

SECTION 6.21 USE OF FORCE

1. PURPOSE

It is the policy of the Morrison County Sheriff's Office to provide officers with guidelines for the use of force and deadly force in accordance with:
MN STAT 626.8452 DEADLY FORCE AND FIREARMS USE; POLICIES AND INSTRUCTION REQUIRED;
MN STATE 626.8475 DUTY TO INTERCEDE AND REPORT;
MN STAT 609.06 AUTHORIZED USE OF FORCE;
MN STAT 609.065 JUSTIFIABLE TAKING OF LIFE; and
MN STAT 609.066 AUTHORIZED USE OF FORCE BY PEACE OFFICERS.

2. POLICY

It is the policy of the Morrison County Sheriff's Office to ensure officers respect the sanctity of human life when making decisions regarding use of force. Sworn law enforcement officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. Officers shall treat everyone with dignity and without prejudice and use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of others and the officer.

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

Officers should exercise special care when interacting with individuals with known physical, mental health, developmental, or intellectual disabilities as an individual's disability may affect the individual's ability to understand or comply with commands from peace officers.

The decision by an officer to use force or deadly force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using such force.

This policy is to be reviewed annually and any questions or concerns should be addressed to the immediate supervisor for clarification.

This policy applies to all licensed peace officers and part-time peace officers engaged in the discharge of official duties.

3. DEFINITIONS

- a. *Bodily Harm*: Physical pain or injury
- b. *Great Bodily Harm*: Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.
- c. *Deadly Force*: Force used by an officer that the officers knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.
- d. *De-Escalation*: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.
- e. *Other Than Deadly Force*: Force used by an officer that does not have the purpose of causing, nor create a substantial risk of causing, death or great bodily harm.
- f. *Choke Hold*: A method by which a person applies sufficient pressure to a person to make breathing difficult or impossible and includes, but is not limited to, any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air. Choke hold also means applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.
- g. *Authorized Device*: A device an officer has received permission from the agency to carry and use in the discharge of that officer's duties, and for which the officer has:
 - i. Obtained training in the technical, mechanical and physical aspects of the device; and
 - ii. Developed a knowledge and understanding of the law, rules and regulations regarding the use of such a device.

4. PROCEDURE

- a. General Provisions
 - i. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
 - ii. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the amount of force necessary to control the situation shall be used.
 - iii. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to

any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.

- iv. All uses of force shall be documented and investigated pursuant to this agency's policies.

b. Duty to Intercede

Regardless of tenure or rank, an officer must intercede when:

- i. Present and observing another officer using force in violation of section 609.066, subdivision 2, or otherwise beyond that which is objectively reasonable under the circumstances; and
- ii. Physically or verbally able to do so

c. Duty to Report

An officer who observes another officer use force that exceeds the degree of force permitted by law, has the duty to report the incident in writing within 24 hours to the chief law enforcement officer of the agency that employs the reporting officer.

d. De-escalation

- i. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with their training whenever possible and appropriate before resorting to force and to reduce the need for force.
- ii. Whenever possible and when such delay will not compromise the safety of another or the officer and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

e. Use of Other Than Deadly Force

- i. When de-escalation techniques are not effective or appropriate, an officer may consider the use of other than deadly force to control a non-compliant or actively resistant individual. An officer is authorized to use agency-approved other than deadly force techniques and issued equipment in the following circumstances:
 - 1. Effecting a lawful arrest; or
 - 2. The execution of legal process; or
 - 3. Enforcing an order of the court; or
 - 4. Executing any other duty imposed upon the public officer by law; or
 - 5. Defense of self or another.

f. Use of Certain Types of Force

- i. Except in cases where deadly force is authorized as articulated in MN STAT 609.066 to protect the peace officer or another from death or great bodily harm, officers are prohibited from using:
 - 1. Chokeholds,
 - 2. Tying all a person's limbs together behind a person's back to render the person immobile, or;

3. Securing a person in any way that results in transporting the person face down in a vehicle.
 - ii. Less than lethal measures must be considered by the officer prior to apply these measures.
- g. Use of Deadly Force
- i. An officer is authorized to use deadly force if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary. Use of deadly force is justified when one or both of the following apply;
 1. To protect the peace officer or another from death or great bodily harm, provided that the threat:
 - a. can be articulated with specificity;
 - b. is reasonably likely to occur absent action by the law enforcement officer; and
 - c. must be addressed through the use of deadly force without unreasonable delay; or
 2. To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.
 - ii. An officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (1a), items (i) to (iii).
 - iii. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.
 - iv. In cases where deadly force is authorized, less than lethal measures must be considered first by the officer.
- h. Training
- i. All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.
 - ii. In addition, training shall be provided on a regular and periodic basis and designed to
 1. Provide techniques for the use of and reinforce the importance of de-escalation
 2. Simulate actual shooting situations and conditions; and
 3. Enhance officers' discretion and judgement in using other than deadly force in accordance with this policy.

- iii. Before being authorized to carry a firearm, all officers shall receive training and instruction about the proper use of deadly force and to the agency's policies and State statutes with regard to such force. Such training and instruction shall continue on an annual basis.

AUTHORIZED FIREARMS

- a. Handguns CAL: .380 Caliber, 9 Millimeter, 38 Caliber, 357 Magnum, .40 Caliber, .45 Caliber
 BARREL: 2" – 6"
- b. Shotgun CAL: 12-gauge
- c. Rifle CAL: 9-MM, 223, & 7.62
- d. Gas Launcher: CAL: 40
- e. The Sheriff shall approve all firearms before being carried on duty. Deputies must pass a qualification shoot annually under the supervision of the firearms instructor in accordance with the established training objectives.
- f. Off deputy weapons may be carried if deemed necessary, pursuant to restrictions in 328.05(3).
- g. Deputies will only carry ammo issued by the Sheriff's Office, unless approved by the Sheriff.
- iv. Before carrying an authorized device, all officers shall receive training and instruction in the use of the device, including training as it relates to its use in deadly force and/or other than deadly force situations. Such training and instruction shall continue on an annual basis.

USE OF NON-DEADLY FORCE WEAPONS & RESTRAINTS

- a. The department will issue non-deadly force weapons. Deputies may use them where force is authorized and where force options lower on the force continuum would be ineffective or unreasonably dangerous to the deputy.
- b. In respect to their position on the force continuum, Tasers and aerosol chemicals fall within pain compliance, and less-lethal projectiles and K-9 apprehensions fall within impact weapons.
- c. Selection and utilization of non-deadly force weapons shall be consistent with department use of force training.
- d. Restraints will be issued by the department. They should be used to control a suspect after arrest or where deemed necessary to control a situation.
- e. Restraints will be used consistent with departmental use of force training.

AUTHORIZED NON-DEADLY FORCE WEAPONS

- f. Issued aerosol and other chemical agents.
- g. Issued Taser.

- h. Issued baton(s), expandable, riot.
 - i. K-9's.
 - j. Less lethal projectiles (issued to deputies with training).
 - k. Deputies will train annually under the supervision of a qualified instructor and in accordance with the established training objectives.
 - v. Officers will carry and use only authorized devices unless circumstances exist which pose an immediate threat to the safety of the public or the officer requiring the use of a device or object that has not been authorized to counter such a threat.
 - vi. With agency approval officers may modify, alter or cause to be altered an authorized device in their possession or control.
- I. Recordkeeping Requirements
The patrol Sergeant shall maintain records of the agency's compliance with use of force training requirements.

SECTION 6.25 VEHICLE PURSUIT

1. Policy

- a. The pursuing of a law violator at high speeds is at times a necessary task of law enforcement, but a deputy must be ready at all times to apprehend the violator with the least amount of danger to himself and the general public.
- b. Vehicle pursuits should not begin if the risk to the citizens outweighs the public safety benefit in stopping the fleeing suspect. Deputies should continuously weigh the present danger to themselves, and the general public, taking into consideration such things as weather conditions, condition of squad car, pedestrian and vehicular traffic, and the seriousness of the offense to determine whether to terminate the pursuit.
- c. There are situations where the risk of personal injury or death associated with a motor vehicle pursuit is too high to justify anything other than discontinuing the pursuit. No member will be disciplined for making a decision to discontinue a pursuit.
- d. While Minnesota law permits emergency vehicles to disregard traffic signs or signals when in pursuit of an actual or suspected violator of the law (Minn. Stat. sec. 169.03), nothing relieves the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of persons using the street, nor does it protect the driver of an authorized emergency vehicle from the consequences of reckless disregard for the safety of others (Minn. Stat. sec. 169.17).

2. Procedure For Pursuit

- a. Deputies driving unmarked vehicles should not be involved in a pursuit except in situations where there are no other emergency response vehicles available. In the event an unmarked sheriff's vehicle initiates a pursuit, when a marked vehicle becomes available, the unmarked sheriff's vehicle will take a secondary role and/or drop out of the pursuit. An unmarked vehicle driven by a PIT (Pursuit Intervention Tactic) certified deputy may take the lead to complete a PIT maneuver.
- b. No more than two law enforcement vehicles from this office should routinely be involved in any pursuit. The first squad should be considered the primary vehicle, which will be the squad closest to the fleeing vehicle, and a second squad shall be considered the secondary vehicle.
- c. The sheriff's vehicle used in any pursuit shall have both the red lights on and siren sounding and exercise due regard for public safety.
- d. Applicable Minnesota Statute should be observed during pursuit. Pursuing vehicles should maintain an adequate distance to allow for proper reaction time.
- e. The deliberate striking, ramming, or total blocking of a roadway by a law enforcement vehicle should be considered only to protect the deputy or general public from death or great bodily harm, when no other means of stopping the vehicle are available to them.

- f. The use of Pursuit Intervention Tactics (PIT) is authorized by this office when it can successfully shorten the pursuit, reduce the risk to the public, and prevent the escape of a pursued vehicle and its occupants.
 - i. Deputies are authorized to use the PIT maneuver in situations outside the scope of Minnesota Statute 609.66 when the deputy reasonably believes the action will not result in death or great bodily harm to the occupants of the pursued vehicle.
 - ii. Deputies should not employ PIT in high-speed pursuits where its use creates a risk of great bodily harm or death to the occupants of the pursued vehicle, unless the deputy is justified in using deadly force pursuant to Minnesota Statute 609.66.
 - iii. Deputies should not employ PIT unless trained in its use. Deputies should articulate the reason for employing PIT in their narrative report. If PIT was used in the deadly force situation, deputies should report the factors exhibited, which indicated the justification for deadly force.
 - iv. Members shall consider using the PIT maneuver at the earliest opportunity in a pursuit, knowing the opportunity might be short lived.
 - v. The PIT maneuver may be executed at speeds of 40 mph or less on straight roadways or 25 mph or less in cornering situations. Speeds greater than this may be considered deadly force.
 - vi. The PIT maneuver is not allowed in the following circumstances unless deadly force is authorized.
 - 1. On vehicles with fewer than four wheels.
 - 2. On a vehicle pulling a trailer.
 - 3. On unconventional vehicle types to include, but not limited to, straight trucks, recreational vehicles, off highway vehicles, ATVs, etc.
- g. Intentional Contact.
 - i. Intentional contact shall only be used when other intervention strategies have been considered and determined not practicable.
 - ii. Intentional contact shall be considered a use of force (reported as a pursuit), up to and including deadly force, and must be reasonably applied based on the totality of circumstances presented.
- h. Department issued stop stick road spike devices may be used, consistent with departmental training, to stop a fleeing vehicle.
 - i. It is imperative that all deputies involved in the pursuit are aware of the location of the deployed road spikes so they can slow down in time to allow the removal of the devices after the suspect vehicle is crossed.
 - ii. Measures should be taken, when possible, to divert other traffic from the area to prevent unnecessary damage to other vehicles.
 - iii. Road spike devices should not be used to stop vehicles having less than four wheels.
 - iv. The deputy who deploys the device should remove it immediately after the suspect vehicle crosses it.

- v. The stop stick reporting form and a brief description of the pursuit and the use of the road spike device will be forwarded to the Sergeant or Chief Deputy so that the used stop stick can be replaced.
 - vi. The deployed stop stick should be kept in evidence until such time that it is no longer needed in any criminal matter or civil claim filed against the department. The deployed stop stick may be disposed of if its continued possession is not necessary for any other reason.
- i. Deputies may set up roadblocks or assist another agency in a roadblock under the following circumstances.
 - i. A supervisor on duty or senior deputy (in the absence of a supervisor on duty) has approved participation in a roadblock.
 - ii. The roadblock allows the suspect vehicle an avenue of escape (a closed barrier will not be created).
 - iii. Vehicles used in roadblocks will be unoccupied.
 - iv. Adequate warning of an upcoming roadblock should be clearly visible thereby allowing vehicles to come to a safe stop.
 - v. The dispatch center should be notified of the roadblock location and announce it over the air to all vehicles involved in the pursuit.
 - vi. Dispatch will make all efforts to advise all deputies setting up the roadblock of the speed and approximate distance the actual pursuit is from the roadblock location, updating this information as often as is practically possible to ensure deputy safety.
- j. When a sheriff's vehicle becomes involved in a pursuit the deputy should, as soon as practical, advise dispatch, at a minimum, the following:
 - i. Deputy badge number.
 - ii. Location and direction of travel.
 - iii. Vehicle description including license plate if possible.
 - iv. Reason for the pursuit.
 - v. Request emergency traffic if deemed appropriate.
 - vi. Progress of the pursuit.
- k. Dispatch should:
 - i. Anytime an officer notifies dispatch they are in pursuit of a subject, whether by vehicle or by foot, the dispatcher should immediately radio emergency traffic only or 10-33 traffic on the main. Dispatch should also route all radio traffic not related to the pursuit to an interop channel, example MO-3.
 - ii. The pursuing officer will relay updates as to the status of the pursuit or the location of the pursuit to dispatch via radio.
 - 1. Dispatch should repeat back the information to this officer to ensure they heard and understood the communications and to ensure other officers responding understand the communications.
 - 2. Dispatch should log all radio traffic in the CAD comments.
 - iii. If the officer indicates that the pursuit is entering or heading toward another jurisdiction, dispatch should confirm with the officer if they want that jurisdiction notified of the pursuit.

1. If the pursuit is entering or heading toward another jurisdiction, the following steps should be followed.
 - a. Dispatch should go to the Status Board, determine the first available LTAC talk group (LTAC 1-4), and reserve it for the pursuit.
 - b. Dispatch should also go to the LTAC channel that they reserved on the radio and announce that Morrison County is reserving the LTAC channel for a pursuit.
 - c. Dispatch should then patch the reserve LTAC channel to the Morrison Main channel and do a multi select with the channels.
 - d. The jurisdiction should be notified of the pursuit, along with the assigned LTAC channel and any available information regarding the pursuit.
- iv. Dispatch should continue emergency traffic until the pursuit is ended and the officer indicates that it can be cleared.
- v. After emergency traffic has been cleared, the dispatcher should clear any patches and clear the status board entry.
- vi. Dispatch should send any other resources that may be necessary at the request of the officer.

**If the pursuit is entering our county from another jurisdiction, we CANNOT patch the Morrison Main channel to the LTAC channel that the other jurisdiction has patched with their channel. Dispatch will have to monitor the LTAC channel that the other jurisdiction is using. If any officers from our county get involved with the pursuit, they will have to go to the LTAC channel. If the pursuit enters our county, dispatch will ask if Morrison County is in the lead or the other jurisdiction. If Morrison County takes the lead, the dispatcher should advise all units that Morrison County will now be calling the pursuit and the dispatcher will take over dispatching the pursuit. The Morrison County dispatcher will utilize the LTAC channel only then to call the pursuit.

- I. The ranking supervisor (if on duty) should take responsibility for the pursuit upon being advised of it. If no supervisor is working, the deputy initiating the pursuit shall be responsible. Both the primary and secondary units share the responsibilities of determining the need for further assistance and requesting it through dispatch. When other agency's actions are in violation of our policy and control of the pursuit is lost, the pursuit should end.
 - i. Members shall not become involved in an allied agency's pursuit as a primary or support unit unless a common radio communication talk group is utilized and monitored by Dispatch.
 - ii. Members shall only become involved, and remain in, an allied agency's pursuit as a primary or support unit if:
 1. The pursuing agency requests it, unless it is clear that an emergency exists which dictates immediate intervention and assistance; and

2. The pursuit meets the Morrison County Sheriff's Office policy;
and
 3. The originating agency remains in the pursuit, unless extenuating circumstances prohibit it (e.g. pursuits entering Minnesota, originating agency's vehicle becomes disabled, etc.). The originating agency's internal policy or their supervisory decisions are not extenuating circumstances.
- m. If another non-involved person or pedestrian is struck or injured during a pursuit, the secondary unit should break off pursuit, advise dispatch, request further backup, and render necessary assistance to the injured party. If only one squad car is involved in the pursuit and the above occurs, the deputy should terminate the pursuit, render necessary assistance, advise dispatch, and also request further assistance as needed. The deputy should also advise dispatch of the pursued vehicle's last location and direction of travel.
 - n. Unless a pursuit is based upon a severe and imminent threat*, it should be terminated when:
 - i. The danger to the peace officer and general public becomes greater than the benefits of an arrest.
 - ii. When notified to do so by an immediate supervisor.
 - iii. When mechanical failure of a squad car greatly hampers continuing the pursuit.
 - iv. The deputy loses sight of the violator for an extended period of time.
 - v. There is a non-sworn passenger present in the county unit.
 - vi. It is known or there is reason to know that the fleeing driver is a juvenile.

