



# Vice Crime Enforcement Policy Assessment

Prepared by:



December 12, 2022

## City of Flagstaff Mission and Vision

**To protect and enhance the quality of life for all.**

The City of Flagstaff is a safe, diverse, just, vibrant and innovative community with a unique character and quality of life for all. The City fosters and supports economic, environmental, educational and cultural opportunities.



# Flagstaff Police Department Vice Crime Enforcement Policy Review

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City of Flagstaff, AZ.

Dan Olson  
LD Consulting LLC

December 12, 2022

At your request, LD Consulting performed a review / assessment of the Flagstaff Police Department (FPD) policies related to vice crime enforcement. FPD management is responsible for establishing and monitoring effective internal controls / policies regarding FPD operations. This assessment is part of an ongoing effort by the City of Flagstaff and the FPD to evaluate and improve operations as well as promote organizational transparency to the citizens of Flagstaff.

After consulting with City Management, the following items were identified as the major criteria for the assessment.

- FPD Policies
- FPD Procedures / Practices
- Memorandum of Understanding (MOU) / Task Force Agreements
- Audio and Video Recording Procedures

The assessment team would like to thank you as well as your dedicated staff for their cooperation during the engagement. They were professional and knowledgeable. Their assistance contributed significantly to the successful completion of this project.



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Dan Olson, LD Consulting LLC

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### Attachments:

1. Contributing Project Consultants Information

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## EXECUTIVE SUMMARY

In an ongoing effort by the City of Flagstaff to evaluate and improve operations as well as promote organizational transparency to the citizens of Flagstaff, LD Consulting performed an assessment of the Flagstaff Police Department (FPD) policies related to vice crime enforcement. FPD management is responsible for establishing and monitoring effective internal controls / policies regarding FPD operations. The following is a summary of the objectives and findings of the assessment.

**Objectives:** Review the following policies / documents regarding vice crimes / prostitution / human trafficking.

- FPD Policies
- FPD Procedures / Practices
- Memorandum of Understanding (MOU) / Task Force Agreements
- Audio and Video Recording Procedures

Enforcement of prostitution laws can be complicated and time consuming. Prostitution investigations can include street prostitution, in-call and out-call services, massage parlors and similar businesses used as a front for prostitution as well as the investigation of related crimes such as human trafficking and kidnaping.

The investigative skills needed to investigate prostitution, gambling and related crimes can be time consuming to learn and to maintain. Many agencies have a need for a vice enforcement unit to investigate such crimes due to the high volume of such crimes in their jurisdiction.

If FPD has a need to maintain a trained unit to conduct such investigations, then the department should develop related investigative policies and procedures (see below) needed to provide direction and guidance to those investigators tasked with those responsibilities.

Should the department make the decision not to engage in such investigations due to the lack of volume, then FPD should enter into a Mutual Aid Agreement with a neighboring agency that maintains such a unit and is willing to assist FPD.

FPD should develop and implement more extensive policies and procedures for undercover operations not related to vice enforcement (see below). FPD has an adequate Confidential Informant policy. More extensive policies regarding aspects of undercover operations are needed. Areas such as surveillance, legal issues and limitations are areas to be addressed.

### **Findings:**

- ❖ **Metro Narcotics Policy Review:** Northern Arizona Street Crimes Task Force Metro Narcotics Policy does not make any reference to vice / prostitution criminal investigations. The policy is used for undercover operations as a supplement to FPD policy. It was last revised in 2018 and policies are cross referenced to 2011 policies prior to the current Lexipol published policies.
  - **Recommendations:** Three

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- ❖ **Flagstaff Police Department Policy Manual Review:** A review of the Flagstaff Police Department (FPD) policy manual for 2019 and revised in 2022 found no policies regarding vice or prostitution investigations. This is inconsistent with generally accepted practices.
  - **Recommendation:** One
  
