizes property subject to forfeiture without court order shall immediately prepare a report completely describing and inventorying the property so seized. The original of the report shall be included in the criminal case file.
- b. Any sheriff's office that wishes to obtain a court order to seize property shall submit a "Request for Forfeiture" form to the appropriate prosecutor. A copy of the forfeiture lien notice shall be maintained in the criminal case file.
- c. Any sheriff's office that seizes money or property shall file a statement no later than 60 days after the close of the state fiscal year, June 30, with the Auditor of Public Accounts and the Secretary of the Justice and Public Safety Cabinet containing a detailed listing of all money and property seized in that fiscal year and the disposition thereof. The report should specifically contain assets seized and assets awarded to include cash, vehicles, weapons, and real property. This annual report must be completed and submitted to the Auditor of Public Accounts and the Secretary of the Justice and Public Safety Cabinet even if no forfeitures occurred during the fiscal year. Service of the report on the Secretary of the Justice and Public Safety Cabinet is complete by forwarding the report to the Kentucky Office of Drug Control Policy, 125 Holmes Street, Frankfort, Kentucky 40601, or by filing online at <https://secure.kentucky.gov/formservices/ODCP/AAF>. A copy of the annual report shall be maintained by the agency.

USE OF FORCE POLICY

- A. It is the policy of the Whitley County Sheriff Dept. to fill out a use of force form for all occurrences when a Deputy is forced to use:
1. **Chemical spray:** any chemical agent deployed to overcome subject resistance.
 2. **Impact tools/strikes:** any tools, object or body part to strike a subject
 3. **Electronic tools:** any electronic equipment on a subject being controlled

If there is no physical injury, these forms will be kept in the Deputies personnel file for a period of 1 year before being destroyed.

- B. **Chokehold definition:** A physical maneuver or technique that restricts an individual's Ability to breathe for the purpose of incapacitation. "Chokehold" does not include any holding involving contact with the neck that is not intended to reduce the intake of air.
- C. **Chokeholds and Neck Restraints:** A deputy shall not use a chokehold or neck restraint in the performance of his or her duties, **unless deadly force is justified.**
- 1) Deputies may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. Deputies shall not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted for the purpose of seizing evidence or preventing the destruction of evidence by ingestion.

D. Post-Restraint:

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- 1) Deputies restraining a subject should be cognizant of and avoid positional asphyxia. This agency prohibits prolonged face-down prone restraint.
- 2) As soon as practicable after the subject stops resisting, monitor the subject's condition. If the subject has difficulty breathing, exhibits other obvious signs of medical distress identifiable by any layperson, or requests medical assistance, deputies of this agency shall request medical assistance and may render aid in accordance with their training.
- 3) If the subject is being lodged in a correctional facility or taken to a medical facility, advise the intake personnel that the subject was rendered unconscious or subjected to a chokehold (deadly force) during restraint.

DUTY TO INTERVENE

- A. **Response to resistance:** Deputies of this agency have an affirmative duty to intervene if they witness a response to resistance that is clearly unreasonable. Any deputy present and observing another deputy using force that is clearly beyond that which is reasonable under the circumstances shall, when in a position to safely do so, intervene to prevent the use of unreasonable force. A deputy who observes another employee's response to resistance that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.
- B. Deputies of this agency must recognize and act upon the duty to intervene to prevent or stop any member from conducting any act that clearly violates the law or agency policy. Intervention may be verbal and/or physical. Failure to intervene may subject a deputy of this agency to disciplinary and or legal action.

II. REQUIRED ACTION

- A. Deputies should take a **proactive** approach to deescalate situations that clearly indicate a risk of misconduct.
- B. Deputies must notify a supervisor after conducting any type of intervention in response to a clear violation of law or agency policy.
- C. **Render Aid:** If any person is injured and requires medical attention, deputies of this agency shall request medical assistance and may render aid in accordance with their training.



**WHITLEY COUNTY SHERIFF
DEPARTMENT
SHERIFF TODD SHELLEY
P.O. BOX 118
WILLIAMSBURG, KY 40769
PHONE 606-549-6006 FAX 606-549-6082
Monday – Friday from 08:00am – 04:30pm**

I _____ have read the General Provisions Policy.
I hereby understand that this is the policy of the Whitley County Sheriff's
Department.

Signature

Date

Supervisor

Date