***Severe and imminent threat is defined as:** The fleeing driver or other person in the fleeing vehicle is believed to have recently caused great bodily harm (as defined in Minn. Stat. sec. 609.02, subd. 8) or death to another person, or it is reasonably likely to occur if immediate action is not taken to apprehend him/her. The pursuit itself does not constitute a severe and imminent threat.

- o. Morrison County Sheriff's Deputies should monitor radio traffic and be available to assist as requested. They should remain close enough to assist without interfering with the primary or secondary vehicles.
- p. After each pursuit, the deputies actively involved in the pursuit shall prepare all appropriate reports and forms.
- q. Each pursuit should be reviewed by the Patrol Sergeant or Chief Deputy.
- r. In the event a law enforcement aircraft becomes involved in the pursuit, Deputies will fall back into a support role, backing off active pursuit, and allowing the aircraft to take over the primary role.

SECTION 6.31 **RESPONSE TO REPORTS OF CRIMINAL INCIDENTS ON SCHOOL BUSES**

1. It is the policy of the Morrison County Sheriff's Office to respond to all reports of alleged criminal incidents, which occur on school buses. The deputy should work with and consult school officials, transportation personnel, parents of students, students, and other involved individuals to respond to these incidents to protect the student's safety and deal appropriately with those who violate the law. This policy recognizes that responding to reports of alleged criminal conduct on school buses within this jurisdiction is the responsibility of this office in coordination with any other law enforcement agency. This policy is not intended to interfere with or replace school disciplinary policies, which relate to student misconduct on buses.
2. PROCEDURE
The Sheriff's Office should:
 - a. Respond to calls for assistance from any individual, school, or bus transportation company as they may pertain to alleged criminal conduct on school buses.
 - i. Deputies must weigh the circumstances to determine if the activity is criminal or simply a school discipline problem.
 - ii. Issue citations, release pending further investigation, or apprehend and transport individual's committing crimes on school buses to the extent authorized by law.
 - iii. Deputies are reminded they generally cannot arrest or detain a juvenile for a misdemeanor offense unless it happened in their presence.
 - b. Investigate reports of crimes committed on buses by using the same procedures followed in other criminal investigations involving juveniles or adults as appropriate.
 - c. Submit reports regarding the incident as required by Sheriff's Office policy.
 - d. Follow through with any other investigation necessary to prepare a case pertaining alleged criminal conduct on school buses.
 - e. Provide information to the school regarding the incident as required or authorized by law.

SECTION 6.32 RESPONSE TO REPORTS OF MISSING AND ENDANGERED PERSONS

1. The Morrison County Sheriff's Office recognizes that there is a critical need for immediate and consistent response to reports of missing and endangered persons. The decisions made and actions taken during the preliminary stages have a profound effect on the outcome of the case; therefore, the Morrison County Sheriff's Office has established the following responsibilities and guidelines for the investigation of persons that are determined to be both missing and endangered.

After the Sheriff's Office has received a report of a missing person, obtained the basic facts of the case and determined there is sufficient evidence to believe the person is endangered, the Sheriff's Office will respond according to the following five types of general procedures:

1. Initial Response
2. Initial Investigation
3. Investigation
4. Prolonged Investigation
5. Recovery Case Closure

The facts surrounding each incident will dictate when the procedures are warranted and what the order and priority should be within each of the five categories.

2. DEFINITIONS

- a. Missing – according to Minnesota Statute 299C.52 sub 1 (c), missing means “the status of a person after a law enforcement agency has received a report of a missing person and has conducted a preliminary investigation and determined that the person cannot be located”.
- b. Endangered – according to Minnesota Statute 299C.52 sub 1 (e), endangered means that “a law enforcement official has received sufficient evidence that the missing person is at risk of physical injury or death. The following circumstances indicate that a missing person is a risk of physical injury or death.”
 1. The person is missing as a result of a confirmed abduction or under circumstances that indicate that the person's disappearance was not voluntary;
 2. The person is missing under known dangerous circumstances;
 3. The person is missing more that 30 days;
 4. The person is under the age of 21 and at least one other factor in this paragraph is applicable;
 5. There is evidence the person is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person's health if the person does not receive the need care or medication;
 6. The person does not have a pattern of running away or disappearing;

7. The person is mentally impaired;
 8. There is evidence that the person may have been abducted by a noncustodial parent;
 9. The person has been the subject of past threats or acts of violence;
 10. There is evidence that the person is lost in the wilderness, backcountry, or outdoors where survival is precarious and immediate and effective investigation and search and rescue efforts are critical.
 11. Any other factor that the law enforcement agency deems to indicate that the person may be at risk of physical injury or death, including a determination by another law enforcement agency that the person is missing and endangered.
- c. Child – any person under the age of 18 years or any person certified or known to be mentally incompetent.
 - d. Sufficient evidence – the articulable facts and circumstances, which would induce a reasonably prudent police officer to believe a crime has been or is about to be committed.
 - e. NCIC – National Crime Information Center.
 - f. CJIS – Criminal Justice Information Center.
 - g. ACIM – A Child Is Missing Alert Program.
 - h. Amber Alert – America’s Missing Broadcast Emergency Response

3. INITIAL RESPONSE PROCEDURES

- a. As required by Minnesota Statutes, Chapter 299C.53, subd. 1(a), Law Enforcement shall accept, without delay, any report of a missing person. Law enforcement shall not refuse to accept a missing person report on the basis that:
 1. The missing person is an adult;
 2. The circumstances do not indicate foul play;
 3. The person has been missing for a short period of time;
 4. The person has been missing for a long period of time;
 5. There is no indication that the missing person was in the jurisdiction served by the law enforcement agency at the time of the disappearance;
 6. The circumstances suggest that the disappearance may be voluntary;
 7. The reporting person does not have personal knowledge of the facts;
 8. The reporting person cannot provide all of the information requested by the law enforcement agency;
 9. The reporting person lacks a familial or other relationship with the missing person; or
 10. For any other reason, except in cases where the law enforcement agency has direct knowledge, that the person is, in fact, not missing, and the whereabouts and welfare of the person are known at the time the report is filed.
- b. Dispatch a deputy to the scene to conduct a preliminary investigation to determine if the person is missing, and if missing, is endangered.
- c. Obtain interpretive services if necessary.

- d. Interview parents/or persons who made initial report.
- e. Determine where, when, and by whom the missing person was last seen.
- f. Interview the individual's who last had contact with the person.
- g. Obtain a detailed description of the missing person including information about any possible abductors, vehicles, etc.
- h. Search the home, outbuildings, and immediate area. (Don't rely on other's having searched).
- i. Load the NCIC missing person file with complete descriptive and critical information regarding the missing child under 21 yoa, or the missing and endangered person.
- j. Load the NCIC system with complete descriptive information regarding the suspects, and suspect vehicle.
- k. Request investigative and supervisory assistance.
- l. Update additional responding personnel.
- m. Request an area wide broadcast of all known details over police communication channels and nearby agencies through Teletype.
- n. Activate ACIM (A Child Is Missing Alert) both for missing and missing and endangered children. Deputy must call ACIM at 888-875-2246. (Backup numbers are 954-763-1288 or pager number 954-492-4778)
- o. Activate a Minnesota Crime Alert.
- p. Request activation of an Amber Alert if the child is missing and endangered and we have specific information on a suspect or a suspect vehicle. Amber Alerts are activated through the BCA Communications Center at 651-642-0610.
- q. Notify the family of crime victim services available and give them crime victim cards.
- r. Seal the crime scene and restrict access by any individuals until interviewed. Also note anyone who may have left prior to the arrival of law enforcement.
- s. Activate protocols for working with the media.
- t. Notify the BCA as required by Statute 299C.53 sub 1.
- u. Notify the Sheriff.

4. INITIAL INVESTIGATION

- a. Conduct a neighborhood/vehicle canvas.
- b. Arrange for use of helpful media coverage.
- c. Maintain records of telephone communications and messages.
- d. Ensure that everyone at the scene is identified and interviewed separately.
- e. Research the home or building where the incident took place after obtaining consent or search warrants.

5. INVESTIGATION

- a. Establish the ability to trap and trace all incoming calls. Consider setting up a separate telephone line or cellular phone for agency use.
- b. Compile a list of known sex offenders in the region.
- c. In the cases of infant abduction investigate claims of home births made in the area.

- d. Obtain child protective agency records for reports of abuse on the child.
- e. Review records for previous incidents related to missing persons and prior police activity in the area including prowlers, indecent exposure, attempted abductions, etc.
- f. Obtain the persons's medical and dental records, fingerprints, and DNA when available.
- g. Update the NCIC missing person file with any additional information regarding the person or suspect as necessary.
- h. Interview delivery personnel, utility personnel, post office personnel, sanitation workers, and others who may have been in the area at the time of the incident.
- i. Contact the National Center for Missing and Exploited Children (NCMEC) for photo dissemination and other case assistance.
- j. Determine if outside help is necessary and utilize local and state resources related to specialized investigative needs including:
 - i. Crime Victim Advocates.
 - ii. Minnesota BCA.
 - iii. FBI.
 - iv. County Attorney.
 - v. ICE.
 - vi. State Patrol.
 - vii. Minnesota Crime Alert.
 - viii. Searches – ground search, Mounted Patrols, K-9, water, and air.
 - ix. Investigative resources including child interviewing, polygraph, profiling, forensic artistry, and memory retrieval.
 - x. Interpretative services.
 - xi. Department of Natural Resources.
 - xii. Telephone services for trap and trace.
 - xiii. Media assistance.
- k. Secure missing person's electronic communication information such as cell phones, email address, and home computer.

6. PROLONGED INVESTIGATION

- a. Develop a profile on the possible abductor.
- b. Consider the use of polygraph for parents and other key individuals.
- c. Re-read all reports and transcripts of interviews, re-visit the crime scene, review all photographs and videotapes, re-interview key individuals and re-examine all physical evidence collected.
- d. Review all potential witness and suspect information obtained in the initial investigation and consider background checks on anyone identified in the investigation.
- e. Develop time line and other visual exhibits.
- f. Critique results of the ongoing investigation with appropriate investigative resources.
- g. Arrange for periodic media coverage.
- h. Utilize rewards and crime stopper programs.

- i. Update NCIC missing person file as necessary and change status to endangered if missing for more than 30 days.
 - j. Re-contact the National Center for Missing and Exploited Children for age progression assistance.
7. RECOVERY/CASE CLOSURE
- a. Arrange for a comprehensive physical examination of the victim.
 - b. Conduct a careful interview of the child and document the results of the interview involving all appropriate agencies.
 - c. Refer family for effective reunification assistance.
 - d. Cancel alerts, remove the case from NCIC and other information systems, and remove posters and other publications from circulation.
 - e. Perform constructive post-case critique. Reassess the procedures used and update the department policies and procedures as appropriate.
 - f. If victim is recovered deceased, treat as a homicide scene.

SECTION 6.36 OPERATING VEHICLES WITHOUT LIGHTS

1. Morrison County deputies may operate their squad car without lights in the performance of their duties if the deputies conduct is reasonable and he/she believes that operating the vehicle without lights is necessary under the circumstances to investigate a criminal violation or any other violation of state or local law.
2. DEFINITIONS
 - a. Vehicle – a motor vehicle or watercraft owned, leased or otherwise the property of the State of Minnesota or political subdivision (Morrison County).
 - b. Lights – Headlights, taillights, navigational lights, etc.
3. Situations where a deputy may not operate without lights include:
 - a. At speeds greater than the existing conditions warrant.
 - b. Over the posted speed limit.
 - c. As an active participant in a pursuit situation.
 - d. On an interstate highway.

SECTION 6.39

PREDATORY OFFENDER REGISTRATION & COMMUNITY NOTIFICATION

1. It is the policy of the Morrison County Sheriff's Office to protect the public by disclosing information on predatory offenders residing in Morrison County. The extent of information disclosed, and to whom, is at the discretion of the Sheriff's Office unless otherwise noted. However, it must relate to the level of danger posed by the offender, to the offender's pattern of behavior, and to the need of community members to enhance their individual and collective safety.
2. **DEFINITIONS**
 - a. Risk Level I: Low risk of re-offending.
 - b. Risk Level II: Moderate risk of re-offending.
 - c. Risk Level III: High risk of re-offending.

****Some offenders are not assigned to risk level due to their offense being adjudicated prior to predatory offender legislation or due to the offender's conviction not leading to supervision by the Department of Corrections. These offenders are still subject to the predatory offender registration statutes, though they are not subject to community notification. Risk levels are assigned by the Department of Corrections.**

3. **COMMUNITY NOTIFICATION**
 - a. For questions regarding community notification or risk level assigned to the offender, please contact the Predatory Offender Unit of the Department of Corrections at 651-642-0279. The DOC will answer questions about the process and responsibilities and assist the Sheriff's Office in conducting public notification meetings when an offender is subject to such notifications.
4. **NOTIFICATION PROCESS**
 - a. Risk Level I – The purpose of notification is to disclose information to raise the awareness, of:
 - i. Mandatory: Victims who have requested disclosure.
 - ii. Discretionary: Witnesses, victims, or other law enforcement agencies.
 - b. Risk Level II – The purpose of notification is to disclose information to safeguard facilities and protect the individuals within those facilities including:
 - i. Mandatory: All persons and entities included in Level I disclosure, except that if an offender is placed or resides in a residential facility, do not disclose any information until law enforcement is notified that the offender has been relocated.
 - ii. Discretionary: Groups and agencies that the offender is likely to encounter, including staff members of both public and private schools, daycare facilities, and organizations that would provide services to individuals likely to be victimized by the offender. Considerations in making this determination would include the offender's prior history,

offense characteristics, employment, recreational, social, and religious interests, and characteristics of likely victims.

- c. Risk Level III – The purpose of notification is to disclose information not only to safeguard facilities and protect the individuals they serve, but also to protect the community as a whole.
 - i. Mandatory: All persons and entities included in Level I and II disclosures. A good faith effort must be made to conduct the notification within 14-days of receiving documents from the DOC.

**If the offender is placed or resides in a residential facility, do not disclose any information until law enforcement agency is notified that the offender has been relocated.

- ii. Discretionary: Other members of the community who the offender is likely to encounter unless public safety would be compromised by the disclosure or a more limited disclosure is necessary to protect the identity of a victim. Currently, the standard for Level III Offender notification is to invite the community to a public meeting and disclose the necessary information.

5. REGISTRATION

For questions concerning registration, contact the Bureau of Criminal Apprehension Predatory Offender Unit at 651-603-6748 or refer to the predatory offender registration manual on the BCA website.

- a. When an offender arrives at the Sheriff's Office to register, determine if he or she is required to register by utilizing the predatory offender registry manual, and in what state the offense was committed.
- b. If the offender is required to register, contact the BCA Predatory Offender Registry (POR) to clarify if the offender is registered and if a DNA sample has been submitted.
 - i. If the offender is already registered, complete a change of information form included in the POR manual.
 - ii. If the offender is not registered, complete a POR form included in the POR manual.
 - iii. If the offender is from another state, contact the state of residency and request a copy of his or her original registration form, criminal complaint, and sentencing documents.
- c. The Sheriff's Office should verify the address annually of offenders living within Morrison County.
 - i. If the offender is not living at the residence, contact the BCA POR to determine if a change of information form was submitted. If not, the offender may be charged with failure to notify authorities of a change in residence.
 - ii. Contact the BCA POR to request a prosecution packet. Submit the packet to the county attorney's office for the preparation of formal charges.

SECTION 6.44

PROFESSIONAL CONDUCT OF PEACE OFFICERS

MN STAT 626.8457

I. POLICY

It is the policy of the Morrison County Sheriff's Office to investigate circumstances that suggest an officer has engaged in unbecoming conduct, and impose disciplinary action when appropriate.

II. PROCEDURE

This policy applies to all officers of this agency engaged in official duties whether within or outside of the territorial jurisdiction of this agency. Unless otherwise noted this policy also applies to off duty conduct. Conduct not mentioned under a specific rule but that violates a general principle is prohibited.

A. PRINCIPLE ONE

Peace officers shall conduct themselves, whether on or off duty, in accordance with the Constitution of the United States, the Minnesota Constitution, and all applicable laws, ordinances and rules enacted or established pursuant to legal authority.

1. Rationale: Peace officers conduct their duties pursuant to a grant of limited authority from the community. Therefore, officers must understand the laws defining the scope of their enforcement powers. Peace officers may only act in accordance with the powers granted to them.

2. Rules

- a)** Peace officers shall not knowingly exceed their authority in the enforcement of the law.
- b)** Peace officers shall not knowingly disobey the law or rules of criminal procedure in such areas as interrogation, arrest, detention, searches, seizures, use of informants, and preservation of evidence, except where permitted in the performance of duty under proper authority.
- c)** Peace officers shall not knowingly restrict the freedom of individuals, whether by arrest or detention, in violation of the Constitutions and laws of the United States and the State of Minnesota.
- d)** Peace officers, whether on or off duty, shall not knowingly commit any criminal offense under any laws of the United States or any state or local jurisdiction.
- e)** Peace officers will not, according to MN STAT 626.863, knowingly allow a person who is not a peace officer to make a representation of being a peace officer or perform any act, duty or responsibility reserved by law for a peace officer.

B. PRINCIPLE TWO

Peace officers shall refrain from any conduct in an official capacity that detracts from the public's faith in the integrity of the criminal justice system.

1. Rationale: Community cooperation with the police is a product of its trust that officers will act honestly and with impartiality. The peace officer, as the public's initial contact with the criminal justice system, must act in a manner that instills such trust.