- ❖ **Memorandum of Understanding / Agreements Review:** A review of Memorandums of Understanding between the Flagstaff Police Department and other agencies identified MOU's with Homeland Security and Alcohol Tobacco and Firearms (ATF) at the time of the prostitution investigation (2019). Both were for reimbursement expenses in joint operations with no reference to prostitution or human trafficking.
  - **Recommendation:** None
  
- ❖ **Video Policy Procedure Review:** The majority of policy in place during the 2019 investigation regarding video storage and duplication is in the FPD policy manual sections 804.61 and 814. The FPD has implemented the Evidence.com digital evidence storage system. Evidence.com procedures for undercover audio / video are not referenced in the current policy section 811 Digital Evidence Recorded by Officers.
  - **Recommendation:** One

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## **METHODOLOGY**

The assessment team reviewed all applicable documentation, including the FPD policy manual, metro task force policy and memorandums of understanding related to vice or prostitution investigations. For best practices, the International Association of Chief of Police (IACP), the Commission on Accreditation of Law Enforcement (CALEA), the Arizona Law Enforcement Accreditation Program (ALEAP) were utilized as industry standards.

Between November 1<sup>st</sup> and 30<sup>th</sup>, 2022, the assessment team conducted a review of related policies and documents to evaluate current FPD policies, procedures and current practices related to vice criminal investigations for compliance with generally accepted practices. As part of the review the assessment team interviewed the Police Chief and Metro Sergeant.

### **Contributing Assessment Project Consultants**

- Dan Olson, Law Enforcement Consultant, CLEA
- Jack Harris, Law Enforcement Consultant, Phoenix Police Chief (retired)

Additional information regarding the consultants can be found in the attachment section of this report.

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## Terminology

**VICE criminal investigations** may involve prostitution, gambling, illegal use/sale of alcoholic beverages, and the distribution/sale of obscene and pornographic materials. Drug control focuses on the distribution/sale of illegal and controlled substances. Organized crime control should address unlawful activities by members of organized groups or associations engaged in or promoting extortion, theft, fencing, loan sharking, labor racketeering, or other offense for profit, or engaged in supplying illegal goods and services, prostitution, drugs, liquor, weapons-or other unlawful conduct that may include intimidation or corruption.<sup>1</sup> Some of these offenses may involve human trafficking.

**Public Nuisance** is another term used by some jurisdiction regarding prostitution, gambling, illegal narcotics, and related criminal activity.

[CALEA](#): Commission on Accreditation of Law Enforcement

[ALEAP](#): Arizona Law Enforcement Accreditation Program

## **Criminal Statutes and Ordinances:**

Criminal statues for the State of Arizona can be found within the Arizona Revised Statutes Title 13. 13-3214 Prostitution states, "It is unlawful for a person to knowingly engage in prostitution." ARS 13-3211.5, defines prostitution as, "engaging in or agreeing or offering to engage in sexual conduct under a fee arrangement with any person for money or any other valuable consideration."

ARS 13-3214 B. "does not prohibit cities or towns from enacting and enforcing ordinances to suppress and prohibit prostitution that provide a punishment for misdemeanor violations that is at least as stringent as provided in this section." 13-3214 C. states, "For the purposes of sentencing under this section, a previous violation of any city or town ordinance that prohibits prostitution and that has the same or substantially similar elements as this section shall be deemed to be a previous violation of this section."

The City of Phoenix has Ordinance G6473 which designates prostitution a crime within Phoenix. That Ordinance is specific on defining what elements constitute a violation and what the resulting penalties shall be. A review of the City of Flagstaff Ordinances identified Ordinance 3-08-001-00001, regarding Adult Oriented Businesses. No specific Ordinance regarding prostitution was identified.

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<sup>1</sup> CALEA Standard Chapter 43

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## **BACKGROUND**

Flagstaff, Arizona is located at the intersection of I-17 and I-40 and is the largest city in Northern Arizona. The City of Flagstaff is comprised of just over 64 square miles with a population of approximately 77,000.<sup>2</sup> The City is also the regional center and county seat for Coconino County.

