Approved: *Chief Marcia Harnden*	Subject: **800. Standards of Conduct**	
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800.1: PURPOSE AND SCOPE

This policy establishes standards of conduct which are consistent with the values and mission of the Albany Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions, but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct which may be disseminated by this department or a member's supervisors.

800.2: POLICY

It is the policy of the Albany Police Department to establish a set of guidelines for expected conduct of its employees. The continued employment or appointment of every member of the Albany Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. This policy is not intended to cover every type of misconduct. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

800.3: GENERAL STANDARDS

a. Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and Oregon Constitutions and all applicable laws, ordinances and rules enacted or established pursuant to legal authority.

b. Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

800.4: ORDERS

Members shall respond to and make a good faith and reasonable effort to comply with the lawful order of superior officers, including any order relayed from a superior by an employee of the same or lesser rank, and other proper authority.

800.4.1: UNLAWFUL AND CONFLICTING ORDERS

a. No member is required to obey any order which outwardly appears to be in direct conflict with any federal or state law, or local ordinance.

   1) If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or confer with a higher authority.

   2) Responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

b. Unless it would jeopardize the safety of any individual, members who are presented with an order that is in conflict with a previous order, department policy, or other directive, shall respectfully inform the issuing supervisor of the conflict.

c. The issuing supervisor is responsible for either resolving the conflict or clarifying that the order is intended to countermand the previous order or directive, in which case the member is obliged to comply.

d. Members who are compelled to follow a conflicting order after having given the issuing supervisor the opportunity to correct the conflict are not held accountable for disobedience of the order or directive initially issued.

e. The person issuing the countermanded order shall be notified in writing by the person issuing the second command of the action taken and the reason therefore.

800.5: SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

a. Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.

b. Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.

c. Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.

d. The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

800.6: CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service.

800.6.1: LAWS, RULES, AND ORDERS

a. Violation of, or ordering, or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement, or failure to follow instructions contained in City manuals.

b. Disobedience of any lawful directive or order issued by any department member of a higher rank.

c. Violation of federal, state, local, or administrative laws, rules, or regulations.

800.6.2: ETHICS

a. Using or disclosing one's status as a member of the Albany Police Department (APD) in any way which could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.

b. The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.

c. Acceptance of fees, gifts, or money contrary to the rules of this department (see section 800.8 of this policy) and/ or state laws.

d. Offer or acceptance of a bribe or gratuity.

e. Misappropriation or misuse of public funds, property, personnel, or services.

f. Any other failure to abide by the standards of ethical conduct.

800.6.3: INTOXICANTS

a. Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication, or drugs, whether legal, prescribed, or illegal.

b. Use or consumption of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.

c. Unauthorized possession or use of a controlled substance, illegal drug (which includes recreational and medicinal marijuana) or non-prescribed medication.

800.6.4: DISCRIMINATION, OPPRESSION, OR FAVORITISM

Discriminating against, oppressing or providing favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

800.6.5: RELATIONSHIPS

a. Unwelcome solicitation of a personal or sexual relationship while on duty or through the use of one's official capacity.

b. Engaging in on duty sexual activity including, but not limited to, sexual intercourse, excessive public displays of affection or other sexual contact.

c. Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.

d. Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.

e. Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

800.6.6: ATTENDANCE

a. Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission or approval.

b. Unexcused or unauthorized absence or tardiness.

c. Excessive absenteeism or abuse of leave privileges.

d. Failure to report to work or to place of assignment at the time specified and fully prepared to perform duties without a reasonable excuse.

800.6.7: UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

a. Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the member's position with this department.

b. Disclosing to any unauthorized person any information on an active investigation.

c. The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.

d. Loaning, selling, allowing unauthorized use, giving away or appropriating any APD badge, uniform, identification card or department property for personal use, personal gain or any other improper or unauthorized use or purpose.

e. Using department resources in association with an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

800.6.8: EFFICIENCY

a. Neglect of duty.

b. Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.

c. Concealing, attempting to conceal, removing or destroying defective or incompetent work.

d. Unauthorized sleeping during on-duty time or assignments.

e. Failure to notify the Department within 72 hours of any change in residence address, contact telephone numbers or marital status.

800.6.9: PERFORMANCE

a. Failure to disclose or misrepresenting material facts or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

b. The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.

c. Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.

d. Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.

e. Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.

f. Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:

1) While on department premises;

2) At any work site, while on duty or while in uniform, or while using any department equipment or system;

3) Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.

g. Improper political activity, including:

1) Unauthorized attendance while on -duty at official legislative or political sessions.

2) Solicitations, speeches, or distribution of campaign literature for or against any political candidate or position while on duty or on department property except as expressly authorized by City policy, the collective bargaining agreement, State law, or the Chief of Police.

h. Engaging in political activities during assigned working hours except as expressly authorized by City policy, the collective bargaining agreement, State Law, or the Chief of Police.

i. Any act on or off duty that brings discredit to this department.

