

Sample Law Enforcement Agency	
Unit: SAMPLE Police Department Policies	Directive Number: K - 0001
Title: Dominant Department Policy	Effective Date: May 13, 2000
Index:	Revision Date:
Issued by: Chief	Issued On: May 13, 2000
State Statutory References:	
CALEA Standard References:	
State/Other Accreditation References:	

This Directive is for internal use only, and other than as contraindicated here this Directive does not create or enlarge this Department's, governmental entity's, any of this Department's officers, and/or any other entities' civil, criminal, and/or other accountability in any way. This Directive is not to be construed as the creation of a standard of safety or care in any sense, with respect to any complaint, demand for settlement, or any other form of grievance, litigation, and/or other action. Deviations from this Directive, if substantiated, can only form the basis for intra-Departmental administrative action(s) (including discipline and/or termination).

Primary Objective - To establish this Department's policy foundation.

1. This policy supercedes, takes priority over, and controls any other policy of this Department.
2. This Department, and its Officers, endeavor to enforce the law^a under many competing, and often conflicting, demands, expectations, and post-incident (20/20 hindsight) critiques. Often, Officers are unfairly expected to enforce the law, while simultaneously, and unerringly, attempting to instantly and accurately adapt their conduct to adhere to many people's subjective, and often overly restrictive, ideas and notions of justice, public service, performance of duties, protection of lives and property, appropriateness of actions, etc. It is unfair to attempt to hold Officers accountable to nebulous, ambiguous standards of conduct^b that are not clearly established by law.
3. Due to the ever changing and constantly developing nature of law enforcement in dealing with unpredictable, often subject scripted/controlled, incidents that are frequently tense, uncertain, and rapidly evolving, Officers must be given broad latitude and discretion within clearly established law to perform their duties. Officers do not have the luxury of 20/20 hindsight. Nor, do Officers have an infallible crystal ball within which to gaze to accurately pre-determine the outcome of their, often split-

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- a. "Law" refers to those clearly established standards of conduct that are specifically delineated by Federal and Wisconsin state law. "Laws" may emanate from statutes, administrative requirements, common law and the like. Officers are expected to know the clearly established law. Officers must conform their behavior to those standards of conduct found in clearly established law.
 - b. So called standards of officer conduct found in, or allegedly created by, periodical articles, books, training documents, consultant's opinions, special interests groups' demands, etc. do not equate, in any way, to "clearly established" law.

second, decisions. Officers are not required to, nor are they expected to, take unreasonable risks to their, or their fellow Officers, safety.

4. Officers are seldom “**required**” (by clearly established law) to take action. When Officers are required to take action, those actions shall be measured by the standards set by clearly established law.
5. The basic, and overriding policy (except as delineated herein^c) of this Department is that Officers shall at all times, and under all circumstances, act within the confines/standards of incident-applicable clearly established Federal and Wisconsin state law. Meaning, that this Department’s policy (except as delineated within this Department’s policy manual) is identical to the standards of officer conduct clearly established by Federal and Wisconsin state law.^d
 - a. Obviously, Officers must first be in compliance with clearly established Federal law. Then, if Wisconsin has created a more restrictive standard of officer conduct (then Federal law), then Officers shall conform their conduct to the more restrictive nature of the incident-applicable clearly established Wisconsin state law.^e
 - b. If a clearly established Wisconsin law is “less” restrictive than Federal law, then Officers shall obey the more restrictive Federal law.^f

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- c. (Wisconsin) Law enforcement agencies may create department standards of performance that are more restrictive than applicable Federal and Wisconsin state law. However, in the vast majority of rules, standards, guidelines, policies, etc. this Department, as most departments, require its officers to adhere to the applicable standards defined by clearly established Federal and Wisconsin state law. ONLY where policies of this Department specifically establish standards of officer conduct that are more restrictive than applicable Federal and Wisconsin state law will Officers of this Department be held to a higher standard of care or performance than the law.
 - d. The principle reason that this Department’s policy is identical to clearly established Federal and Wisconsin state law is because it would be ludicrous, and impossible, for the Department to create redundant policies covering identical standards of conduct as provided by clearly established Federal and Wisconsin state laws. Any policy manual that would even attempt to duplicate applicable legal standards would be many volumes in length and require several full-time researchers, analysts, and writers to even attempt to keep the voluminous all-encompassing policy manual accurate and up-to-date.
 - e. The Wisconsin Constitution is generally construed to be identical to the United States Constitution. However, the State of Wisconsin has, in some very narrow areas, created State statutes that are more restrictive than Federal law. As an example: Federal Constitutional law (under the 4th Amendment) allows for sobriety check points. While the Wisconsin Constitution, as construed as identical to the United States Constitution, would allow sobriety check points, Wisconsin has created a statute that specifically requires Officers to possess reasonable suspicion of criminal activity before an officer is justified in seizing a motorist. Thus, while Federal law allows sobriety checkpoints, Wisconsin’s (statutorily created more restrictive) state law prohibits them.
 - f. There are some Wisconsin State statutes that are “less” restrictive than Federal law. While it appears as though an officer may be allowed to act within the less-restrictive State law without incurring potential negative scrutiny, this simply is not true. Officers are first required to adhere to the standards of Federal law. Then, if there is a more restrictive State law, the Officers must comply with the more restrictive State law. If there is a State law that is less restrictive than Federal law, the Officers may not make use of that portion of the less-restrictive (then Federal) State law.