2. Rules

- a)** Peace officers shall carry out their duties with integrity, fairness and impartiality.
- b)** Peace officers shall not knowingly make false accusations of any criminal, ordinance, traffic or other law violation. This provision shall not prohibit the use of deception during criminal investigations or interrogations as permitted under law.
- c)** Peace officers shall truthfully, completely, and impartially report, testify and present evidence, including exculpatory evidence, in all matters of an official nature.
- d)** Peace officers shall take no action knowing it will violate the constitutional rights of any person.
- e)** Peace officers must obey lawful orders but a peace officer must refuse to obey any order the officer knows would require the officer to commit an illegal act. If in doubt as to the clarity of an order the officer shall, if feasible, request the issuing officer to clarify the order. An officer refusing to obey an order shall be required to justify his or her actions.
- f)** Peace officers learning of conduct or observing conduct that is in violation of any law or policy of this agency shall take necessary action and report the incident to the officer's immediate supervisor who shall forward the information to the CLEO. If the officer's immediate supervisor commits the misconduct the officer shall report the incident to the immediate supervisor's supervisor.

C. PRINCIPLE THREE

Peace officers shall perform their duties and apply the law impartially and without prejudice or discrimination.

- 1. Rationale:** Law enforcement effectiveness requires public trust and confidence. Diverse communities must have faith in the fairness and impartiality of their police. Peace officers must refrain from fostering disharmony in their communities based upon diversity and perform their duties without regard to race, color, creed, religion, national origin, gender, marital status, or status with regard to public assistance, disability, sexual orientation or age.

2. Rules

- a)** Peace officers shall provide every person in our society with professional, effective and efficient law enforcement services.
- b)** Peace officers shall not allow their law enforcement decisions to be influenced by race, color, creed, religion, national origin, gender, marital status, or status with regard to public assistance, disability, sexual orientation or age.

D. PRINCIPLE FOUR

Peace officers shall not, whether on or off duty, exhibit any conduct which discredits themselves or their agency or otherwise impairs their ability or that of other officers or the agency to provide law enforcement services to the community.

- 1. Rationale:** A peace officer's ability to perform his or her duties is dependent upon the respect and confidence communities have for the officer and law enforcement officers in general. Peace officers must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public.

2. Rules

- a)** Peace officers shall not consume alcoholic beverages or chemical substances while on duty except as permitted in the performance of official duties, and under no circumstances while in uniform, except as provided for in **c**).
- b)** Peace officers shall not consume alcoholic beverages to the extent the officer would be rendered unfit for the officer's next scheduled shift. A peace officer shall not report for work with the odor of an alcoholic beverage on the officer's breath.
- c)** Peace officers shall not use narcotics, hallucinogens, or other controlled substances except when legally prescribed. When medications are prescribed, the officer shall inquire of the prescribing physician whether the medication will impair the officer in the performance of the officer's duties. The officer shall immediately notify the officer's supervisor if a prescribed medication is likely to impair the officer's performance during the officer's next scheduled shift.

- d)** Peace officers, whether on or off duty, shall not engage in any conduct which the officer knows, or should reasonably know, constitutes sexual harassment as defined under Minnesota law, including but not limited to; making unwelcome sexual advances, requesting sexual favors, engaging in sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature.
- e)** Peace officers shall not commit any acts which constitute sexual assault or indecent exposure as defined under Minnesota law. Sexual assault does not include a frisk or other search done in accordance with proper police procedures.
- f)** Peace officers shall not commit any acts which, as defined under Minnesota law, constitute (1) domestic abuse, or (2) the violation of a court order restraining the officer from committing an act of domestic abuse or harassment, having contact with the petitioner, or excluding the peace officer from the petitioner's home or workplace.
- g)** Peace officers, in the course of performing their duties, shall not engage in any sexual contact or conduct constituting lewd behavior including but not limited to, showering or receiving a massage in the nude, exposing themselves, or making physical contact with the nude or partially nude body of any person, except as pursuant to a written policy of the agency.
- h)** Peace officers shall avoid regular personal associations with persons who are known to engage in criminal activity where such associations will undermine the public trust and confidence in the officer or agency. This rule does not prohibit those associations that are necessary to the performance of official duties or where such associations are unavoidable because of the officer's personal or family relationships.

E. PRINCIPLE FIVE

Peace officers shall treat all members of the public courteously and with respect.

1. Rationale: Peace officers are the most visible form of local government. Therefore, peace officers must make a positive impression when interacting with the public and each other.

2. Rules

- a)** Peace officers shall exercise reasonable courtesy in their dealings with the public, other officers, superiors and subordinates.
- b)** No peace officer shall ridicule, mock, deride, taunt, belittle, willfully embarrass, humiliate, or shame any person to do anything reasonably calculated to incite a person to violence.
- c)** Peace officers shall promptly advise any inquiring citizen of the agency's complaint procedure and shall follow the established agency policy for processing complaints.

F. PRINCIPLE SIX

Peace officers shall not compromise their integrity nor that of their agency or profession—by accepting, giving or soliciting any gratuity which could be reasonably interpreted as capable of influencing their official acts or judgments or by using their status as a peace officer for personal, commercial or political gain.

1. Rationale: For a community to have faith in its peace officers, officers must avoid conduct that does or could cast doubt upon the impartiality of the individual officer or the agency.

2. Rules

- a)** Peace officers shall not use their official position, identification cards or badges for: (1) personal or financial gain for themselves or another person; (2) obtaining privileges not otherwise available to them except in the performance of duty; and (3) avoiding consequences of unlawful or prohibited actions.
- b)** Peace officers shall not lend to another person their identification cards or badges or permit these items to be photographed or reproduced without approval of the chief law enforcement officer.
- c)** Peace officers shall refuse favors or gratuities which could reasonably be interpreted as capable of influencing official acts or judgments.
- d)** Unless required for the performance of official duties, peace officers shall not, while on duty, be present at establishments that have the primary purpose of providing sexually oriented adult entertainment. This rule does not prohibit officers from conducting walk-throughs of such establishments as part of their regularly assigned duties.
- e)** Peace officers shall:
 - not authorize the use of their names, photographs or titles in a manner that identifies the officer as an employee of this agency in connection with advertisements for any product, commodity or commercial enterprise;
 - maintain a neutral position with regard to the merits of any labor dispute, political protest, or other public demonstration while acting in an official capacity;
 - not make endorsements of political candidates while on duty or while wearing the agency's official uniform.

This section does not prohibit officers from expressing their views on existing, proposed or pending criminal justice legislation in their official capacity.

G. PRINCIPLE SEVEN

Peace officers shall not compromise their integrity, nor that of their agency or profession, by taking or attempting to influence actions when a conflict of interest exists.

- 1. Rationale:** For the public to maintain its faith in the integrity and impartiality of peace officers and their agencies officers must avoid taking or influencing official actions where those actions would or could conflict with the officer's appropriate responsibilities.

2. Rules

- a)** Unless required by law or policy a peace officer shall refrain from becoming involved in official matters or influencing actions of other peace officers in official matters impacting the officer's immediate family, relatives, or persons with whom the officer has or has had a significant personal relationship.
- b)** Unless required by law or policy a peace officer shall refrain from acting or influencing official actions of other peace officers in official matters impacting persons with whom the officer has or has had a business or employment relationship.
- c)** A peace officer shall not use the authority of their position as a peace officer or information available to them due to their status as a peace officer for any purpose of personal gain including but not limited to initiating or furthering personal and/or intimate interactions of any kind with persons with whom the officer has had contact while on duty.
- d)** A peace officer shall not engage in any off-duty employment if the position compromises or would reasonably tend to compromise the officer's ability to impartially perform the officer's official duties.

H. PRINCIPLE EIGHT

Peace officers shall observe the confidentiality of information available to them due to their status as peace officers.

- 1. Rationale:** Peace officers are entrusted with vast amounts of private and personal information or access thereto. Peace officers must maintain the confidentiality of such information to protect the privacy of the subjects of that information and to maintain public faith in the officer's and agency's commitment to preserving such confidences.

2. Rules

- a)** Peace officers shall not knowingly violate any legal restriction for the release or dissemination of information.
- b)** Peace officers shall not, except in the course of official duties or as required by law, publicly disclose information likely to endanger or embarrass victims, witnesses or complainants.

- c) Peace officers shall not divulge the identity of persons giving confidential information except as required by law or agency policy.

I. APPLICATION

Any disciplinary actions arising from violations of this policy shall be investigated in accordance with MN STAT 626.89, Peace Officer Discipline Procedures Act and the law enforcement agency's policy on Allegations of Misconduct as required by *MN RULES* 6700.2000 to 6700.2600.

Rev 03/2017

SECTION 6.45

DOMESTIC ABUSE RESPONSE AND ARREST

Minn. Stat. 629.342

I. POLICY

It is the policy of the Morrison County Sheriff's Office to recognize domestic abuse as a serious problem in today's society. This agency's policy is to protect victims of domestic abuse by ensuring its peace officers understand the laws governing this area.

Peace officers will utilize this policy in response to calls when there may be domestic abuse. This policy prescribes courses of action peace officers should take in response to a domestic call. This agency will aggressively enforce the laws without bias and prejudice based on race, marital status, sexual orientation, economic status, age, disability, gender, religion, creed, or national origin.

II. DEFINITIONS

For the purposes of this policy, the words and phrases in this section have the meanings given to them, unless another intention clearly appears.

A. *Domestic Abuse* has the meaning given it in Minn. Stat. 518B.01, subd. 2(a), which states:

"Domestic abuse" means the following, if committed against a family or household member by a family or household member:

(1) physical harm, bodily injury, or assault;

(2) the infliction of fear of imminent physical harm, bodily injury, or assault; or

(3) terroristic threats, within the meaning of section 609.713, subdivision 1; criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2.

B. *Domestic Abuse Program* means a public or private intervention project or advocacy program which provides support and assistance to the victims of domestic abuse.

C. *Child* means a person under the age of 18.

D. *Family or Household Member* has the meaning given it in Minn. Stat. 518B.01, subd. 2(b)(1)-(7): spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, persons who have a child in common

regardless of whether they have been married or have lived together at any time, and persons involved in a significant romantic or sexual relationship. It also includes a man and a woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.

- E. ***Domestic Call*** means a request for assistance to a law enforcement agency regarding domestic abuse or any other crime against a family of household member.
- F. ***Qualified domestic violence-related offense (QDVRO)*** has the meaning given it in Minn. Stat. 609.02, subd. 16 and includes a violation of or an attempt to violate a domestic abuse order for protection; first or second degree murder; first through fifth degree assault; domestic assault; female genital mutilation; domestic assault by strangulation; first through fourth degree criminal sexual conduct; malicious punishment of a child; terroristic threats; violation of harassment restraining order; stalking; interference with an emergency call; nonconsensual dissemination of private sexual images; and violation of domestic abuse no contact order; and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

If a person arrested for a domestic crime has a prior QDVRO, the new offense may be chargeable as a higher-level crime. (See Enhancement Table appended hereto.)

- G. ***Order for Protection (OFP)*** is an order issued under Minn. Stat. 518B.01 by a judge in civil court upon the request of the petitioner. Any family or household member of the abuser (called a respondent) may ask the court for an OFP. The relief granted to the petitioner may include an order for the respondent to stop domestic abuse, no direct or indirect contact with petitioner, temporary custody of minor children, temporary financial support, and/or counseling for the respondent. Other forms or relief are also available. Violating an OFP is a crime.
- H. ***Domestic Abuse No Contact Order (DANCO)*** is an order issued under Minn. Stat. 629.75 by a judge in criminal court limiting contact between a defendant and a victim of domestic abuse. DANCOs may be issued as pretrial condition of release and/or as a probationary condition of sentence.
- I. ***Harassment Restraining Order (HRO)*** is an order issued under Minn. Stat. 609.748 by a judge in civil court when a petitioner requests a court order preventing another person from having contact with him/her. These orders generally prohibit all contact of any kind (including, but not limited to, phone calls, letters, e-mail, social media and contact through a third party) and may

limit the respondent's ability to come within a certain distance of the petitioner's home, work or school. This type of order can be issued no matter what the relationship between the individuals involved. Violating an HRO is a crime.

- J. *Harassment*** has the meaning given to it in Minn. Stat. 609.748, subd. 1(a): a single incident of physical or sexual assault or repeated incidents of intrusive or unwanted acts, words or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target.
- K. *Stalking*** has the meaning given to it in Minn. Stat. 609.749, subd. 1: engaging in conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated, and causes this reaction on the part of the victim regardless of the relationship between the actor and victim.

III. PROCEDURE

A. DISPATCHING THE CALLS

- 1. Receiving the Domestic Call:** Upon receiving a domestic call, the dispatcher will assign domestic calls a high priority and should assign at least two officers to the call. If only one officer is available, all reasonable attempts should be made to obtain another officer to assist the officer who was initially dispatched.
- 2. Information to be Obtained:** The dispatcher receiving a domestic call should attempt to elicit from the caller and should communicate to the responding peace officers as much of the following information as possible:
 - the nature of the incident,
 - the address of the incident, including apartment number, if applicable,
 - the telephone numbers where the caller can be reached,
 - whether weapons are involved or present in the dwelling,
 - whether someone is injured and the nature of the injury,
 - information about the suspect including whether the suspect is present, description, direction of flight, mode of travel, etc.,
 - the relationship between the caller and the suspect,
 - whether there has been prior calls involving these individuals,

- whether there is an order for protection (OFP), harassment restraining order (HRO) or criminal pre-trial or probationary domestic abuse no contact order (DANCO),
- whether children are present at the scene, and
- whether there are non-English speaking people, or people with mobility impairments or hearing impairments at the scene.

If the caller is the victim, the dispatcher should attempt to keep the caller on the telephone as long as possible and should tell the caller that help is on the way, and when the caller can expect the peace officers to arrive.

If the caller is a witness to an incident in progress, the dispatcher should attempt to keep the caller on the phone and should relay ongoing information provided by the caller to the responding peace officers.

If the responding peace officers are some distance away, and the dispatcher cannot remain on the telephone with the call/victim, the dispatcher should attempt to call back periodically to check on the progress of events, and call again when the officers arrive at the scene. If the dispatcher finds that a victim/caller who was recently available suddenly cannot be reached by phone or there is a persistent busy signal, the dispatcher should relay that information to the officers.

B. RESPONDING TO THE CALLS

- 1. Driving to the Scene:** The peace officers should respond directly and without unreasonable delay to the scene.
- 2. Initial Contact with Occupants:** Upon arriving at the scene of a domestic call, the responding officers should identify themselves as peace officers; explain their presence, and request entry into the home. The officers should ask to see the person who is the alleged victim. The officers should separate parties prior to taking statements. If the person who called the law enforcement agency is someone other than the subject of the call, the officer should not reveal the caller's name. The officer should ensure all of the occupants are safe.
- 3. Entry**
 - Refused Entry – If refused entry, the officers should be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused the officers should request the dispatcher to contact the caller.
 - Forced Entry – If access is still refused and the officers have reason to believe that someone is in imminent danger the officers are permitted to force entry.

- Search Warrant Entry – If the officers are refused entry and have no legal grounds for forced entry and have reasonable grounds to believe a crime has been committed, the officers should contact the appropriate authority to obtain a search warrant.

4. First Aid: After securing the scene, the responding peace officers shall provide the necessary first aid.

C. ARREST DECISIONS

1. Making Arrests: After securing the scene and providing any first aid, the peace officers will conduct an assessment of the lethality of the situation based on the totality of the circumstances and begin a criminal investigation to determine if there is probable cause to believe a crime has been committed based on the evidence and not solely upon the victim's desire to make an arrest. The officers should collect relevant physical evidence including weapons which may have been used, take photographs of the scene or any injuries and take statements from the involved parties and witnesses. Some of the evidence and statements include:

- photos of the scene,
- condition of clothing,
- property damage,
- evidence of physical injury including strangulation,
- excited utterances of the victim and the suspect,
- demeanor of the victim and the suspect,
- medical records including the victim's statements to paramedics, nurses and doctors,
- recorded interviews of witnesses including children who may have been present,
- evidence of any prior domestic abuse – related convictions including dates, and
- any existing OFPs, HROs or DANCOS.

NOTE: When determining probable cause, the peace officers should consider their observations and any statements made by the parties involved and any witnesses. Prior convictions may provide the basis for enhancement to a gross misdemeanor or felony charges (see D below).

2. Factors Not to be Considered in Making the Arrest:

- ownership, tenancy rights of either party, or the fact the incident occurred in a private place,
- belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction,
- verbal assurances that the abuse will stop,

- disposition of previous police calls involving the same victim or suspect,
- denial by either party that the abuse occurred when there is evidence of domestic abuse,
- lack of a court order restraining or restricting the suspect,
- concern about reprisals against the victim,
- adverse financial consequences that might result from the arrest, or
- chemical dependency or intoxication of the parties.

3. Predominant Aggressor and Dual Arrests: The agency shall discourage dual arrest¹. Where there are allegations that each party assaulted the other, the peace officer shall determine whether there is sufficient evidence to conclude that one of the parties is the predominant aggressor based on the following criteria and the officer's judgment:

- comparative extent of any injuries inflicted,
- fear of physical injury because of past or present threats,
- actions taken in self-defense or to protect oneself,
- the history of domestic abuse perpetrated by one party against the other, or
- the existence or previous existence of an order for protection.

4. Victim Request Not to Prosecute: If the officer finds probable cause to believe a domestic abuse offense has been committed and intends to arrest but the victim requests no arrest or prosecution, the officer should inform the victim that the decision to arrest is the officer's and the decision to prosecute lies with the prosecutor.

