

DESTRUCTION OF PROPERTY

POLICY:

It is the policy of the Omaha Police Department (OPD) that employees shall report both criminal and non-criminal Destruction of Property incidents that are not solely an Act of God/nature. Non-Criminal Destruction of Property incidents have the potential to create liabilities for the City of Omaha.

DEFINITIONS:

Criminal Mischief: The act of intentionally or recklessly damaging the property of another, intentionally tampering with property of another so as to endanger person or property, or intentionally or maliciously causing another to suffer pecuniary loss by deception or threat (Nebraska Revised Statutes (NRS) [§28-519](#)).

Non-Criminal Destruction of Property: These types of incidents include, but are not limited to, Acts of God/nature, or a Destruction of Property which is the result of officers or other emergency employees performing necessary duties. Examples include, but are not limited to, damage caused by an officer using physical force to open a door to serve a search warrant, police or fire employees forcing entry into a residence, building, or vehicle to rescue or assist an injured person, etc.

PROCEDURE:

I. Criminal Destruction of Property – Reporting

- A. Persons suspected of Destruction of Property (Criminal Mischief) as defined in NRS [§28-519](#) (Criminal Mischief) will be charged as follows:
 - 1. Class IV Felony: Damage resulting in a pecuniary loss of \$5,000 or more, or substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public service.
 - 2. Class I Misdemeanor: Damage resulting in a pecuniary loss greater than or equal to \$1,500 but less than \$5,000.
 - 3. Class II Misdemeanor: Damage resulting in a pecuniary loss greater than or equal to \$500 but less than \$1,500.
 - 4. Class III Misdemeanor: Damage resulting in a pecuniary loss less than \$500, including no pecuniary loss.
- B. Officers will use their best judgement to determine the estimated cost of the damage.
- C. When a Destruction of Property incident occurs on rented property, the renter will be listed as the victim even if property belonging to the owner is damaged or involved.
 - 1. The owner of the property will be identified as clearly as possible in the narrative section of all applicable reports.

II. Non-Criminal Destruction of Property – Reporting

- A. When the actions of an OPD officer cause non-criminal damage to property, the officer will complete an Incident Report.
 - 1. This report will also be completed whenever an officer determines there is a possibility of a damage-related lawsuit against the City of Omaha (not involving a traffic crash, as reported on a State Accident Report).

2. Officers will document the "Non-Criminal Destruction of Property" incident as well as the non-criminal nature of the incident.
 - a. Officers will indicate that the incident is a "Non-Criminal Destruction of Property" on the Incident Report.
 - b. Officers will make every reasonable effort to thoroughly document all Non-Criminal Destruction of Property.
 - c. The damage and surrounding area will be documented via Body Worn Camera (BWC), if available. If inadequate lighting or other circumstances prohibit this, or if BWC is not available, the officer will request the Forensic Investigations Unit (FIU) to respond to the scene to take photographs.
 - d. Information Reports alone shall not be used to document Non-Criminal Destruction of Property incidents.
- B. A Chief's Report ([OPD Form 214](#)) will also be completed regarding police-initiated, Non-Criminal Destruction of Property incidents. Officers will document the Incident Report number on the Chief's Report.

NOTE: See the OPD "[Searches – Private Property and Residences](#)" policy for details related to securing private property that is damaged while serving an arrest and/or search warrant.

REFERENCES:

I. Laws

- A. Nebraska Revised Statutes (NRS) [§28-519](#).

II. Previous OPD Orders

- A. Previous General Orders: #24-84, 84-88, 21-89, 14-09, 48-14, 43-17, 41-21, and 59-24.

III. Other

- A. PPM Monthly Updates: #3-2020.