



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING INSTRUCTION

FEDERALLY CONTROLLED EQUIPMENT

ISSUED: January 19, 2024

EFFECTIVE: January 19, 2024

REVIEWED/APPROVED BY:
Assistant Chief Steven Johnson
DATE: December 13, 2023

ACTION: Creates SOI

WILEAG STANDARD(S): NONE

I. PURPOSE

The purpose of this standard operating instruction is to identify the strategies and oversight the Milwaukee Police Department will adopt concerning the appropriate use and oversight of federally controlled equipment. Federally controlled equipment is defined as only that equipment outlined in subsection III of this standard operating instruction and issued by the federal government or purchased with federal funds.

II. POLICY

The Milwaukee Police Department will provide the appropriate training, oversight, and documentation for the use of federally controlled equipment.

III. DEFINITIONS

A. COMMAND AND/OR CONTROL VEHICLES

Any wheeled vehicle either purpose-built or modified to facilitate the operational control and direction of public safety units responding to an incident. Command and control vehicles are similar to a recreational vehicle and can accommodate multiple people at multiple workstations in the command center. This is not intended for other types of vehicles that could serve as a command and control center, including sport utility vehicles (SUVs).

B. FEDERALLY CONTROLLED EQUIPMENT

Any equipment acquired from the federal government through excess equipment transfers, asset forfeiture programs, and property defined as "controlled property" or "controlled equipment" in federal statutes, regulations, or federal grant award conditions. This includes equipment acquired from the Department of Defense, Department of Justice, Department of Homeland Security, Department of the Treasury, and Office of National Drug Control Policy. The allowed and prohibited controlled equipment that can be acquired is defined by each federal government agency, and the Milwaukee Police Department shall adhere to these standards.

C. SIGNIFICANT INCIDENT

As defined by the Office of Justice Programs (OJP), any law enforcement operation or

action that involves:

1. A violent encounter among civilians or between civilians and the police;
2. A use of force that causes death or serious bodily injury;
3. A demonstration or other public exercise of First Amendment rights; or
4. An event that draws, or could be reasonably expected to draw, a large number of attendees or participants, such as those where advanced planning is needed.

G. TACTICAL VEHICLES

This is wheeled vehicle purpose-built to operate on-and off-road in support of military operations, such as a HMMWV ("Humvee"), 2.5 ton truck, 5-ton truck, or a vehicle with a breaching or entry apparatus attached. This excludes commercially available vehicles not tactical in nature, such as pick-up trucks or SUVs being used in the ordinary course by police forces in the United States for patrol activities.

IV. APPLICATION AND USE OF FEDERALLY CONTROLLED EQUIPMENT

- A. The department shall only use grant funds to purchase controlled equipment allowed by the respective federal agency and shall not use grant funds to purchase equipment listed as prohibited by the respective federal agency.
- B. The department shall only use OJP grant funds to purchase controlled equipment allowed by the OJP and shall not use grant funds to purchase equipment listed as prohibited by the OJP. Controlled equipment that can be purchased using OJP grant funds include:
 1. Command and/or Control Vehicles.
 2. Tactical Vehicles.
 3. Manned aircraft, fixed, and/or rotary wing.
 4. Specialized firearms and ammunition under .50 caliber. This excludes service-issued handguns, rifles, or shotguns that are issued or approved by the department to be used during the course of regularly assigned duties.
 5. Explosives and pyrotechnics.

Note: The department shall obtain approval by resolution from the City of Milwaukee Common Council prior to attempting to procure any weapons, ammunition, explosives, or pyrotechnics as listed in subsection 4 and 5. The items listed in subsection 4 and 5 shall not be acquired with the intention to be used for crowd management purposes after the equipment is acquired.

- C. Upon receipt of grant funds, the department shall not obligate, expend, or draw down

funds for items on the controlled equipment list without prior written post-award approval from the respective federal agency.

V. TRAINING

- A. All training related to federally controlled equipment shall be approved by the training director, or designee, in accordance with SOP 082 Training and Career Development.
- B. Department members shall be required to show technical proficiency in the operation or utilization of the controlled equipment prior to using the equipment.
- C. Training related to controlled equipment, when applicable and feasible, should include scenario-based training that combines constitutional and community policing principles with equipment-specific training.
- D. Department members who are authorized to utilize or authorize the use of federally controlled equipment shall receive annual training on this SOI and in the appropriate use of the equipment.
- E. The Training Division shall maintain training records in accordance with SOP 082 Training and Career Development for a period of at least three (3) years, and must provide a copy of these records, upon request, to the Federal agency that supplied the equipment/funds.

VI. APPROPRIATE USE OF FEDERALLY CONTROLLED EQUIPMENT

- A. Prior planning, to include the requirements for deployment and the level of supervisory approval necessary, should precede any use of federally controlled equipment. When, due to exigent circumstances, this is not possible and immediate use of the equipment is necessary for officer safety reasons or lifesaving operations, the involved officers will make appropriate notification to their supervisor as soon as possible after the incident.
- B. Only department members who have received the required training shall be authorized and allowed to utilize federally controlled equipment, even when deployed in other jurisdictions.
- C. The department will ensure that all requirements listed in SOP 230 Mutual Aid are met prior to supporting another agency's request for the use of resources and capabilities that are supported with federally controlled equipment. Authorization for use of federally controlled equipment in other jurisdictions must be approved by the Chief of Police, or his/her designee.