Flagstaff was incorporated as a City in 1928 and currently is a council-manager form of government, the council is the governing body of the city, elected by the public, and the manager is hired by the council to carry out the policies it establishes.

The Flagstaff Police Department (FPD) is comprised of roughly 118 sworn police officers and 57 non-sworn support staff positions. Dan Musselman has been the Chief of Police since December 2020. The Chief of Police reports to the Deputy City Manager. The department consist of two main sections, the Operations Section, and the Support Services Section.

### ***Background: 2019 Investigation regarding massage businesses***

During the month of July 2019, detectives assigned to the Flagstaff Police Department (FPD) Metro Unit initiated an investigation into information regarding prostitution and human trafficking occurring at numerous massage businesses located in Flagstaff.

Chief Musselman was not the Police Chief at the time of this criminal investigation but has been with the department for twenty-seven years. He advised that historically, it was very rare for the department to receive complaints related to prostitution, gambling, or human trafficking. During his tenure with FPD he could recall only one complaint several years ago regarding prostitution.

At the time of the investigation in 2019, Metro detectives from FPD conducted the operational on scene components of the investigation with some intelligence provided by Homeland Security Investigations (HSI). Alcohol Tobacco and Firearms (ATF) assisted with serving arrest warrants issued as a result of the investigation. The Coconino County Attorney was also consulted regarding the investigation.

Based on concerns regarding policies and procedures regarding the criminal investigation, the City of Flagstaff requested an assessment of FPD policies and procedures regarding vice / prostitution investigations.

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<sup>2</sup> US Census 2021. Retrieved from <https://www.census.gov/quickfacts/flagstaffcityarizona>

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## Section A: Metro Narcotics Policy Review

### Authorities

Northern Arizona Street Crimes Task Force Metro Narcotics Policy  
CALEA Standard Chapter 23

### Observations

A review of the Northern Arizona Street Crimes Task Force Metro Narcotics Policy was conducted to identify policies related to vice / prostitution investigations. The policy is used for undercover operations as a supplement to the FPD policy manual.

There are no references to vice enforcement operations or prostitution investigations in the policy. The policy is divided into the following sections:

<b>Section</b>	<b>Last Rev Date</b>	<b>Observations</b>
4.0	10/5/2018	Confidential Informants
4.1	10/5/2018	Undercover Identification
4.2	10/5/2018	Undercover Activities Operations
4.3	10/5/2018	Reverse Undercover Operations
4.4	10/5/2018	Sting Operations
4.5		Blank
4.6	10/5/2018	Operational Planning
4.7		Blank
4.8	10/5/2018	Evidence Acquisition Funds
		No sections 4.9-4.10
4.11	10/5/2018	Property and Evidence Submission
4.12	10/5/2018	Use of Body Armor

Policies are cross referenced to 2011 policies prior to the current Lexipol published policies. Staff advised that the missing sections were provided for future policy expansion if needed.

Section 4.4 refers to sting operations as long-term covert investigations conducted from a fixed site, targeting repeat offenders engaged in specific criminal activity. This is in reference to store front operations used in some cases to purchase stolen property to identify burglary / theft suspects and are not applicable to the 2019 investigation.

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## **Conclusion**

Northern Arizona Street Crimes Task Force Metro Narcotics Policy does not make any reference to vice / prostitution criminal investigations. The policy is used for undercover operations as a supplement to FPD policy. It was last revised in 2018 and policies are cross referenced to 2011 policies prior to the current Lexipol published policies.