D. AUTHORITY AND TYPES OF ARREST

1. Warrantless Probable Cause Arrest for Fifth Degree Assault or Domestic Assault: Although the general rule is that officers may not make probable cause arrests for misdemeanors unless the offense occurs in their presence (or a citizen who saw the crime requests an arrest) domestic assault is an exception. A peace officer may arrest a person anywhere without a warrant, including at the person's residence, if the peace officer has probable cause to believe that the person has, within the preceding 72 hours, assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm any person covered by the "family or household member" definition, even if the assault did not take

¹ MN STAT 629.342 which mandates the development of a written domestic abuse arrest policy for every law enforcement agency in the state specifies that the policy "shall discourage dual arrests, include consideration of whether one of the parties acted in self defense, and provide guidance to officers concerning instances in which officers should remain at the scene of a domestic abuse incident until the likelihood of further imminent violence has been eliminated."

place in the presence of the peace officer (Minn. Stat. 629.341). A peace officer acting in good faith and exercising due care in making an arrest pursuant to this statute is immune from civil liability that might result from the officer's action.

NOTE: An arresting officer may not issue a citation in lieu of arrest and detention to an individual charged with assaulting the individual's spouse or other individual with whom the charged person resides (Minn. Stat. 629.72).

2. Level of Arrest for Fifth Degree Assault and Domestic Assault: Misdemeanor, Gross Misdemeanor and Felony: Assault in the Fifth Degree and Domestic Assault are deemed misdemeanor offenses. However, changes in the statutes have greatly increased the potential for arrests for these crimes at the gross misdemeanor and felony level.

- a) *Gross Misdemeanors:* Minn. Stat. 609.224, subd. 2(a), Assault in the Fifth Degree, provides for an enhancement to a gross misdemeanor violation when the offense is against the same victim within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency in Minnesota, or any similar law of another state.

If the charge is Domestic Assault (Minn. Stat. 609.2242) and the current victim is a family or household member and the crime occurs within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency of any of the above offenses against any family or household member, the same gross misdemeanor enhancement applies. The prior conviction need not be against a member of the same family or household.

- b) *Felonies:* If a person commits Assault in the Fifth Degree against the same victim within ten years of the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency, Assault in the Fifth Degree becomes a felony. The same enhancement applies to Assault in the Fifth Degree against any victim occurring within three years of the first of two or more of these convictions.

Domestic assault against a family or household member is also enhanceable under the same circumstances except that the prior convictions may be against any family or household member. According to Minn. Stat. 609.2247, subd. 2., whoever assaults a family or household member by strangulation is guilty of a felony.

3. Stalking The acts which constitute stalking according to Minn. Stat. 609.749 include several which are frequently applicable to domestic abuse situations even when no actual assault occurred.

- a) *Gross Misdemeanors:* A person who stalks another by committing any of the following acts is guilty of a gross misdemeanor:
1. directly or indirectly, or through third parties, manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;
 2. follows, monitors, or pursues another, whether in person or through any available technological or other means;
 3. returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;
 4. repeatedly makes telephone calls, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;
 5. makes or causes the telephone of another to repeatedly or continuously ring;
 6. repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, through assistance devices for the visually or hearing impaired, or any communication made through any available technologies or other objects; or
 7. knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties.

Also, according to Minn. Stat. 609.749., subd.1a., the State does not have to prove the actor intended to cause the victim to feel frightened, threatened, oppressed, persecuted or intimidated. The intent of the defendant is immaterial. Obtaining a complete domestic abuse history is usually the key to making the determination that the current act, under the circumstances, constitutes the crime of stalking.

- b) *Felony/Felony Enhancements:* A person who commits any offense described in 3.a) (see above) against a victim under the age of 18, if the actor is more than 36 months older than the victim, and the act is committed with sexual or aggressive intent, is guilty of a felony.

Any of the above gross misdemeanors is enhanceable to a felony if committed within ten years of a previous QDRVO conviction or adjudication of delinquency OR if committed against a juvenile OR if committed while possessing a dangerous weapon.

In addition, it is a felony to engage in a pattern of stalking conduct with respect to a single victim or one or more members of a single household

which the actor knows or has reason to know would cause a reasonable person under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim. According to Minn. Stat. 609.749, subd. 5, a "pattern of stalking conduct" means two or more acts (convictions are not necessary) within a five-year period that constitute any of the following offenses: murder, manslaughter, terroristic threats, fifth-degree assault, domestic assault, violation of domestic abuse orders for protection, violation of harassment restraining orders, certain trespass offenses, interference with an emergency call, obscene or harassing telephone calls, letter, telegram, or package opening or harassment, burglary, damage to property, criminal defamation, first- to fifth-degree criminal sexual conduct, and violations of domestic abuse no contact orders.

The stalking statute makes it more important than ever to document not just the facts of the current police call but also the history of abuse or stalking.

- c) Venue (Minn. Stat. 609.749, subp. 1b.): If a suspect commits acts of stalking in different counties, the acts may be consolidated and prosecuted in any county in which one of the acts was committed. If the conduct that constitutes stalking is done through use of a wireless or electronic communication device, the conduct can be prosecuted in the county where either the suspect or victim resides.

4. Probable Cause Warrantless Arrest: The domestic abuse arrest statute (Minn. Stat. 629.72) provides an officer may not issue a citation in lieu of arrest in harassment/stalking, domestic abuse, violation of an order for protection, or violation of a domestic abuse no contact order cases. According to Minn. Stat. 629.34, subd.1(c)(5) an officer may also make a warrantless probable cause arrest even if the offense did not occur in the officer's presence if the officer has reasonable cause to believe the offense was a gross misdemeanor or felony (no 72 hour restriction).

5. Probable Cause Felony Arrests for Other Crimes: At a domestic call peace officers shall consider whether other felonies have been committed including but not limited to, burglary, felony assault, terroristic threats, kidnapping, false imprisonment, and witness tampering.

NOTE: An Assault 5 may be chargeable as burglary in the first degree even if the home is also the offender's if the entry is made without consent of the victim and in violation of an OFP barring the offender from the premises.

6. Violation of Court Orders: The peace officer shall verify whether any of the following orders exist before or during an arrest. The peace officer or someone acting at the officer's direction may make this verification. Methods of verification include personally seeing a copy of the order or obtaining verification from the court or law enforcement agency that has the actual order. The police report shall include identifying information of the specific court order violated, including county of origin, the file number, and the provision allegedly violated.

- a) *Order for Protection (OFP):* A peace officer shall arrest and take into custody without a warrant a person who the peace officer has probable cause to believe has violated any condition of an OFP granted pursuant to Minn. Stat. 518B.01, subds. 6, 7, and 9. Such an arrest shall be made even if the violation of the order did not take place in the presence of the peace officer, if the officer can verify the existence of the order.

NOTE: Minn.Stat. 518B.01, subd. 18(a)(2), states that an OFP is not voided even if the respondent was invited back to the residence by the petitioner, and there is no hour limitation for a warrantless arrest for a violation of an OFP.

A violation of an OFP is a misdemeanor but is enhanceable to a gross misdemeanor if the offense occurs within ten years of discharge from sentence for conviction of violation of an OFP or for any conviction of assault, terroristic threats, violation of a harassment order or harassment/stalking. It is enhanceable as a felony if it occurs within ten years of discharge of the first of two or more such convictions.

OFPs and DANCOS can be verified on the State MNJIS system, also known as the Hot Files. HROs are not in the Hot Files system at this time but are still enforceable.

- b) *Harassment Restraining Order (HRO):* A peace officer shall arrest and take into custody a person who the peace officer has probable cause to believe has violated a harassment restraining order pursuant to Minn. Stat. 609.748, subds. 4 and 5, if the officer can verify the existence of the order.

NOTE: A person who violates an HRO is guilty of a misdemeanor if the violator knows of the order. This offense is enhanceable to a gross misdemeanor if it occurs within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency. Per Minn. Stat. 609.748, subd. 6, (d), it is enhanceable to a felony if the person knowingly violates the order:

- (1) within 10 years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency;
- (2) because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability (as defined in section 363A.03), age, or national origin;
- (3) by falsely impersonating another;
- (4) while possessing a dangerous weapon;
- (5) with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.414, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or
- (6) against a victim under the age of 18, if the respondent is more than 36 months older than the victim.

- c) *Domestic Abuse No Contact Order (DANCO)* (Minn. Stat. 629.75): A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated a DANCO, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer.

The pretrial DANCO is sometimes continued at the time of sentencing with a new, probationary DANCO issued as a condition of probation. This DANCO may be valid for the full probationary period indicated in the order.

The court may rescind a DANCO at any time. However, a victim's production of a copy of an apparently valid court order, absent contrary evidence, provides prima facie basis for arrest whenever there is probable cause to believe a violation of the order has occurred.

- 7. Other Misdemeanors:** At a domestic call, the peace officer shall consider whether other crimes have been committed including but not limited to trespassing, criminal damage to property, disorderly conduct, witness tampering, or assault.

E. ASSISTANCE, STAYING AT THE SCENE, CRIME VICTIM RIGHTS, AND SERVICES

- 1. Staying at the Scene:** If no arrest is made peace officers should remain at the scene of the disturbance until they believe that the likelihood

of further imminent abuse has been eliminated. If a domestic abuse intervention program is available the peace officer should make contact for immediate intervention.

NOTE: Minn. Stat. 629.342 provides that when a peace officer does not make an arrest, the peace officer must provide immediate assistance to the victim including obtaining necessary medical treatment and providing the victim with the notice of rights pursuant to Minn. State. 629.341, subd. 3.

2. Assistance to Non-English Speaking Victims or Victims with Communication Disabilities: The peace officer shall use the resource list established by the law enforcement agency to contact a person to assist in those cases where the participants in the domestic call, including the witnesses, are non-English speaking, are hearing-impaired, or have other communication disabilities. The officer should avoid the use of friends, family or neighbors serving as the primary interpreter for the investigation.

3. Notice of Crime Victims Rights: The peace officer shall give the victim of a domestic call a copy of the agency's crime victim notification form.

NOTE: It is important to routinely review these forms to ensure that they are current, in compliance with the law, and contain the name of the local domestic abuse program. The Department of Public Safety, Office of Justice Programs, produces the crime victim's rights notice and serves as the contact for the victim's rights information.

4. Services: The peace officer should contact the local domestic abuse program by phone as soon as possible on all arrest situations and provide the name and address of the victim and a brief factual account of events associated with the action. This section shall not apply if prohibited by the Minnesota Government Data Practices Act (Minn. Stat. 13.82, subd. 10,).

F. CHILDREN

1. Child Victims: If a child is present at the scene of a domestic call or is the victim of domestic abuse, the peace officer should determine whether the child has been subjected to physical abuse, sexual abuse, or neglect, and comply with the requirements of Minn. Stat. 626.556, Reporting of Maltreatment of a Minor. The officers shall also attempt to verify whether there has been an Order for Protection (Minn. Stat. 260C.201). If the child has been injured, the officer should escort the child to the nearest hospital for treatment.

G. REPORTS AND FORMS

1. Written Report: Peace officers shall make a report after responding to a domestic call. If the officer did not arrest or seek an arrest warrant even though arrest was authorized, a detailed explanation of the reasons for the officer's decision not to arrest must be documented. The report should include the following:

- detailed statements from the victim, suspect and witnesses;
- description of injuries;
- information about past abuse;
- description of the scene;
- predominant aggressor;
- existence of language barriers;
- presence of elderly victims or those with disabilities; and
- documentation of evidence.

H. FURTHER INVESTIGATION

- 1.** A domestic call shall be turned over to the appropriate investigator for further follow-up if appropriate. If there is an arrest, the investigator shall determine the defendant's criminal record, and if there is evidence of a previous conviction, the peace officer should advise the prosecutors of any enhanced criminal sanctions which may be available.
- 2.** Notwithstanding the fact that the officer has decided not to arrest one of the participants in the domestic call, the peace officer shall thoroughly document all relevant information in the report and shall refer the report to the appropriate prosecutor for review and consideration of criminal charges.

Enhancements Table

Conviction means a plea of guilty or verdict of guilty accepted by the court (Minn. Stat. § 609.02, subd. 5).

Discharge from Offense means the time between conviction and the end of 5 years following discharge from sentence for that offense.

QDVRO means a “Qualified Domestic Violence Related Offense” which includes a violation of or an attempt to violate a domestic abuse order for protection; first or second-degree murder; first through fifth-degree assault; domestic assault; female genital mutilation; domestic assault by strangulation; first through fourth-degree criminal sexual conduct; malicious punishment of a child; terroristic threats; violation of harassment restraining order; stalking; interference with an emergency call; nonconsensual dissemination of private sexual images; and violation of domestic abuse no contact order (DANCO); and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories. (Minn. Stat. 609.02, subd. 16)

Offense	Victim of Offense	Time Limit	Prior Conviction	Offense Level
Assault 5	Same Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of 1 st of 2 or more convictions	QDVRO	Felony
	Any Victim	w/in 3 years of conviction	QDVRO	Gross Misdemeanor
		w/in 3 years of 1 st of 2 or more convictions	QDVRO	Felony
Domestic Assault	Family/Household Member (as defined in Minn. Stat. 518B.01, subd. 2.)	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of 1 st of 2 or more convictions for Domestic Assault or Assault 5	QDVRO	Felony
Malicious Punishment	Any Victim	w/in 5 years of discharge	Assault 1-5, Domestic Assault, Malicious Punishment, Criminal Sexual Conduct 1-4, or Terroristic Threats	Felony
Violation of Order for Protection or Harassment Restraining Order	Any Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of 1 st of 2 or more convictions	QDVRO	Felony
Stalking	Any Victim	w/in 10 years of conviction	QDVRO	Felony
Interference w/ Privacy	Any Victim	None	Interference w/ Privacy or Stalking	Gross Misdemeanor

Example of Enhancement Reachback:	
Arrest for Assault 5 & Malicious Punishment	1/1/2013
Plea (Accepted) to Assault 5 & Malicious Punishment (Conviction)	6/1/2013
Sentence of 2 years of probation	8/1/2013
Expiration of reachback for any victim for Assault 5	6/1/2016
Discharge from sentence	8/1/2015
Expiration of reachback for any victim for Malicious Punishment	8/1/2020
Expiration of reachback for same victim for Assault 5	6/1/2023

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SECTION 6.56 PROCESSION OF PROPERTY SEIZED FOR FORFEITURE

1. It shall be the policy of the Morrison County Sheriff's Office that all employees of the agency, all employees assigned to another law enforcement agency's task force and all employees assigned from an outside law enforcement agency to a task force in which this agency serves as the fiscal agent, shall follow all state and federal laws pertaining to the processing of property seized for forfeiture. Training will be provided by the employing law enforcement agency in consultation with the prosecuting authority to officers who may exercise the use of administrative forfeiture in the performance of their assigned duties. Such training to be conducted whenever the agency policy is changed or modified based upon administrative directives, legislative statutes changes and/or relative court decisions. Training may include but not limited to agency policy, directives, electronic or traditional classroom education.

2. DEFINITIONS

- a. Cash: money in the form of bills or coins, traveler's checks, money orders, checks or other forms of electronic money or stored value cards, including but not limited to gift cards, debit cards, gift cards/certificates or other negotiable financial instruments.
- b. Conveyance Device: a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property, which is in fact, itself stolen or taken in violation of the law.
- c. Firearms/ammunition/firearm accessories: a device that projects either single or multiple projectiles at high velocity. Ammunition is a term meaning the assembly of a projectile and its propellant. Accessories include but are not limited to holsters, gun cases, fire arm optics, suppression devices, cleaning supplies, etc.
- d. Forfeiture: the process by which legal ownership of an asset is transferred to a government or other authority.
- e. Jewelry/Precious Metals/Precious Stones: The term "precious metals/precious stones" includes items of jewelry, such as rings, necklaces, and watches, that reasonably appear to be made of precious metals or precious stones. Precious metals include but are not limited to gold, silver, platinum, iridium, and palladium. Precious stones, often referred to as gemstones, include but are not limited to diamonds, emeralds, and rubies.
- f. Forfeiture/Seized Property Reviewer: an Agency employee responsible for reviewing all forfeiture cases and is the liaison between the Agency and prosecutor's office. The Chief Deputy will fill this role.
- g. Seizure: the act of law enforcement officials taking property, including cash, vehicles, etc. that has been used in connection with or acquired by illegal activities.

3. SEIZED PROPERTY SUBJECT TO ADMINISTRATIVE FORFEITURE

The following property may be seized and is presumed under Minnesota Statute 609.5314 to be subject to administrative forfeiture if the item has a retail value of \$50,000.00 or less:

Revised: 3/21/17

- a. All money, precious metals, and precious stones found in proximity to:
 - Controlled substances;
 - Forfeitable drug manufacturing or distributing equipment or devices; or
 - Forfeitable records of manufacture or distribution of controlled substances.
- b. All conveyance devices containing controlled substances with a retail value of \$100 or more if possession or sale of the controlled substance would be a felony under chapter 152.
- c. All firearms, ammunition, and firearm accessories found:
 - In a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;
 - On or in proximity to a person from whom a felony amount of controlled substance is seized; or
 - On the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under chapter 152.
- d. Seizure of property not listed above must be processed in coordination with and approved by the unit supervisor.

4. PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

When any property as described in the above section is seized, the peace officer making the seizure must prepare the following:

- a. The proper Notice of Seizure and Intent to Forfeit Property form. This form must be completed to include the following: a list describing each item seized, the name of the individual served with the Notice, location, and the date of seizure. Administrative forfeiture notices are NOT to be given for assets seized under MN Statutes §609.5314 if the retail value of the asset exceeds \$50,000.00.
- b. The individual from whom property is seized must be given an opportunity to sign the seizure notice form. If the person refuses, the peace officer conducting the seizure must check the appropriate box indicating the refusal to sign. If property is seized from multiple individuals, a separate seizure form will be completed for each individual. A copy of the seizure form must be served to each individual.
- c. All property subject to and being processed for forfeiture through the agency must be held in the custody of the agency, unless otherwise authorized.
- d. The peace officer conducting the seizure shall forward the original and pink copy of the seizure notices, reports to the Forfeiture/Seized Property Reviewer within 10 days of seizure.
- e. The peace officer conducting the seizure shall inform the Forfeiture/Seized Property Reviewer of the estimated retail value of drugs found in proximity to the asset seized.