VII. SUPERVISION OF USE OF FEDERALLY CONTROLLED EQUIPMENT

Absent exigent circumstances, federally controlled equipment should only be utilized for previously approved purposes and with the appropriate level of supervision.

VIII. EVALUATION OF USE OF FEDERALLY CONTROLLED EQUIPMENT

- A. The commanding officer, or designee, of any work location that maintains federally

controlled equipment shall file an After Action Report on a *Department Memorandum* (form PM-9E) when any law enforcement activity involves a "Significant Incident" that requires, or results in, the use of any federally controlled equipment. The After Action Report shall include at minimum:

1. Identification of controlled equipment used (e.g., type of equipment and number of units of controlled equipment used, make/model/serial number);
 2. Description of the law enforcement operation involving the controlled equipment;
 3. Identification of department members who used the equipment and, if possible, civilians involved in the incident; and
 4. Result of controlled equipment use (e.g., arrests, use of force, victim extraction, injuries).
- B. The After Action Report shall be maintained by the work location for a period of at least three (3) years and the department must provide a copy of these records, upon request, to the Federal agency that supplied the equipment / funds.
- C. The department shall evaluate the need for continued use of controlled equipment on a regular basis and shall provide an annual communication file on the use of federally controlled equipment summarizing the After Action Reports to the Fire and Police Commission.

IX. AUDITING AND ACCOUNTABILITY OF FEDERALLY CONTROLLED EQUIPMENT

- A. It will be the responsibility of the Milwaukee Police Department and its members to maintain their equipment in the best condition possible. MPD shall maintain a database with photographs of federally controlled equipment in the N: drive.
- B. The commanding officer of any work location that maintains federally controlled equipment shall complete an annual physical inventory and document the below information in a *Department Memorandum*. Annual inventories shall be completed by January 31 for the prior year.
1. Provide serial numbers and photographs identified in the annual inventory process for all controlled equipment. A photograph will suffice for equipment that does not contain a serial number.
 2. Certify the accountability of all controlled equipment received by conducting and certifying the physical inventory.
- C. The commanding officer of any work location that maintains federally controlled equipment shall issue all consumable items to the individual member and track the issue items electronically in the N: drive.
- D. The commanding officer of any work location that maintains federally controlled equipment shall ensure any reporting requirements required by the agency or program

that provided the equipment are completed and followed.

E. In the case of missing, lost, stolen, damaged or destroyed federally controlled equipment, the commanding officer of the work location that maintains the equipment shall:

1. Enter any missing weapon information (including serial number) in the National Crime Information Center (NCIC).
2. Complete the required report(s) in the Record Management System.
3. Conduct an internal investigation to determine cause. If the commanding officer determines there was a possible violation of department policy or the Code of Conduct, he/shall instruct a supervisor to conduct an investigation pursuant to SOP 450 – Personnel Investigations.
4. Ensure all reporting requirements required by the agency or program that provided the equipment are followed.

F. TRANSFER / SALE OF AWARD FUNDED CONTROLLED EQUIPMENT

1. The Milwaukee Police Department may transfer or sell any controlled equipment acquired to another law enforcement agency. Prior to finalizing any transfer or sales agreement, the Milwaukee Police Department must inform and obtain approval from the Federal agency that supplied the controlled equipment/funds. The acquiring law enforcement agency must submit the same information that was required of the Milwaukee Police Department to, and receive approval from, the Federal agency.
2. The department may transfer or sell only the following types of controlled equipment to non-law enforcement agencies: fixed wing aircraft; rotary wing aircraft; command and control vehicles; and tactical vehicles. All law enforcement-related and other sensitive or potentially dangerous components, and all law enforcement insignias and identifying markings, must be removed prior to transfer or sale. The department must inform and receive approval from the Federal agency from which the controlled equipment or funding to purchase the equipment was acquired prior to the finalization of any transfer or sale.

G. DISPOSAL OF AWARD FUNDED CONTROLLED EQUIPMENT

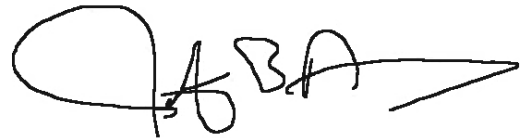
The department shall abide by all applicable federal law, state law, and local ordinances, regulations, and programmatic terms when disposing of federally controlled equipment. Prior to disposal, the department must notify the Federal agency that supplied the controlled equipment/funds.

X. TRANSPARENCY AND NOTICE CONSIDERATIONS REGARDING FEDERALLY CONTROLLED EQUIPMENT

- A. The Milwaukee Police Department will actively engage the public to inform them of the purpose and intended use of federally controlled equipment. While maintaining operational security needs, the department will explain the application of certain pieces of

equipment and how they will be utilized to protect both civilians and officers. The department will provide this information to the community through the following, but not limited to, methods:

1. Through the department's social media platforms.
 2. Presentations to the Milwaukee Fire and Police Commission and respective Common Council Committees.
 3. Public presentations (e.g., town hall meetings, community events).
- B. The department will also provide information regarding the cost of federally controlled equipment as a result of the department's participation in such federally controlled equipment programs annually to the City of Milwaukee Public Health and Safety Committee.

A handwritten signature in black ink, appearing to read 'J.B.N.' followed by a stylized flourish.

JEFFREY B. NORMAN
CHIEF OF POLICE

JBN:mfk