## **Recommendations**

- A.1 FPD Command staff should revise the Northern Arizona Street Crimes Task Force Metro Narcotics Policy with the addition of vice and prostitution investigations to conform with generally accepted practices as referenced in section B of this report.
- A.2 As part of the revision process the policy should be cross referenced with current applicable sections of the FPD Policy Manual.
- A.3 If the FPD has a need to maintain a trained unit to conduct vice related investigations, then the department should develop and implement related investigative policies and procedures needed to provide direction and guidance to those investigators tasked with those responsibilities. And should the department make the decision not to engage in such investigations due to the lack of volume, then FPD should enter into a Mutual Aid Agreement with a neighboring agency that maintains such a unit and is willing to assist FPD

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## **B: Flagstaff Police Department Policy Manual**

### **Authorities**

Flagstaff Police Department Policies 2019 and 2022  
CALEA Standard Chapter 43.1.1

### **Observations**

A review of Flagstaff Police Department (FPD) policy for 2019 and 2022 was conducted to identify policies related to vice / prostitution investigations. The 2019 policy was reviewed as it was in effect during the 2019 prostitution investigation conducted by FPD. The 2022 policy was reviewed to contrast and compare the policy to the 2019 version for any revisions regarding vice / prostitution related investigations.

A review of the 2019 and 2022 revised policies found no policies regarding vice or prostitution investigations. FPD policy 340.5.10 appears to be for personal relationships and not criminal investigations, the policy regarding employee relationships states:

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

Confidential informants are addressed in section 800.

Although FPD is not a member of the Commission on Accreditation for Law Enforcement (CALEA) many CALEA policies are considered generally accepted practice. CALEA Chapter 43.1.1 recommends that an agency have the following policies regarding vice related investigations:

*Complaint management: A written directive for investigating vice, drug, and organized crime activities, to include:*

- a. specifying procedures for receiving and processing complaints.*
- b. maintaining a record of complaints received.*
- c. maintaining a record of information conveyed to and received from outside agencies; and*
- d. specifying procedures for advising the agency's CEO of activities.*

*The agency should establish procedures ensuring that each complaint received is recorded and investigated to the fullest extent possible. The directive should include a listing of complaint forms used, information needed, and preliminary actions to be taken. The agency should establish procedures for conducting preliminary and follow-up investigations of vice, drug, and organized crime offenses. Every complaint received should be recorded and entered in a complaint filing system with provision for purging after a specified period of time. It is recognized that some agencies may not have functional responsibility for the investigation of vice, drug, or organized crime activities. Notwithstanding, the agency should have procedures for meeting the standard, even if only in the normal course of the agency's reporting mechanism.*

Many agencies have a policy or an undercover procedures manual prohibiting sexual contact during criminal investigations particularly during vice related investigations. An example of such a policy is the Portland Police Department Policy 640.95.e listed below.

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*An undercover member will not engage in sexual contact. A member will not expose his/her genitals or commit criminal offenses, to convince others that he/she is not associated with law enforcement. A sworn member in a decoy role will not expose his/her private body parts, which includes female breasts, or touch the private body parts, which includes female breasts, of a john/prostitute. A sworn member in a decoy role will document in his/her report any unsolicited touching of the member's private body parts by a john/prostitute. A sworn member will immediately disengage from any unsolicited touching by a john/prostitute and comment in his/her report how that was accomplished.*

### **Conclusion**

A review of the Flagstaff Police Department (FPD) policy manual for 2019 and revised in 2022 found no policies regarding vice or prostitution investigations. This is inconsistent with generally accepted practices.

### **Recommendations**

- B.1 FPD Command staff should revise their Policy Manual with the addition of policies for vice and prostitution investigations that conform with generally accepted practices.

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## **C: Memorandum of Understanding Review**