5. CASH

- a. Peace officers shall not seize cash having an aggregate value less than

\$1.00. Cash shall be recounted and the amount verified by another employee of the Agency. The property bag and/or inventory receipt shall then be co-signed when cash is involved.

- b. All forfeitable cash seized will be turned over to the Forfeiture/Seized Property Reviewer as soon as practicably possible.
- c. Prior to deposit with the Forfeiture/Seized Property Reviewer, peace officers shall examine all cash seized to determine whether it contains any buy funds. Peace officers shall document the recovery of all buy funds and deposit those funds with the Forfeiture/Seized Property Reviewer to be returned to the appropriate unit's buy fund account.
- d. Peace officers seizing cash shall also prepare a cash inventory. If cash is seized from multiple individuals, a cash inventory receipt will be completed for each individual. The cash inventory form shall specify the total amount of cash seized from each individual. The inventory shall also contain a detailed description of all checks, money orders and/or travelers checks or other financial instruments.
- e. The peace officer conducting the seizure shall provide a copy of the completed cash inventory form to the Forfeiture/Seized Property Reviewer.
- f. It is the seizing peace officer's responsibility to secure the cash consistent with the agency policy or procedure.

6. JEWELRY/PRECIOUS METALS/PRECIOUS STONES

- a. Peace officers seizing jewelry, precious metals, and/or precious stones will include a detailed description of each item in their report. Peace officers seizing jewelry, precious metals, and/or precious stones shall deliver those items to the property/evidence room as soon as practicably possible.

7. CONVEYANCE DEVICE

- a. Upon seizure for forfeiture, all conveyance devices shall immediately be either taken to a secure designated area or to an agency approved impound facility.
- b. Peace officers shall inventory the conveyance device and its contents in accordance with agency policy. Peace officers shall also complete applicable report forms and distribute them appropriately.

8. FIREARMS/AMMUNITION/FIREARM ACCESSORIES

- a. When firearms, ammunition, or firearms accessories are seized, they shall be inventoried and delivered to the property/evidence room as per agency policy/procedure.

9. CASE FILE STATUS

- a. The Forfeiture/Seized Property Reviewer shall forward all changes to forfeiture status to the officer who initiated the case.

10. REPORT WRITING

- a. In addition to the forfeiture forms, peace officers seizing property must complete a report. All reports must include a description of the items seized and where the property is stored. In cases where property is seized for court forfeiture, rather

than administrative forfeiture, the report will indicate the county attorney was notified of the need to initiate judicial forfeiture proceedings.

- b. All reports dealing with seized property will be completed within 24 hours of the seizure when practically possible.

SECTION 6.62 SEXUAL ASSAULT INVESTIGATION

I. PURPOSE

The purpose of this policy is to provide employees with guidelines for responding to reports of sexual assault. The Morrison County Sheriff's Office (MCSO) will strive:

- a) To afford maximum protection and support to victims of sexual assault or abuse through a coordinated program of law enforcement and available victim services with an emphasis on a victim centered approach;
- b) To reaffirm peace officers' authority and responsibility to conducting thorough preliminary and follow up investigations and to make arrest decisions in accordance with established probable cause standards;
- c) To increase the opportunity for prosecution and victim services.

II. POLICY

It is the policy of the Morrison County Sheriff's Office (MCSO) to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring its peace officers understand the laws governing this area.

All employees should take a professional, victim-centered approach to sexual assaults, protectively investigate these crimes, and coordinate with prosecution in a manner that helps restore the victim's dignity and autonomy. While doing so, it shall be MCSO's goal to decrease the victim's distress, increase the victim's understanding of the criminal justice system and process, and promote public safety.

Deputies will utilize this policy in response to sexual assaults reported to the Morrison County Sheriff's Office. The MCSO will aggressively enforce the laws without bias and prejudice based on race, marital status, sexual orientation, economic status, age, disability, gender, religion, creed, or national origin.

III. DEFINITIONS

For purpose of this policy, the words and phrases in this section have the following meaning given to them, unless another intention clearly appears.

A. **Consent:** As defined by Minn. Stat. 609.341, which states:

- (1) Words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act.
- (2) A person who is mentally incapacitated or physically helpless as defined by Minnesota Statute 609.341 cannot consent to a sexual act.
- (3) Corroboration of the victim's testimony is not required to show lack of consent.

- B. **Child or Minor:** a person under the age of 18.
- C. **Medical Forensic Examiner:** The health care provider conducting a sexual assault medical forensic examination.
- D. **Sexual Assault:** A person who engages in sexual contact or penetration with another person in a criminal manner as identified in MN Statute 609.342 to 609.3451.
- E. **Family and Household Member:** As defined in Minn. Stat. 518.B.01 Subd.2.b. to include:
- (1) spouses or former spouses;
 - (2) parents and children;
 - (3) persons related by blood;
 - (4) persons who are presently residing together or who have resided together in the past;
 - (5) persons who have a child in common regardless of whether they have been married or have lived together at any time;
 - (6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and
 - (7) persons involved in a significant romantic or sexual relationship
- F. **Sexual Assault Medical Forensic Examination:** An examination of a sexual assault patient by a health care provider.
- G. **Victim Advocate:** A Sexual Assault Counselor defined by Minn. Stat. 595.02, subd. 1(k) and/or Domestic Abuse Advocate as defined by Minn. Stat. 595.02, subd. 1(1) who provide confidential advocacy services to victims of sexual assault and domestic abuse. Victim advocates as defined provide coverage in all counties in Minnesota. Minnesota Office of Justice Programs (MN OJP) can assist departments in locating their local victim advocacy agency for the purposes outlined in this policy.
- H. **Victim Centered:** A victim-centered approach prioritizes the safety, privacy and well-being of the victim and aims to create a supportive environment in which the victim's rights are respected and in which they are treated with dignity and respect. This approach acknowledges and respects a victims' input into the criminal justice response and recognizes victims are not responsible for the crimes committed against them.
- I. **Vulnerable Adult:** any person 18 years of age or older who:
- (1) is a resident inpatient of a facility as defined in Minn. Stat. 626.5572. Subd. 6;
 - (2) receives services at or from a facility required to be licensed to serve adults under sections [245A.01](#) to [245A.15](#), except that a person receiving

outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

- (3) receives services from a home care provider required to be licensed under sections [144A.43](#) to [144A.482](#); or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections [256B.0625](#), [subdivision 19a](#), [256B.0651](#) to [256B.0654](#), and [256B.0659](#); or
- (4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
 - (i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and
 - (ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

IV. PROCEDURES

A. Communications Personnel Response/Additional Actions by Responding Officers

Communications personnel and/or law enforcement officers should inform the victim of ways to ensure critical evidence is not lost, to include the following:

- 1) Suggest that the victim not bathe, or clean him or herself if the assault took place recently.
- 2) Recommend that if a victim needs to relieve themselves, they should collect urine in a clean jar for testing, and should avoid wiping after urination.
- 3) Asking the victim to collect any clothing worn during or after the assault and if possible, place in a paper bag, instructing the victim not to wash the clothing.
- 4) Reassure the victim that other evidence may still be identified and recovered even if they have bathed or made other physical changes.

B. Initial Deputy Response

When responding to a scene involving a sexual assault, deputies shall follow standard incident response procedures. In addition, when interacting with victims, deputies shall do the following:

- 1) Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.
- 2) The deputy shall attempt to determine the location/jurisdiction where the

assault took place.

- 3) The deputy shall contact an Investigative Sergeant and inform them of the assault.
- 4) Explain the reporting process including the roles of the first responder, investigator, and anyone else with whom the victim will likely interact during the course of the investigation.
- 5) Deputies are encouraged to connect the victim with local victim advocates as soon as possible. Inform the victim that there are confidential victim advocates available to address any needs they might have and to support them through the criminal justice system process. Provide the victim with contact information for the local victim advocate. Upon victim request the deputy can offer to contact local victim advocate on behalf of the victim.
- 6) Ask about and document signs and symptoms of injury, to include photos. Deputies shall attempt to obtain a signed medical release from the victim.
- 7) Ensure that the victim knows they can go to a designated facility for a forensic medical exam. Offer to arrange for transportation for the victim.
- 8) Identify and attempt to interview potential witnesses to the sexual assault and/or anyone the victim told about the sexual assault.
- 9) Request preferred contact information for the victim for follow-up.

C. Victim Interviews

The MCSO recognizes that victims of sexual assault due to their age or physical, mental or emotional distress, are better served by utilizing trauma informed interviewing techniques and strategies. Such interview techniques and strategies eliminate the duplication of interviews and use a question and answer interviewing format with questioning nondirective as possible to elicit spontaneous responses.

In recognizing the need for non-traditional interviewing techniques for sexual assault victims, deputies should consider the following:

- Offer to have a confidential victim advocate present (if possible) if the victim would benefit from additional support during the process
- Conduct victim interviews in person
- Make an effort to conduct the interview in a welcoming environment
- Let the victim share the details at their own pace
- Recognize victims of trauma may have difficulty remembering incidents in a linear fashion and may remember details in days and weeks following the assault

- After the initial interview, consider reaching out to the victim within a few days, after at least one sleep cycle to ask if they remember any additional details.
- Depending on the victim, additional interviews might be needed to gather additional information. Offer support from a victim advocate to the victim to help facilitate engagement with the investigative process and healing.
- Some victims do remember details vividly and might want to be interviewed immediately.
- During initial and subsequent victim interviews, deputies should note the following information as victims share it, recognizing that a victim may not be able to recall all the details of the assault during a particular interview.
 - 1) Whether the suspect was known to the victim
 - 2) How long the victim knew the suspect
 - 3) The circumstances of their meeting and if there is any indication of the use of drugs or alcohol to facilitate the sexual assault
 - 4) The extent of their previous or current relationship
 - 5) Any behavioral changes that led the situation from one based on consent to one of submission, coercion, fear, or force
 - 6) Specific actions, statements, and/or thoughts of both victim and suspect immediately prior, during, and after assault
 - 7) Relevant communication through social media, email, text messages, or any other forms of communication

D. Special Considerations—Minors and Vulnerable Adults/Domestic Abuse Victims

1. Minors and Vulnerable Adults

The MCSO recognizes that certain victims, due to their age or a physical, mental, or emotional distress, are better served by utilizing interview techniques and strategies that eliminate the duplication of interviews and use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. Members of the MCSO will be alert for victims who would be best served by the use of these specialized interview techniques. Deputies, in making this determination, should consider the victim's age, level of maturity, communication skills, intellectual capacity, emotional state, and any other observable factors that would indicate specialized interview techniques would be appropriate for a particular victim. When an deputy determines that a victim requires the use of these specialized interview techniques, the officer should follow the guidance below.

- a. Deputies responding to reports of sexual assaults involving these sensitive population groups shall limit their actions to the following:
 - (1) Ensuring the safety of the victim;
 - (2) Ensuring the scene is safe;
 - (3) Safeguarding evidence where appropriate;
 - (4) Collecting any information necessary to identify the suspect; and
 - (5) Addressing the immediate medical needs of individuals at the scene

- b. Initial responding deputies should not attempt to interview the victim in these situations, but should instead attempt to obtain basic information and facts about the situation, including the jurisdiction where the incident occurred and that a crime most likely occurred. Deputies should seek to obtain this information from parents, caregivers, the reporting party, or other adult witnesses, unless those individuals are believed to be the perpetrators.
- c. Deputies responding to victims with special considerations must comply with the mandated reporting requirements of Minnesota Statute 260E.06 and 626.557, as applicable. Deputies investigating cases involving victims with special considerations should coordinate these investigations with the appropriate local human services agency where required. Any victim or witness interviews conducted with individuals having special considerations must be audio and video recorded whenever possible. All other interviews must be audio recorded whenever possible.

Not all sexual assaults of minor victims require a mandatory report to social services. This policy recognizes that in certain cases, notifying and/or the involvement of a parent/guardian can cause harm to the minor and/or impede the investigation. Deputies responding to the sexual assault of a minor victim that does not trigger a mandated report under Minn. Stat. 260E.22 should assess for the impact on the victim and the investigation if parents/guardians were notified before making a decision to involve them.

- d. Deputies should obtain necessary contact information for the victim's caregiver, guardian or parents and where the victim may be located at a later time. Deputies should advise the victim and/or any accompanying adult(s), guardians or caregivers that an investigating officer will follow up with information on a forensic interview.
 - e. The deputy should advise the victim's caregiver, guardian or parent that if the victim starts to talk about the incident they should listen to them but not question them as this may influence any future statements.
2. Victims of Domestic Abuse
- Deputies responding to a report of sexual assault committed against a family and household member must also follow the requirements and guidelines in this agency's domestic abuse policy and protocol, in addition to the guidelines in this policy.

E. Protecting Victim Rights

- 1) Confidentiality: Deputies should explain to victims the limitations of confidentiality in a criminal investigation and that the victim's identifying information is not accessible to the public, as specified in Minn. Stat. section 13.82, subd. 17(b)
- 2) Crime Victim Rights: Deputies must provide the following information to the victim:
 - a. Crime victim rights and resource information required to be provided to all victims as specified by Minn. Stat. section 611A.02, subd. 2(b)
 - b. If the suspect is a family or household member to the victim, crime victim rights and resource information required to be provided to domestic abuse victims, as specified by Minn. Stat. section 629.341, subd. 3.
 - c. The victim's right to be informed of the status of a sexual assault examination kit upon request as provided for under Minn. Stat. section 611A.27, subd. 1.
 - d. Pursuant to Minn. Stat. 611A.26, subd. 1, no law enforcement agency or prosecutor shall require that a complainant of a criminal sexual conduct or sex trafficking offense submit to a polygraph examination as part of or a condition to proceeding with the investigation, charging or prosecution of such offense.
- 3) Other information: Deputies should provide to the victim the ICR number, and contact information for the reporting deputy and/or investigator or person handling the follow up.
- 4) Language access: All deputies shall follow MCSO policy regarding limited English proficiency.

F. Evidence Collection

- 1) Considerations for Evidence Collection

Deputies shall follow the MCSO's policy on crime scene response. In addition, deputies may do the following:

 - a. Collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing. The MCSO should consider utilizing MCSO Investigators in obtaining or processing the scene where the assault took place. This should be in accordance to any/all other policies and procedures relating to evidence collections.
 - b. Document any evidence of threats or any communications made by the suspect, or made on behalf of the suspect, to include those made to individuals other than the victim.
 - c. In situations where it is suspected that drugs or alcohol may have facilitated the assault, officers should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, or other related items.

- d. If the victim has declined or a medical forensic exam will not be conducted, the officer should obtain victim consent and attempt to take photographs of visible physical injuries, including any healing or old injuries. Victim should be given directions about how to document any bruising or injury that becomes evidence later after these photographs are taken.

G. Sexual Assault Medical Forensic Examinations

- 1) Prior to the sexual assault medical forensic examination the investigating deputy should do the following:
 - a. Ensure the victim understands the purpose of the sexual assault medical forensic exam and its importance to both their general health and wellness and to the investigation. Offer assurance to the victim that they will not incur any out-of-pocket expenses for forensic medical exams and provide information about evidence collection, storage and preservation in sexual assault cases.
 - b. Provide the victim with general information about the procedure, and encourage them to seek further detail and guidance from the forensic examiner, health care professional, or a victim advocate. Deputies and investigators cannot deny a victim the opportunity to have an exam.
 - c. Deputies should be aware and if necessary, relay to victims who do not want to undergo an exam that there might be additional treatments or medications they are entitled to even if they do not want to have an exam done or have evidence collected. Victims can seek that information from a health care provider or a victim advocate. If possible, transport or arrange transportation for the victim to the designated medical facility.
 - d. Ask the victim for a signed release for access to medical records from the exam.
- 2) Deputies should not be present during any part of the exam, including during the medical history.
- 3) Following the exam, evidence collected during the exam shall be handled according to the requirements of MCSO policy and Minnesota Statute 299C.106.

H. Contacting and Interviewing Suspects

Prior to contacting the suspect, deputies should consider the following:

- 1) Conduct a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.
- 2) Consider conducting a pretext or confrontational call or messaging depending on jurisdictional statutes. Involvement of a victim should be based on strong consideration of the victim's emotional and physical state. A victim advocate should be present whenever possible to offer support.
- 3) When possible, an attempt would be made to interview the suspect in person.

- 4) In situations where suspects do not deny that a sexual act occurred, but rather assert that it was with the consent of the victim, officers should do the following:
 - a. Collect evidence of past communication, including but not limited to all relevant interaction (including social media) between the suspect and victim.
 - b. Identify events that transpired prior to, during, and after the assault in an effort to locate additional witnesses and physical locations that might lead to additional evidence.
- 5) For sexual assaults involving strangers, deputies should focus investigative efforts on the collection of video, DNA, and other trace evidence used for analysis to identify the perpetrator (handle evidence collection per agency policy).

I. Forensic Examination and/or the Collection of Evidence from the Suspect

Note: A suspect's forensic examination and/or the collection of evidence from a suspect may be done by either an investigator, Forensic Medical Examiner, or the BCA.