800.6.10: CONDUCT

a. Failure of any member to promptly and fully report activities on their part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that would lead a reasonable person to believe that the conduct could result in criminal prosecution or discipline under this policy.

b. Unreasonable force to a person encountered or a person under arrest.

c. Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.

d. Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.

e. Engaging in horseplay that reasonably could result in injury or property damage.

f. Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.

g. Excessive use of obscene, indecent, profane or derogatory language while on duty or in uniform.

h. Criminal, dishonest, or disgraceful conduct, whether on or off duty, that adversely affects the member's relationship with this department.

i. Unauthorized possession of, loss of, or damage to department property or the property of others or endangering it through carelessness or maliciousness.

j. Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.

k. Any other on or off duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

800.6.11: SAFETY

a. Failure to observe or violating department safety standards or safe working practices.

b. Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver's license, first aid).

c. Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties with or without reasonable accommodations.

d. Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on or off duty.

e. Carrying, while on the premises of the workplace, any firearm or other lethal weapon that is not authorized by the Chief of Police.

f. Unsafe or improper driving habits or actions in the course of employment or appointment.

g. Any personal action contributing to a preventable traffic collision.

h. Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practical, but within 24 hours.

800.7: DUTY TO INTERVENE

a. Without regard to rank or assignment, any employee (within their scope of training) shall intervene to prevent or stop another employee engaged in any act the intervening employee knows or reasonably should know is misconduct, unless the intervening employee cannot intervene safely.

b. Any employee who witnesses another employee engaging in misconduct shall report the misconduct to a supervisor as soon as practical, but no later than 72 hours after witnessing the misconduct.

c. Supervisors are required to act on the report by documenting and notifying the Chief of Police with the report of misconduct.

d. Misconduct is defined as (Oregon House Bill 4205):

1) Unjustified or excessive force that is objectively unreasonable under the circumstances or in violation of Use of Force: Policy 0240;

2) Sexual harassment or sexual misconduct;

3) Discrimination against a person based on race, color, religion, sex, sexual orientation, national origin, disability or age;

4) A crime; or

5) A violation of the minimum standards for physical, emotional, intellectual, and moral fitness for public safety personnel established under ORS 181A.410, OAR 259-008-0010, OAR 259-008-0011, and OAR 259-008-0025.

A. Intentional conduct performed under the color of office to:

1. Obtain false confessions;

2. Make false arrests;

3. Create or use falsified evidence, including false testimony, or to destroy evidence to create a false impression;

4. Compel a person to abstain from doing, or to do, any act that the person has a legal right to do or abstain from doing;

5. Deprive, or attempt to deprive, another person or persons of their legal rights; or

6. Gain advantage for a public or private safety agency or for personal gain.

B. Intentional conduct that includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification or reckless disregard for the truth.

C. Intentional conduct that includes the use or attempted use of one's position or authority as a public safety professional to obtain a benefit, avoid a detriment or harm another.

D. Conduct that threatens or harms persons, property or the efficient operations of any agency.

800.7.1: RETALIATION

APD may not discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment for the reason that the officer intervened or reported as required by Oregon HB 4205. Violation of this is an unlawful employment practice as provided in ORS 659A.199.

800.7.2: DISCIPLINE

a. Failure to intervene or report as required by ORS 181A.681, is grounds for disciplinary action against an employee and for suspension or revocation of an officer's certification by the Department of Public Safety Standards and Training (DPSST) as provided in ORS 181A.630, 181A.640 and 181A.650.

b. Within 10 days after an economic sanction as part of discipline imposed on a police officer has become final and the arbitration process is complete, APD shall report on the discipline to DPSST (ORS 181A.686). The report must include:

   1) The name and rank of the officer disciplined;

   2) The name of the disciplining agency (APD); and

   3) A description of the facts underlying the discipline imposed, including a copy of any final decision.

800.8: GIFTS AND GRATUITIES

Members should not accept from any person, business, or organization any gift (including money, tangible or intangible personal property, food, beverage, loan promise, service, or entertainment), which may, in the public mind, be interpreted as capable of influencing their judgment in the discharge of their duties. If circumstances arise where a gift or other item of value comes into the possession of an employee, the item will be forwarded to the Chief of Police or their designee. A memo or email explaining the circumstances of receipt shall accompany the item.

Permissible actions include the following:

a. An employee is a guest speaker or is being honored by an organization and receives a meal and an award.

b. A service organization or retail merchant wishes to donate a gift to a department-sponsored event.

c. Employees are permitted to accept a nonalcoholic beverage from an associate, friend or acquaintance other than at a business establishment (restaurant, convenience store, bar), where there is normally a charge for the beverage.

d. Employees may accept unsolicited advertising or giveaway material such as pens, pads, calendars, diaries, coffee cups, or similar items of little or nominal value.

e. An anonymous person pays for an employee's food or drink which is less than $25.

f. Employees may accept a nonalcoholic beverage or snack from a community member while attending or working at a public event.