### **MOU's and Documents Reviewed**

- Federal Bureau of Investigation (FBI) 2013, Arizona Safe Trails Task Force Memorandum of Understanding (MOU).
- FBI 2013, Safe Streets Task Force MOU.
- FBI 2014, Safe Streets Task Force MOU.
- Coconino County Attorney's Office (CCAO) 2018, Street Crimes Task Force MOU.
- Exhibit B Memorandum from the Board of Directors Northern Arizona Street Crimes Task Force, "Metro."
- Memorandum from CCAO William Ring to Requesting Law Enforcement Agency.
- Memorandum from Metro Board of Directors to CCA William Ring.
- Memorandum from CCA William Ring to Requesting Law Enforcement Agency (second memorandum).
- 2021, MOU between U.S. Immigration and Customs Enforcement (ICE) and Flagstaff Police Department (FPD).
- 2019, MOU between FPD and U.S. Department of Justice (DOJ) Alcohol, Tobacco, Firearms, and Explosives (ATF).
- 2021, Northern Arizona Metro Narcotics Operations Plan.
- FPD, State/Local Overtime (SLOT) Agreement for reimbursement of Expenses in Joint Operations.
- Northern Arizona Street Crimes Task Force Metro Narcotics Informant Report.
- Northern Arizona Informant Report Informant Status Verification/Change Form.
- Northern Arizona Informant Report File Review Form.
- Northern Arizona Informant Report Record and Payment Worksheet.

### **Observations**

The FPD detectives conducted the 2019 local investigation with some intelligence assistance from other agencies. The documents listed above were reviewed for relevance to an MOU or policy in effect in July 2019 regarding vice or prostitution investigations. FPD had an MOU for the Metro Narcotics Task Force operations at that time with U.S. Homeland Security. This is an agreement signed in 2016 for "State/local Overtime (SLOT) Agreement for Reimbursement of Expenses in Joint Operations". ATF assisted with serving arrest warrants issued as a result of the investigation. FPD had an MOU with the ATF "Reimbursement of Overtime Salary Costs". There is no mention of human trafficking or prostitution in the either agreement as both pertain to overtime reimbursement.

An MOU between FPD and the FBI from 2013, mentions human trafficking. This MOU was not applicable to the local massage parlor investigation in 2019 as the FBI was not involved in the investigation.

### **Conclusion**

A review of Memorandums of Understanding between the Flagstaff Police Department and other agencies identified MOU's with Homeland Security and Alcohol Tobacco and Firearms at the time of the prostitution investigation (2019). Both were for reimbursement expenses in joint operations with no reference to prostitution or human trafficking.

### **Recommendations:**

None

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## **D: Video Policy Procedures**

### **Authorities**

Flagstaff Police Department Metro Narcotics Policy Section 4.2, 4.3 and 4.4 Revised 2018  
Section 804.6.1 Flagstaff Police Department Policy Rev 7/3/2019  
Section 814.5 Flagstaff Police Department Policy Rev 7/3/2019  
Section 811 Flagstaff Police Department Policy Rev 7/3/2022

### **Observations**

A review of the Metro Unit policy determined there were several references to audio and video recordings but there is no clear procedure for capturing or storing the audio or video. The Metro policy is intended primarily for narcotics operations.

A review was completed of the Lexipol policy revised on 7/3/2019 and in effect during the 2019 prostitution investigation which started on 7/15/2019. Property and Evidence Section 804.61 (j), states, "The duplication of video and/or audio recordings for the purpose of further investigation or for the County Attorney's use is the responsibility of the Detective assigned to the case."

Section 814.5 pertains to digital evidence recorded by officers. This section was moved to Section 811 in the 2022 Lexipol revision, with few if any revisions noted. This section provides policy for collection, submission, downloading, and preservation of digital evidence. Although evidence.com is referenced for the Taser (section 300), Unmanned Aerial System (UAS), and Body Worn Cameras (BWC) video this section (811) does not provide procedures for downloading undercover audio / video into the evidence.com system currently in use.

### **Conclusion**

The majority of policy in place during the 2019 investigation regarding video storage and duplication is in the FPD policy manual sections 804.61 and 814. The FPD has implemented the Evidence.com digital evidence storage system. Evidence.com procedures for undercover audio / video are not referenced in the current policy section 811 Digital Evidence Recorded by Officers.

### **Recommendations**

D.1 Command staff should revise policy to include reference to the Evidence.com system for undercover audio / video procedures in the Metro Unit policy and the FPD policy section 811.