- 1) Prior to or immediately after the preliminary suspect interview, photograph any injuries.
- 2) Determine whether a sexual assault medical forensic examination should be conducted.
- 3) Ask for the suspect's consent to collect evidence from their body and clothing. However, deputies/investigators should consider obtaining a search warrant, with specific details about what evidence will be collected, and should be prepared in advance to eliminate the opportunity for the suspect to destroy or alter evidence if consent is denied.
- 4) During the suspect's sexual assault medical forensic examination, the investigator, evidence technician, or forensic examiner should do the following:
 - a. Strongly consider penile swabbing, pubic hair combings, and collection of other potential DNA evidence;
 - b. Collect biological and trace evidence from the suspect's body;
 - c. Document information about the suspect's clothing, appearance, scars, tattoos, piercings, and other identifiable marks;
 - d. Seize all clothing worn by the suspect during the assault, particularly any clothing touching the genital area;
 - e. Document the suspect's relevant medical condition and injuries.

SECTION 6.64 EYEWITNESS IDENTIFICATION PROCEDURES

1. POLICY:

Officers shall adhere to the procedures for conducting eyewitness identifications set forth in this policy, in order to maximize the reliability of identifications, minimize erroneous identifications, and gather evidence that conforms to contemporary eyewitness identification protocols. Photo arrays and line-ups will be conducted by displaying the suspect and fillers sequentially using a blind or blinded administration.

2. PURPOSE:

It is the purpose of this policy to establish guidelines for eyewitness identification procedures involving show-ups, photo arrays, and line-ups. Erroneous eyewitness identifications have been cited as the factor most frequently associated with wrongful convictions. Therefore, in addition to eyewitness identification, all appropriate investigative steps and methods should be employed to uncover evidence that either supports or eliminates the suspect identification.

3. DEFINITIONS:

Show-up: The presentation of a suspect to an eyewitness within a short time frame following the commission of a crime to either confirm or eliminate him or her as a possible perpetrator. Show-ups, sometimes referred to as field identifications, are conducted in a contemporaneous time frame and proximity to the crime.

Line-up: The process of presenting live individuals to an eyewitness for the purpose of identifying or eliminating suspects.

Photo Array: A means of presenting photographs to an eyewitness for the purpose of identifying or eliminating suspects.

Administrator: The law enforcement official conducting the identification procedure.

Blinded Presentation: The administrator may know the identity of the suspect but does not know which photo array member is being viewed by the eyewitness at any given time.

Confidence Statement: A statement in the witness's own words taken immediately after an identification is made stating his or her level of certainty in the identification.

Filler: A live person, or a photograph of a person, included in an identification procedure who is not considered a suspect.

Sequential: Presentation of a series of photographs or individuals to a witness one at a time.

Simultaneous: Presentation of a series of photographs or individuals to a witness all at once.

PROCEDURE:

1. Show-ups

The use of show-ups should be avoided whenever possible in preference to the use of a lineup or photo array procedure. However, when circumstances require the prompt presentation of a suspect to a witness, the following guidelines shall be followed to minimize potential suggestiveness and increase reliability.

- a. Document the Witness's description of the perpetrator prior to conducting the show up.
- b. Conduct a show-up only when the suspect is detained within a reasonable time frame after the commission of the offense and within a close physical proximity to the location of the crime.
- c. Do not use a show-up procedure if probable cause to arrest the suspect has already been established.
- d. If possible, avoid conducting a show-up when the suspect is in a patrol car, handcuffed, or physically restrained by officers, unless safety concerns make this impractical.
- e. Caution the witness that the person he or she is about to see may or may not be the perpetrator – and it is equally important to clear an innocent person. The witness should also be advised that the investigation will continue regardless of the outcome of the show-up.
- f. Do not conduct the show-up with more than one witness present at a time.
- g. Separate witnesses and do not allow communication between them before or after conducting a show-up.
- h. If one witness identifies the suspect, use a line-up or photo array for remaining witnesses.
- i. Do not present the same suspect to the same witness more than once.
- j. Do not require show-up suspects to put on clothing worn by, speak words uttered by, or perform other actions of the perpetrator.
- k. Officers should scrupulously avoid words or conduct of any type that may suggest to the witness that the individual is or may be the perpetrator.
- l. Ask the witness to provide a confidence statement.
- m. Remind the witness not to talk about the show-up to other witnesses until police or prosecutors deem it permissible.

- n. Videotape the identification process using an in-car camera or other recording device when feasible.
- o. Document the time and location of the show-up, the officers present, the result of the procedure, and any other relevant information.

LINE UP AND PHOTO ARRAY PROCEDURES

2. Basic Procedures for Conducting a Line-up or Photo Array.

- a. Line-ups will not typically be utilized for investigations, unless conducting a photo array is not possible.
- b. Whenever possible, a blind presentation shall be utilized. In cases where a blind presentation is not feasible for a photo array, a blinded presentation should be used. Live line-ups must be conducted using a blind presentation.
- c. The line-up or photo array should consist of a minimum of six individuals or photographs. Use a minimum of five fillers and only one suspect.
- d. Fillers should be reasonably similar in age, height, weight, and general appearance and be of the same sex and race, in accordance with the witness's description of the offender.
- e. Avoid the use of fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
- f. Create a consistent appearance between the suspect and the fillers with respect to any unique or unusual feature (e.g., scars, tattoos, facial hair) used to describe the perpetrator by artificially adding or concealing that feature on the fillers.
- g. If there is more than one suspect, include only one in each line-up or photo array.
- h. During a blind presentation, no one who is aware of the suspect's identity should be present during the administration of the photo array. However, during a line-up, the suspect's attorney can be present.
- i. Place suspects in different positions in each line-up or photo array, both across cases and with multiple witnesses in the same case.
- j. Witnesses should not be permitted to see or be shown any photos of the suspect prior to the line-up or photo array.
- k. The line-up or photo array should be shown to only one witness at a time; officers should separate witnesses so they will not be aware of the responses of other witnesses.
- l. Multiple identification procedures should not be conducted in which the same witness views the same suspect more than once.
- m. Officers should scrupulously avoid the use of statements, cues, casual comments, or providing unnecessary or irrelevant information that in any manner may influence the witnesses' decision-making process or perception.

- n. Following an identification, the administrator shall ask the witness to provide a confidence statement and document the witness's response.
- o. The administrator shall ask the witness to complete and sign an Eyewitness Identification Procedure Form.
- p. Line-up and photo array procedures should be video, or audio recorded whenever possible. If a procedure is not recorded, a written record shall be created and the reason for not recording shall be documented. In the case of line-ups that are not recorded, agents shall take and preserve a still photograph of each individual in the line-up.

3. Photographic Arrays

a. Creating a Photo Array

- 1. Use contemporary photos.
- 2. Do not mix color and black and white photos.
- 3. Use photos of the same size and basic composition.
- 4. Never mix mug shots with other photos and ensure consistent appearance of photograph backgrounds and sizing.
- 5. Do not include more than one photo of the same suspect.
- 6. Cover any portions of mug shots or other photos that provide identifying information on the subject – and similarly cover other photos used in the array.
- 7. Where the suspect has a unique feature, such as a scar, tattoo, or mole or distinctive clothing that would make him or her stand out in the photo array, filler photographs should include that unique feature either by selecting fillers who have the same features themselves or by altering the photographs of fillers to the extent necessary to achieve a consistent appearance.
- 8. Fillers should not be reused in arrays for different suspects shown to the same witness.

b. Conducting the Photo Array.

- 1. The photo array should be preserved, together with full information about the identification process as part of the case file and documented in a report.
- 2. If a blind administrator is not available, the administrator shall ensure that a blinded presentation is conducted using the following procedures.
 - a. Place the suspect and at least five filler photos in separate folders for a total of six (or more depending on the number of fillers used).
 - b. The administrator will take one folder containing a known filler and place it to the side. This will be the first photo in the series. The administrator should then shuffle the remaining folders (containing one suspect and the remainder of fillers) such that he or she cannot see how the line-up members are ordered.

These shuffled folders will follow the first filler photo. The stack of photos is now ready to be shown to the witness.

- c. The administrator should position himself or herself so that he or she cannot see inside the folders as they are viewed by the witness.
3. The witness should be asked if he or she recognizes the person in the photo before moving onto the next photo. If an identification is made before all the photos are shown, the administrator should tell the witness that he or she must show the witness all the photos and finish showing the sequence to the witness, still asking after each photo if the witness recognizes the person in the photo.
4. If possible, the array should be shown to the witness only once. If, upon viewing the entire array the witness asks to see a particular photo or the entire array again, the witness should be instructed that he or she may view the entire array only one additional time. If a second viewing is permitted, it must be documented.

4. Line-ups

- a. Conducting the Line-up.
 1. Live line-ups shall be conducted using a blind administrator.
 2. Ensure that all persons in the line-up are numbered consecutively and are referred to only by number.
- b. The primary investigating officer is responsible for the following:
 1. Scheduling the line-up on a date and at a time that is convenient for all concerned parties, to include the prosecuting attorney, defense counsel, and any witnesses.
 2. Ensuring compliance with any legal requirements for transfer of the subject to the line-up location if he or she is incarcerated at a detention center.
 3. Make arrangements to have persons act as fillers.
 4. Ensuring that the suspect's right to counsel is scrupulously honored and that he or she is provided with counsel if requested. Obtaining proper documentation of any waiver of the suspect's right to counsel.
 5. Allowing counsel representing the suspect sufficient time to confer with his or her client prior to the line-up and to observe the manner in which the line-up is conducted.

SECTION 6.65 PUBLIC ASSEMBLY AND FIRST AMENDMENT ACTIVITY POLICY

1. PURPOSE:

The First Amendment to the Constitution of the United States of America states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the Government for a redress of grievances."

The Bill of Rights in Article 1 of the Minnesota Constitution addresses the rights of free speech and the liberty of the press. However, neither the state nor federal constitutions protect criminal activity or threats against citizens, businesses, or critical infrastructure.

The Morrison County Sheriff's Office supports all people's fundamental right to peaceably assemble and their right to freedom of speech and expression.

The purpose of this policy is to provide guidelines to the Morrison County Sheriff's Office personnel regarding the application and operation of acceptable law enforcement actions addressing public assemblies and First Amendment Activity.

2. POLICY:

The Morrison County Sheriff's office will uphold the constitutional rights of free speech and assembly while using the minimum use of physical force and authority required to address a crowd management or crowd control issue.

The policy of the Morrison County Sheriff's Office regarding crowd management and crowd control is to apply the appropriate level of direction and control to protect life, property, and vital facilities while maintaining public peace and order during a public assembly or First Amendment activity. Department personnel must not harass, intimidate, or discriminate against or unreasonably interfere with persons engaged in the lawful exercise of their rights.

This policy concerning crowd management, crowd control, crowd dispersal, and police responses to violence and disorder applies to spontaneous demonstrations, crowd event situations, and planned demonstration or crowd events regardless of the permit status of the event.

This policy is to be reviewed annually.

3. DEFINITIONS:

- A. Chemical Agent Munitions: Munitions designed to deliver chemical agents from a launcher or hand thrown.
- B. Control Holds: Control holds are soft empty hand control techniques as they do not involve striking.
- C. Crowd Management: Techniques used to manage lawful public assemblies before, during, and after an event. Crowd management can be accomplished in part through coordination with event planners and group leaders, permit monitoring, and past event critiques.
- D. Crowd Control: Techniques used to address unlawful public assemblies.
- E. Deadly Force: Force used by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm. (Reference: Morrison County Sheriff's Office Use of Force Policy, MN Statutes 609.06 and 609.066).
- F. Direct Fired Munitions: Less-lethal impact munitions that are designed to be direct fired at a specific target.
- G. First Amendment Activities: First Amendment activities include all forms of speech and expressive conduct used to convey ideas and/or information, express grievances, or otherwise communicate with others and include both verbal and non-verbal expression. Common First Amendment activities include, but are not limited to, speeches, demonstrations, vigils, picketing, distribution of literature, displaying banners or signs, street theater, and other artistic forms of expression. All these activities involve the freedom of speech, association, and assembly and the right to petition the government, as guaranteed by the United States Constitution and the Minnesota State Constitution.

The government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information.

- H. Great Bodily Harm: Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm. (Reference: Morrison County Sheriff's Office Use of Force Policy, MN Statutes 609.06 and 609.066).
- I. Legal Observers: Individuals, usually representatives of civilian human rights agencies, who attend public demonstrations, protests and other activities. The following may be indicia of a legal observer: Wearing a green national lawyers' Guild issued or authorized Legal Observer hat and/or vest (a green NLG hat and/or black vest with green labels) or wearing a blue ACLU issued or authorized legal observer vest.

- J. Less-Lethal Impact Munitions: Impact munitions which can be fired, launched, or otherwise propelled for the purpose of encouraging compliance, overcoming resistance or preventing serious injury without posing significant potential of causing death.

4. LAW ENFORCEMENT PROCEDURES

- A. Uniform: All officers responding to public assemblies must at all times, including when wearing protective gear, display their agency name and a unique personal identifier in compliance with this department's uniform policy. The chief law enforcement officer must maintain a record of any officer(s) at the scene who is not in compliance with this requirement due to exigent circumstances.
- B. Officer conduct:
 - 1. Officers shall avoid negative verbal engagement with members of the crowd. Verbal abuse against officers does not constitute a reason for an arrest or for any use of force against such individuals.
 - 2. Officers must maintain professional demeanor and remain neutral in word and deed despite unlawful or anti-social behavior on the part of crowd members.
 - 3. Officers must not take action or fail to take action based on the opinions being expressed.
 - 4. Officers must not interfere with the rights of members of the public to observe and document police conduct via video, photographs, or other methods unless doing so interferes with on-going police activity.
 - 5. Officers must not use a weapon or munition unless the officer has been trained in the use and qualified in deployment of the weapon/munition.
 - 6. This policy does not preclude officers from taking appropriate action to direct crowd and vehicular movement; enforce ordinances and statutes; and to maintain the safety of the crowd, the general public, law enforcement personnel, and emergency personnel.

5. RESPONSES TO CROWD SITUATIONS:

- A. Lawful assembly. Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protect, or otherwise express their views and opinions through varying forms of communication including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills, leafleting and loitering.
- B. Unlawful assembly.
 - 1. The Definition of an unlawful assembly has been set forth in Minnesota Statute 609.705.
 - 2. The mere failure to obtain a permit, such as a parade permit or sound permit, is not a sufficient basis to declare an unlawful assembly.

3. The fact that some of the demonstrators or organizing groups have engaged in violent or unlawful acts on prior occasions or demonstrations is not grounds for declaring an assembly unlawful.
 4. Whenever possible, the unlawful behavior of a few participants must not result in the majority of peaceful protestors being deprived of their First Amendment rights, unless other participants or officers are threatened with dangerous circumstances.
 5. Unless emergency or dangerous circumstances prevent negotiation, crowd dispersal techniques must not be initiated until after attempts have been made to negotiate a resolution for the situation so that the unlawful activity will cease, and the First Amendment activity can continue.
- C. Declaration of Unlawful Assembly.
1. If the on-scene supervisor/incident commander has declared an unlawful assembly, the reasons for the declaration and the names of the decision maker(s) must be recorded. The declaration and dispersal order must be announced to the assembly. The names(s) of the officers announcing the declaration should be recorded, with the time(s) and date(s) documented.
 2. The dispersal order must include:
 - a. Name, rank of person, and agency giving the order.
 - b. Declaration of Unlawful Assembly and reasons(s) for declaration.
 - c. Egress or escape routes that may be used.
 - d. Specific consequences of failure to comply with dispersal order.
 - e. How long the group has to comply.
 3. Whenever possible, dispersal orders should also be given in other languages that are appropriate for the audience. Officers must recognize that not all crowd members may be fluent in the language(s) used in the dispersal order.
 4. Dispersal announcements must be made in a manner that will ensure that they are audible over a sufficient area. Dispersal announcements must be made from different locations when the demonstration is large and noisy. The dispersal announcements should be repeated after commencement of the dispersal operation so that persons not present at the original broadcast will understand that they must leave the area. The announcements must also specify adequate egress or escape routes. Whenever possible, a minimum of two escape/egress routes shall be identified and announced.
- D. Crowd dispersal.
1. Crowd dispersal techniques should not be initiated until officers have made repeated announcements to the crowd, or are aware that repeated announcements have been made, asking members of the crowd to voluntarily disperse, and informing them that, if they do not disperse, they will be subject to arrest.

2. Unless an immediate risk to public safety exists or significant property damage is occurring, sufficient time will be allowed for a crowd to comply with officer commands before action is taken.
3. If negotiations and verbal announcements to disperse do not result in voluntary movement of the crowd, officers may employ additional crowd dispersal tactics, but only after orders from the on-scene supervisor/incident commander. The use of these crowd dispersal tactics shall be consistent with the department policy of using the minimal officer intervention needed to address a crowd management or control issue.
4. If, after a crowd disperses pursuant to a declaration of unlawful assembly, and subsequently, participants assemble at a different geographic location where the participants are engaged in non-violent and lawful First Amendment activity, such an assembly cannot be dispersed unless it has been determined that it is an unlawful assembly and a new declaration of unlawful assembly has been made.

6. TACTICS AND WEAPONS TO DISPERSE OR CONTROL A NON COMPLIANT CROWD.

Nothing in this policy prohibits officers' abilities to use appropriate force options to defend themselves or others as defined in the Morrison County Sheriff's Office Use of Force policy.

A. Use of Batons

1. Batons must not be used for crowd control, crowd containment, or crowd dispersal except as specified below.
2. Batons must be visibly displayed and held in a ready position during squad or platoon formations.
3. When reasonably necessary for protection of the officers or to disperse individuals in the crowd, pursuant to the procedures of this policy, batons may be used in a pushing, pulling, or jabbing motion. Baton jabs must not be used indiscriminately against a crowd or group of persons but only against individuals who are physically aggressive or actively resisting arrest. Baton jabs should not be used in a crowd control situation against an individual who is attempting to comply but is physically unable to disperse or move because of the press of the crowd or some other fixed obstacle.
4. Officers must not strike a person with any baton to the head, neck, throat, kidneys, spine, or groin, or jab with force to the armpit, unless the person has created an imminent threat of great bodily harm to another.
5. Batons shall not be used against a person who is handcuffed except when permissible under this department's Use of Force policy and state law.

B. Restrictions on Crowd Control and Crowd Dispersal

1. Canines. Canines must not be used for crowd control, crowd containment, or crowd dispersal.
2. Fire Hoses. Fire hoses must not be used for crowd control, crowd containment, or crowd dispersal.
3. Electronic Control Weapons (ECWs) must not be used for crowd control, crowd containment, or crowd dispersal.
4. Motorcycles and police vehicles must not be used for crowd dispersal, but may be used for purposes of observation, visible deterrence, traffic control, transportation, and area control during a crowd event.
5. Skip Fired Specialty Impact less-Lethal Munitions (Wooden Dowels and Stinger Grenades) may be used as a last resort if other crowd dispersal techniques have failed or have been deemed ineffective.
6. Direct Fired munitions may never be used indiscriminately against a crowd or group of persons even if some members of the crowd or group are violent or disruptive.
 - a. Except for exigent circumstances, the on-scene supervisor/incident commander must authorize the deployment of Direct Fired munitions. Direct Fired munitions must be used only against a specific individual who is engaging in conduct that poses an immediate threat of loss of life or serious bodily injury to them self, officers, or the general public; or is creating an imminent risk to the lives or safety of other persons through the substantial destruction of property.
 - b. Officers shall not discharge a Direct Fired munition at a person's head, neck, throat, face, left armpit, spine, kidneys, or groin unless deadly force would be justified.
 - c. When circumstances permit, the on-scene supervisor/incident commander must make an attempt to accomplish the policing goal without the use of Direct Fired munitions as described above, and if practical, an audible warning shall be given to the subject before deployment of the weapon.
7. Aerosol Hand-held Chemical Agents must not be used in a demonstration or crowd situation or other civil disorders without the approval of the on-scene supervisor/incident commander.
 - a. Aerosol, hand-held, pressurized, containerized chemical agents that emit a stream shall not be used for crowd management, crowd control, or crowd dispersal during demonstrations or crowd events. Aerosol hand-held chemical agents may not be used indiscriminately against a crowd or group of persons, but only against specific individuals who are engaged in specific acts of serious unlawful conduct or who are actively resisting arrest.
 - b. Officers shall use the minimum amount of the chemical agent necessary to overcome the subject's resistance.

- c. When possible, persons should be removed quickly from any area where hand-held chemical agents have been used. Officers must monitor the subject and pay particular attention to the subject's ability to breathe following the application of a chemical agent.
 - d. A subject who has been sprayed with a hand-held chemical agent shall not be left lying on their stomach once handcuffed or restrained with any device.
- 8. Chemical munitions use in a crowd situation is subject to the following:
 - a. Chemical munitions must be used only when:
 - i. A threat of imminent harm or serious property damage is present, or other crowd dispersal techniques have failed or did not accomplish the policing goal as determined by the incident commander,
 - ii. Sufficient egress to safely allow the crowd to disperse exists, and
 - iii. The use of chemical munitions is approved by the on-scene supervisor/incident commander, and
 - b. When feasible, additional announcements should be made prior to the use of chemical munitions in a crowd situation warning of the imminent use of chemical munitions.
 - c. Deployment of chemical munitions into a crowd must be avoided to prevent unnecessary injuries.
 - d. CN chemical munitions are prohibited.
 - e. The use of each chemical munition must be recorded (time, location), and the following information must be made available by the department on request:
 - i. The name of each chemical munition used in an incident,
 - ii. The location and time of use for each munition deployment,
 - iii. Access to the safety data sheet (SDS) for chemical munition.
 - f. Where extensive use of chemical munitions would reasonably be anticipated to impact nearby residents or businesses, agencies should consider proactively notifying impacted individuals of safety information related to the munitions use as soon as possible, even if after the event.
 - g. When chemical munitions are used, an emergency responder will be on standby at a safe distance near the target area when feasible.
 - h. Chemical munitions are subject to the same procedural requirements as outlined in the Morrison County Sheriff's Office Use of Force Policy.

C. Arrests

- 1. If the crowd has failed to disperse after the required announcements and sufficient time to disperse, officers may encircle the crowd or a portion of the crowd for purposes of making multiple simultaneous arrests.

2. Persons who make it clear (e.g. by non-violent civil disobedience) that they seek to be arrested, may be arrested and must not be subjected to other dispersal techniques, such as the use of batons or chemical agents. Persons refusing to comply with arrest procedures may be subject to the reasonable use of force.
3. Arrests of non-violent persons shall be accomplished by verbal commands and persuasion, handcuffing, lifting, carrying, the use of dollies and/or stretchers, and/or the use of soft empty hand control holds.
4. Officers must document any injuries reported by an arrestee, and as soon as practical, officers must obtain professional medical treatment for the arrestee.
5. Juveniles arrested in demonstrations shall be handled consistent with department policy on arrest, transportation, and detention of juveniles.
6. Officers arresting a person with a disability affecting mobility or communication, must follow the department policy on arrest, transportation and detention of persons with disabilities.

7. Handcuffs

- A. All persons subject to arrest during a demonstration or crowd event shall be handcuffed in accordance with department policy, orders, and training bulletins.
- B. Officers should be cognizant that flex-cuffs may tighten when arrestees hands swell or move, sometimes simply in response to pain from the cuffs themselves. When arrestees complain of pain from overly tight flex cuffs, officers must examine the cuffs and ensure proper fit.
- C. Arrestees in flex-cuffs must be monitored to prevent injury.
- D. Each unit involved in detention and/or transportation of arrestees with flex-cuffs should have a flex-cuff cutter and adequate supplies of extra flex-cuffs readily available.

8. Media

- A. The media have a First Amendment right to cover public activity, including the right to record video or film, livestream, photograph, or use other mediums.
- B. The media must not be restricted to an identified area and must be permitted to observe and must be permitted close enough access to view the crowd event and any arrests. An onsite supervisor/incident commander may identify an area where media may choose to assemble.
- C. Officers will not arrest members of the media unless they are physically obstructing lawful efforts to disperse the crowd, or efforts to arrest participants, or engaged in criminal activity.
- D. The media must not be targeted for dispersal or enforcement action because of their media status.

- E. Even after a dispersal order has been given, clearly identified media must be permitted to carry out their professional duties unless their presence would unduly interfere with the enforcement action.

9. Legal Observers

- A. Legal observers, including unaffiliated self-identified legal observers and crowd monitors, do not have the same legal status as the media, and are subject to laws and orders similar to any other person or citizen.
- B. Legal observers and monitors must comply with all dispersal orders unless the on-site supervisor/incident commander chooses to allow such individual legal observers and monitors to remain in an area after a dispersal order.
- C. Legal observers and crowd monitors must not be targeted for dispersal or enforcement action because of their status.

10. Documentation of Public Assembly and First Amendment Activity

- A. The purpose of any visual documentation by the Morrison County Sheriff's Office of a public assembly or first amendment activity must be related only to:
 - a. Documentation of the event for the purposes of debriefing,
 - b. Documentation to establish a visual record for the purposes of responding to citizen complaints or legal challenges, or
 - c. Creating visual records for training purposes.
- B. If it is the policy of Morrison County Sheriff's Office to videotape and photograph, it must be done in a manner that minimizes interference with people lawfully participating in First Amendment activities. Videotaping and photographing of First Amendment activities must take place only when authorized by the on-site supervisor/incident commander.
- C. Individuals should not be singled out for photographing or recording simply because they appear to be leaders, organizers, or speakers.
- D. Unless evidence of criminal activity is provided, videos or photographs of demonstrations shall not be disseminated to other government agencies, including federal, state and local law enforcement agencies. If videos or photographs are disseminated or shared with another law enforcement agency, a record should be created and maintained noting the date and recipient of the information.
- E. If there are no pending criminal prosecutions arising from the demonstration, or if the video recording or photographing is not relevant to an Internal Affairs or citizen complaint investigation, or proceedings, or to civil litigation arising from police conduct at the demonstration, the video recording and/or photographs shall be destroyed in accordance with department policies.
- F. This directive shall not prohibit department members from using these videos or footage from such videos as part of training materials for officers in crowd control and crowd dispersal techniques and procedures.

SECTION 6.66 ALLEGATIONS OF MISCONDUCT POLICY

Mn Rules 6700.2200 through 6700.2600

1. POLICY:

It is the policy of the Morrison County Sheriff's Office to accept and to fairly and impartially investigate all complaints of misconduct to determine the validity of allegations; and to impose any corrective actions that may be justified in a timely and consistent manner.

2. PURPOSE:

The purpose of this policy is to inform all employees and the public of procedures for reporting, receiving, investigating and disposition of complaints regarding the conduct of licensed peace officers of the Morrison County Sheriff's Office. The provisions of this policy are applicable only to the investigation and the disposition of allegations of administrative misconduct. This policy does not apply to a criminal investigation.

3. DEFINITIONS:

For the purpose of this policy, the terms set forth below are defined as follows:

Administrative Investigation: An internal investigation conducted in response to a complaint with the goal of determining whether an employee engaged in misconduct.

Chief Law Enforcement Officer means the chief of police, sheriff, state law enforcement director or designee. Within this model policy, the chief law enforcement officer will be referred to as CLEO.

Law Enforcement Officer means an individual who holds a peace officer license in the State of Minnesota. Within this model policy, a law enforcement officer will be referred to as LEO.

Complainant means a person who submits a complaint to the Agency or CLEO alleging misconduct by an agency member.

Complaint means a statement alleging behavior that constitutes misconduct.

Member means all voluntary and compensated personnel of the agency.

Discipline means any of the following or combination thereof:

- Oral Reprimand
- Written Reprimand
- Suspension
- Demotion

- Discharge

Unfounded means there is no factual basis for the allegation. The act or acts alleged did not occur.

Exonerated means a fair preponderance of the evidence established that either:

1. The agency member named in the complaint was not involved in the alleged misconduct; or
2. The act(s) that provided the basis for the complaint occurred; however, the investigation revealed that such act(s) were justified, lawful or proper.

Not Sustained means the investigation failed to disclose sufficient evidence to prove or disprove the allegations made in the complaint.

Sustained means a fair preponderance of the evidence obtained in the investigation established that the LEO's actions constituted misconduct.

Policy Failure means that the complaint revealed a policy failure. The allegation is factual and the LEO(s) followed proper agency procedure, however, that procedure has proven to be deficient.

Respondent means an individual who is the subject of a complaint investigation.

Misconduct means:

1. A violation of an agency policy or procedure governing conduct of agency members;
2. Conduct by a peace officer that would be a violation of POST Standards of Conduct per Minn. Rules 6700.1600

Policies and Procedures mean the administrative rules adopted by the agency regulating the conduct of agency members.

Receiving Authority means the entity who receives and is required to investigate the complaint when the subject of the complaint is a CLEO.

4. PROCEDURE:

A. ACCEPTANCE AND FILING OF COMPLAINTS

1. Complaint forms must be made available through agency personnel, at designated public facilities, and online.
2. Complaints may be received either in person, over the telephone, in writing, or via the internet. A complainant may remain anonymous. The

complainant should be advised that remaining anonymous may affect the investigation of the complaint.

3. A complainant may be accompanied by an attorney or other representative at the time a complaint is filed or at any other stage of the process.
4. Employees must provide assistance to individuals who express the desire to lodge complaints against any employee of this agency.
5. The complainant must be advised of the procedures for submitting the complaint and provided with a copy of their submitted complaint.
6. The complainant should be asked to verify by signature if the complaint is a complete and accurate account. If the complainant elects not to sign, this fact must be documented and the complaint processed according to procedure.
7. The CLEO will forward a copy of the written complaint to the respondent only after it is determined that the complaint does not allege a criminal violation and the notification will not impede a criminal investigation.
8. A CLEO or Receiving Authority may delegate the duties and responsibilities required of a CLEO by this policy to an appropriate designee(s).
9. Any complaint made against a chief of police must initially be made to the city administrator, manager or mayor. Any complaint made against a sheriff must initially be made to the county attorney, the county administrator or the board of county commissioners.
10. The city administrator, manager, mayor, county attorney, county administrator or board of county commissioners must refer investigations of alleged misconduct against a CLEO to an outside law enforcement agency or criminal justice agency that has no discernible conflict of interest.

B. INVESTIGATION OF A COMPLAINT

1. Upon receipt of the complaint, the CLEO must make an initial determination as to whether or not the facts alleged require an administrative investigation. If the CLEO decides that an investigation is not required, the disposition of the complaint must be cleared as "unfounded", "not sustained", or "exonerated." The complainant and the respondent will be notified of this decision and the basis for determination. If the complainant supplies additional information within thirty (30) days of that initial determination, the CLEO may reverse this decision and order an administrative investigation.
2. If the CLEO determines an administrative investigation is required, an appropriate designee will be assigned to investigate the complaint. When the CLEO believes an external investigation is appropriate or when the CLEO is the subject of the complaint, the investigation will be

assigned to an external agency that has no discernible conflict of interest.

3. The investigator must inform the complainant of his or her name, business phone number and the status of the complaint as soon as possible after being assigned the investigation.
4. The investigator must thoroughly investigate all allegations contained in the complaint and any other potential misconduct discovered in the course of the investigation. If the investigation reveals potential misconduct by another agency member, the investigator must report that fact to the CLEO or, in the case of a complaint against a CLEO, the appropriate city administrator, manager, mayor, county attorney, county administrator or board of county commissioners.
5. All agency members must cooperate with the investigation. When the respondent is a licensed peace officer, the investigation must comply with the requirements of MNSTAT 626.89 and acts amendatory thereto.
6. The investigator must prepare a report that contains all relevant information organized into the following three (3) sections:
 - *Allegations:* An itemized summary of the acts of misconduct alleged in the complaint. Reference must be made to those rules, procedures, orders, statutes, or constitutional provisions that would be violated if the allegations are taken as true.
 - *Investigation:* A chronological summary of the investigation including all pertinent facts obtained through interviews with the complainant, accused agency member(s), and all available witnesses. Written statements, descriptions and analysis of any physical evidence, and all other relevant information must be included.
 - *Conclusions:* The investigator's findings and conclusions as to whether any misconduct occurred and the underlying reasons for the findings and conclusions.
7. The investigation must be completed within thirty (30) days of the filing of the complaint unless the CLEO or Receiving Authority determines there is good cause to grant an extension. The complainant and respondent must be informed of any extension.

C. ADDITIONAL INVESTIGATION, REVIEW AND DISPOSITION

1. Upon completion of the investigation, the investigator must submit the report, case file and all investigative notes to the CLEO or Receiving Authority. The CLEO or Receiving Authority may require additional investigation or make one of the following decisions:
 - Unfounded
 - Exonerated
 - Not Sustained
 - Sustained

- Policy Failure
2. The CLEO or Receiving Authority may postpone making a decision until any related criminal charges are resolved. The complainant and respondent must be informed of this decision.
 3. If the decision is "unfounded," "exonerated," "not sustained" or "policy failure" the CLEO or Receiving Authority must immediately notify the complainant and the respondent of the decision.
 4. If the complaint is "sustained" the CLEO or Receiving Authority will:
 - Issue findings of fact including a summary of the acts constituting misconduct and the specific statutes, policies, regulations and procedures violated; and
 - Take appropriate remedial and/or disciplinary action.
 - Advise the complainant of any public information regarding the disposition.
 5. Prior to the implementation of remedial and/or disciplinary action the respondent will be provided with a copy of the findings of fact. The CLEO, Receiving Authority and/or designee must review the findings of fact with the respondent and explain the reasons for the remedial and/or disciplinary action.
 6. The investigation may be re-opened by the CLEO or Receiving Authority at any time if substantial new evidence is discovered concerning the complaint.
 7. When a "sustained" disposition is final the respondent may appeal the disposition pursuant to the rules and law governing the accused member's employment.

D. MAINTENANCE AND DISCLOSURE OF DATA

1. Disclosure to the public, complainant and respondent of data collected, created or received by the agency in connection with this policy and procedure must be governed by the provisions of the MN Government Data Practices Act. Retention of data collected or maintained in connection with this policy must be retained in accordance with the agency's "Record Retention Schedule."
2. All data collected, created or received by the agency in connection with this policy and procedure must be maintained in accordance with the agency's "Record Retention Schedule."
3. The placement of the disposition report or other data in an employee's personnel file must be governed by the agency's personnel policy.
4. Access to data collected, created, or received in connection with this policy and procedure may only be authorized by the CLEO or the agency's Data Practices "Responsible Authority," and as provided by Chapter 13, the "Minnesota Government Data Practices Act," or valid court order.

E. POST BOARD REPORTING REQUIREMENTS

1. Under Minn. Rule 6700.1610, a licensed peace officer must self-report to the POSTBoard any violations of the Standards of Conduct for peace officers listed in Minn. Rule 6700.1600.
2. Any person with knowledge of peace officer misconduct constituting grounds for action under Minn. Stat. chapter 214, or Minn. Rules 6700.1600, may report the violation to the Board.
3. Minnesota Stat. 626.8457 Subd. 3 requires CLEOs to submit individual peace officer public and private data related to allegations of misconduct to the POST Board in "real time" via the POST Board Misconduct Reporting System.
4. A chief law enforcement officer must update data within 30 days of final disposition of a complaint or investigation.
5. Law enforcement agencies and political subdivisions are prohibited from entering into a confidentiality agreement that would prevent disclosure of the data identified in Minn. Stat. 626.8457 Subd. 3 paragraph (b) to the Board. Any such confidentiality agreement is void as to the requirements of this section.