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## Attachment 1 Project Consultants:

The specific group of consultants proposed for this project have worked on projects for a wide variety of law enforcement agencies from smaller municipal agencies to some of the larger tribal and municipal agencies in the country. The diversity in agency size has taught us many valuable lessons about how to properly calibrate our services to suit the unique dynamics of agencies large and small. Each engagement is unique, and the proposed project team is accustomed to adapting to the client's requirements. The listed consultants will be available to work on this engagement.

### **Project Manager: Dan Olson, President LD Consulting LLC, CLEA**

Since founding LD Consulting in 2008 Dan has completed a number of consulting engagements with law enforcement agencies in the US as well as the US Virgin Islands. Dan retired after serving 34 years with the Phoenix Police Department. For 4 years Dan was a Professional Standards Bureau (PSB) Investigations Sergeant. During his tenure as a sergeant in PSB, he conducted over 30 use of force cases/police shootings, several of which were very high profile in the community. Dan has also completed numerous administrative personnel investigations to include a number of cases involving egregious conduct resulting in employee terminations. While assigned to PSB, Dan was promoted to lieutenant and continued to work in the bureau as an Investigations Lieutenant.

During his career, Dan has worked a number of assignments. While assigned to patrol, he was the shift commander in one of the largest precincts in the city with over 100,000 residents. In this role, he was responsible for all the field operations in the precinct.

Dan was assigned to supervise the PSB Inspections Unit where he worked for eleven years. As the Inspections Lieutenant, he was responsible for completing all internal police audits, acting as the liaison with the City Auditor for all city audits of the police department, operation of the Police Risk Management Unit, project manager for the creation and implementation of the department's Early Intervention System, operations of the Mayor's Security Detail and oversight for the PSB Administrative Staff.

During his tenure in the Inspections Unit, internal police audits were completed in accordance with the Commission on Accreditation for Law Enforcement (CALEA) schedule for police department audits. These standards require an audit of all major department components every three years, at the time the department had 28 major components. As a part of the CALEA audit schedule, Dan and his staff completed numerous audits of all major operations of the Phoenix Police Department. This included on going proactive inspections as well as annual audits of the property and evidence facility of the Phoenix Police Department, which contains over 1.5 million items.

Dan is a founding member of the International Law Enforcement Auditors Association (ILEAA) and served as the president of that organization for two years. He is a Certified Law Enforcement Auditor (CLEA). He is the founder and Director of the Law Enforcement Inspection and Audit Group (LEAIG.org) and has a Masters degree from Northern Arizona University.

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### **Consultant: Jack Harris, Phoenix Police Chief (retired)**

Jack has thirty-nine years of law enforcement experience with the City of Phoenix Police Department in Phoenix, Arizona. During those thirty-nine years, he served as a Police Officer, Sergeant, Lieutenant, Commander, Assistant Police Chief, Police Chief, Public Safety Manager and Deputy City Manager. In those ranks he was assigned to at least seventeen different assignments that included, but are not limited to, patrol, undercover assignments in vice and narcotics, training, traffic, SWAT, internal affairs as well as a number of administrative assignments.

Throughout his career he conducted formal employee investigations involving employee conduct. While assigned to the Professional Standards Bureau he was responsible for approximately one thousand (1,000) of the most serious employee conduct and officer involved shooting investigations in the department. As Police Chief he had responsibility for imposing discipline for misconduct involving approximately five thousand employees. He conservatively estimates that he has personally investigated or reviewed over three thousand (3,000) personnel investigations.

He has taught various subjects for over ten (10) years at the police training academy and served for over two years as the Basic Training Sergeant. He also taught tactics at the local, state, national and international level. He has been intimately involved in the formation and implementation of police policy for police agencies at all levels of law enforcement for four decades. There exists a body of knowledge regarding best practices and standards of care for law enforcement officers throughout the nation. Through his vast law enforcement experience, professional memberships and training he is generally familiar with accepted policies, training, procedures, and standards of care that govern police officer conduct. He has been recognized as a police policy and procedures expert in United States Federal Court and Arizona State Court. He has conducted policy and procedures reviews for numerous police agencies at the request of the United States Department of Justice.