SECTION 6.68 AVOIDING RACIAL PROFILING POLICY

Minn. Stat. 626.8471, subd. 4

1. POLICY

It is the policy of the Morrison County Sheriff's Office to reaffirm our commitment to impartial policing and to reinforce procedures that serve to assure the public we are providing service and enforcing laws in a fair and equitable manner to all.

2. DEFINITION

Racial profiling has the meaning given to it in Minn. Stat. 626.8471, Sub. 2.

Which states:

"Racial profiling," means any action initiated by law enforcement that relies upon the race, ethnicity, or national origin of an individual rather than:

(1) The behavior of that individual; or

(2) Information that leads law enforcement to a particular individual who has been identified as being engaged in or having been engaged in criminal activity.

Racial profiling includes use of racial or ethnic stereotypes as factors in selecting whom to stop and search. Racial profiling does not include law enforcement's use of race or ethnicity to determine whether a person matches a specific description of a particular subject.

3. PROCEDURE

A. Policing impartially, not racial profiling, is standard procedure for this agency meaning:

1. Investigative detentions, pedestrian and vehicle stops, arrests, searches and property seizures by peace officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the United States Constitution and peace officers must be able to articulate specific facts, circumstances and conclusions that support reasonable suspicion or probable cause for investigative detentions, pedestrian and vehicle stops, arrests, nonconsensual searches and property seizures;
2. Except as provided in paragraph 3., peace officers shall not consider race, ethnicity, national origin, gender, sexual orientation and religion in establishing either reasonable suspicion or probable cause; and
3. Peace officers may take into account the descriptors in paragraph 2. Based on information that links specific, suspected, unlawful or suspicious activity to a particular individual, or group of individuals, and this information may be used in the same manner officers use specific information regarding age, height, weight, or other physical characteristics about specific suspects.

B. In an effort to prevent the perception of biased law enforcement peace officers shall:

1. Be respectful and professional;
2. Introduce or identify themselves to the citizen and state the reason for the contact as soon as practical unless providing this information will compromise officer or public safety;
3. Ensure the detention is no longer than necessary to take appropriate action for the known or suspected offense;
4. Attempt to answer any relevant questions the citizen may have regarding the citizen/officer contact including relevant referrals to other agencies when appropriate;
5. Provide their last name or badge number when requested;
6. Explain and/or apologize if it is determined the reasonable suspicion was unfounded (e.g. after an investigatory stop).

C. Supervisors shall ensure all personnel in their command are familiar with the content of this policy and are in compliance.

4. Duty to Report

Every member of this office shall perform their duties in a fair and objective manner and are responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

5. Violations

Alleged violations of this policy must be reported to POST in accordance with the reporting requirements in Minn. Stat. 626.8457

SECTION 6.69 CONFIDENTIAL INFORMANTS POLICY

Minn. Stat. 626.8476

1. POLICY

It is the policy of the Morrison County Sheriff's Office to establish procedures and protocols that take necessary precautions concerning the recruitment, control and use of confidential informants

2. DEFINITIONS

- A. Confidential Informant (CI):** A person who cooperates with a law enforcement agency confidentially in order to protect the person or the agency's intelligence gathering or investigative efforts and;
1. Seeks to avoid arrest or prosecution for a crime, mitigate punishment for a crime in which a sentence will be or has been imposed; or receive a monetary or other benefit; and
 2. Is able, by reason of the person's familiarity or close association with suspected criminals, to:
 - i. Make a controlled buy or controlled sale of contraband, controlled substance, or other items that are material to a criminal investigation;
 - ii. Supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or
 - iii. Otherwise provide information important to ongoing criminal intelligence gathering or criminal investigative efforts.
- B. Controlled Buy:** Means the purchase of contraband, controlled substances or other items that are material to a criminal investigation from a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.
- C. Controlled Sale:** Means the sale of contraband, controlled substances, or other items that are material to a criminal investigation to a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.
- D. Mental Harm:** Means a psychological injury that is not necessarily permanent but results in visibly demonstrable manifestations of a disorder of thought or mood that impairs a person's judgment or behavior.
- E. Target Offender:** Means the person suspected by law enforcement personnel to be implicated in criminal acts by the activities of a confidential informant.
- F. Confidential Informant File:** Means a file maintained to document all information that pertains to a confidential informant.
- G. Unreliable Informant File:** Means a file containing information pertaining to an individual who has failed at following an established written confidential informant agreement and has been determined to be generally unfit to serve as a confidential informant.

H. Compelling Public Interest: Means, for purposes of this policy, situations in which failure to act would result or likely result in loss of life, serious injury, or have some serious negative consequence for persons, property, or public safety and therefore demand action.

I. Overseeing Agent: Means the officer primarily responsible for supervision and management of a confidential informant.

3. PROCEDURE

A. Initial Suitability Determination

An initial suitability determination must be conducted on any individual being considered for a role as a CI. The initial suitability determination includes the following:

1. An officer requesting use of an individual as a CI must complete an Initial Suitability Report. The report must be submitted to the appropriate individual or entity, as determined by the agency chief executive, to review for potential selection as a CI. The report must include sufficient detail regarding the risks and benefits of using the individual so that a sound determination can be made. The following information must be addressed in the report, where applicable:
 - a. Age, sex, and residence
 - b. Employment status or occupation
 - c. Affiliation with legitimate businesses and illegal or suspicious enterprises
 - d. Extent to which potential information, associations, or other assistance could benefit a present or future investigation
 - e. Relationship with the target of an investigation
 - f. Motivation in providing information or assistance
 - g. Risk of adversely affecting an existing or future investigation
 - h. Extent to which provided information can be corroborated
 - i. Prior record as a witness
 - j. Criminal history, to include whether he or she is the subject of a pending investigation, is under arrest, or has been charged with a crime
 - k. Risk to the public or as a flight risk
 - l. Consultation with the individual's probation, parole, or supervised release agent, if any
 - m. Consideration and documentation of the individual's diagnosis of mental illness, substance use disorder, traumatic brain injury, or disability; and consideration and documentation of the individual's history of mental illness, substance use disorder, traumatic brain injury or disability
 - n. Relationship to anyone in law enforcement
 - o. Risk of physical harm to the potential CI or their immediate family or relatives for cooperating with law enforcement

- p. Prior or current service as a CI with this or another law enforcement organization
- 2. Prior to an individual's use as a CI, a supervisor or other designated authority must review the Initial Suitability Report and determine if the individual is authorized to serve as a CI.
- 3. Any prospective or current CI must be excluded from engaging in a controlled buy or sale of a controlled substance if the prospective or current CI:
 - a. is receiving in-patient treatment or partial-hospitalization treatment administered by a licensed service provider for a substance use disorder or mental illness; or
 - b. is participating in a treatment-based drug court program or treatment court; except that
 - c. the prospective or current CI may provide confidential information while receiving treatment, participating in a treatment-based drug court program or treatment court.
- 4. Documentation and special consideration must be made of the risks involved in engaging a prospective or current CI in the controlled buy or sale of a controlled substance if the individual is known, or has reported, to have experienced a drug overdose in the previous 12 months.
- 5. Any prospective or current CI who is known to abuse substances, or is at risk for abusing substances, should be provided referral to prevention or treatment services.
- 6. Any prospective or current CI that has a physical or mental illness that impairs the ability of the individual to understand instructions and make informed decisions should be referred to a mental health professional or other appropriate medical professional, or a case manager/social worker from the county social services agency, or other substance abuse and mental health services.
- 7. Each CI's suitability must be reviewed every 6 months, at a minimum, during which time the CI's overseeing agent must submit a Continuing Suitability Report addressing the foregoing issues in III.A.1.a–p, and III.A.3–6, where applicable. An initial suitability determination must be conducted on a reactivated CI regardless of the length of inactivity.
- 8. Any information that may negatively affect a CI's suitability during the course of their use must be documented in the CI's file and forwarded to the appropriate authorized personnel as soon as possible.
- 9. Supervisors must review informant files regularly with the overseeing agent and must attend debriefings of CIs periodically as part of the informant management process. If a CI is active for more than 12 months, a supervisory meeting with the CI must be conducted without the overseeing agent.

10. CI contracts must be terminated, and the CI file placed in inactive status when the CI has not been utilized for 6 months or more.

B. Exigent Confidential Informants

1. Certain circumstance arise when an individual who has been arrested is willing to immediately cooperate and perform investigative activities under the direction of an overseeing agent. In these circumstances, the initial suitability determination can be deferred and an individual may be utilized as a CI for a period not to exceed 12 hours from the time of arrest if:
 - a. The individual is not excluded from utilization as a CI under III.A(3)(a-c) of this policy; and
 - b. There is compelling public interest or exigent circumstances exist that demand immediate utilization of the individual as a CI and any delay would significantly and negatively affect any investigation; and
 - c. A supervisor has reviewed and approved the individual for utilization as a CI under these circumstances.
2. Upon the conclusion of the 12-hour window, or at any time before, an initial suitability determination must be conducted before the individual engages in any further CI activities.

C. Special CI Approval Requirements

Certain individuals who are being considered for use as a CI require special review and approval. In all instances, the agency's chief executive or their designee and the office of the prosecutor or county attorney should be consulted prior to the use of these individuals as CIs. These individuals include the following:

1. Juveniles
 - a. Use of a juvenile under the age of 18 for participating in a controlled buy or sale of a controlled substance or contraband may be undertaken only with the written authorization of the individual's parent(s) or guardian(s), except that the juvenile informant may provide confidential information.
 - b. Authorization for such use should be granted only when a compelling public interest can be demonstrated, *except that*
 - c. Juveniles under the guardianship of the State may not be used as a CI.
2. Individuals obligated by legal privilege of confidentiality.
3. Government officials.

D. General Guidelines for Overseeing CIs

General guidelines for overseeing CIs are as follows:

1. CIs must be treated as assets of the agency, not the individual overseeing agent.

2. No promises or guarantees of preferential treatment within the criminal justice system will be made to any informant without prior approval from the prosecuting authority.
3. CIs must not be used without authorization of the agency through procedures identified in this policy.
4. CIs must not be used to gather information purely of a political nature or for other information-gathering efforts that are not connected with a criminal investigation.
5. Under no circumstances must an informant be allowed access to restricted areas or investigators' work areas within a law enforcement agency.
6. All CIs must sign and abide by the provisions of the agency's CI agreement.
7. Any physical or mental illness that impairs the CI's ability to knowingly contract or otherwise protect the informant's self-interest must be taken into consideration before the CI signs the agreement.
8. The CI's overseeing agent must discuss each of the provisions of the agreement with the CI, with particular emphasis on the following:
 - a. CIs may voluntarily initiate deactivation, whereupon the protocols outlined in section E of this policy must be followed.
 - b. CIs are not law enforcement officers. They have no arrest powers, are not permitted to conduct searches and seizures, and may not carry a weapon while performing activities as a CI.
 - c. CIs found engaging in any illegal activity beyond what is authorized by the agency and conducted while under the supervision of an overseeing agent, will be subject to prosecution.
 - d. CIs are prohibited from engaging in actions or activities that could be deemed entrapment. The meaning of the term and implications of such actions must be explained to each CI.
 - e. CIs are prohibited from engaging in self-initiated information or intelligence gathering without agency direction and approval. The CI must not take any actions in furtherance of an investigation without receiving specific instruction(s) from the overseeing agent or agency.
 - f. Every reasonable effort will be taken to ensure the confidentiality of the CI but, upon judicial order, he or she may be required to testify in open court.
 - g. CIs may be directed to wear a listening and recording device.
 - h. CIs must be required to submit to a search before and after a controlled purchase.
 - i. CIs who participate in unplanned or unanticipated activities or meet with a subject(s) under investigation in a location outside of the

jurisdictional boundary of the handling agency must promptly report that activity or meeting to their overseeing agents.

9. CI activity outside jurisdictional boundaries:
 - a. Investigators handling CIs who engage in operational activity in locations outside the jurisdictional boundaries of the agency must coordinate with counterparts in law enforcement agencies that have jurisdiction in that location where the CI will operate before any activity occurs, or in a timely manner after unanticipated activity occurs and is brought to the attention of the overseeing agent.
 - b. Any decision to defer or delay notice to or coordinate with an outside agency having jurisdiction in the area where a CI has or may operate must be documented, reviewed, and approved by the agency's chief executive or their designee.
10. Officers must take the utmost care to avoid conveying any confidential investigative information to a CI, such as the identity of other CIs, surveillance activities, or search warrants, other than what is necessary and appropriate for operational purposes.
11. No member of this agency must knowingly maintain a social relationship with a CI, or otherwise become personally involved with a CI beyond actions required in the performance of duty.
12. Members of this agency must not solicit, accept gratuities from, or engage in any private business transaction with a CI.
13. Meetings with a CI must be conducted in private with another officer or agent present and with at least one officer or agent of the same sex, except when not practical. The meeting location should minimize the potential for discovery of the informant's cooperation and provide sufficient space to complete necessary administrative duties. The meetings must be documented and subsequently entered into the individual's CI file.
14. Overseeing agents must develop and follow a communications strategy and plan with the CI that minimizes, to the greatest extent possible, the risk of discovery or compromise of the relationship between the agency and the CI. This plan should also aim to prevent the detection, compromise, or interception of communications between the overseeing agent and the CI.
15. Procedures must be instituted to assist CIs with concealing their identity and maintaining their safety. Care should be given not to expose CIs to unnecessary safety risks.
16. Preceding or following every buy or sale of controlled substances, overseeing agents must screen the CI for any personal safety or mental

health concerns, risk of substance abuse, and/or potential relapse in any substance abuse recovery.

- a. At the request of the CI, or if the overseeing agent deems it necessary, reasonable efforts should be taken to provide the CI with referral to substance abuse and/or mental health services.
- b. Overseeing agents must document:
 - i. the screening,
 - ii. any referral to services provided to, or requested by, the CI, and
 - iii. any refusal by the CI to participate in the screening and/or any refusal by the CI to accept referral to services. Reasons for the CI's refusal must be documented, where applicable.
- c. No part of this subsection supersedes MN Stat. 253B.05, sub.2.

17. Reasonable protective measures must be provided for a CI when any member of this agency knows or should have known of a risk or threat of harm to a person serving as a CI and the risk or threat of harm is a result of the informant's service to this agency.

18. Overseeing agents must:

- a. evaluate and document the criminal history and propensity for violence of target offenders; and
- b. to the extent allowed, provide this information to the CI if there is a reasonable risk or threat of harm to the CI as a result of the CI's interaction with the target offender.

19. Reasonable efforts and precautions must be made to help protect the identity of a CI during the time the person is acting as an informant.

20. Whenever possible, officers must corroborate information provided by a CI and document efforts to do so.

21. The name of a CI must not be included in an affidavit for a warrant unless judicial authority is obtained to seal the document from the public record or the CI is a subject of the investigation upon which the affidavit is based.

22. Overseeing agents are responsible for ensuring that information of potential value to other elements of the agency is provided promptly to authorized supervisory personnel and/or other law enforcement agencies as appropriate.

23. Individuals leaving employment with the agency have a continuing obligation to maintain as confidential the identity of any CI and the information he or she provided unless obligated to reveal such identity or information by law or court order.

E. Establishment of an Informant File System

An informant file system must be established as follows:

1. The agency chief executive must designate a file supervisor who must be responsible for developing and maintaining master CI files and an indexing system.
2. A file must be maintained on each CI deemed suitable by the agency.
3. An additional Unreliable Informant File must be established for CIs deemed unsuitable during initial suitability determinations or at a later time.
4. Each file must be coded with an assigned informant control number for identification within the indexing system and must include the following information, where applicable:
 - a. Name, aliases, and date of birth
 - b. Height, weight, hair color, eye color, race, sex, scars, tattoos, or other distinguishing features
 - c. Emergency contact information
 - d. Name of the officer initiating use of the informant and any subsequent overseeing agents
 - e. Photograph and criminal history record
 - f. Current home address and telephone number(s)
 - g. Residential addresses in the last five years
 - h. Current employer, position, address, and telephone number
 - i. Social media accounts
 - j. Marital status and number of children
 - k. Vehicles owned and their registration numbers
 - l. Places frequented
 - m. Gang affiliations or other organizational affiliations
 - n. Briefs of information provided by the CI and the CI's subsequent reliability
 - o. Special skills and hobbies
 - p. Special areas of criminal expertise or knowledge
 - q. A copy of the signed informant agreement
5. CI files must be maintained in a separate and secured area.
6. The file supervisor must ensure that information concerning CIs is strictly controlled and distributed only to officers and other authorities who have a need and a right to such information.
7. CI File Review
 - a. Sworn personnel may review an individual's CI file only upon the approval of the agency's chief executive or their designee.

- b. The requesting officer must submit a written request explaining the need for review. A copy of this request, with the officer's name, must be maintained in the individual's CI file.
- c. Officers must not remove, copy, or disseminate information from the CI file.
- d. CI files must be reviewed only in designated areas of the law enforcement facility and returned as soon as possible to their secure file location.
- e. All disclosures or access to CI files must be recorded by the file supervisor, to include information such as the requesting officer or agency, the purpose of access or disclosure, the information conveyed, and the date and time of access or dissemination.
- f. No portion of an individual's CI file must be entered into any other electronic or related database without controls sufficient to exclude access to all but authorized personnel with a need and a right to know.

F. Deactivation of Confidential Informants

A CI deactivation procedure must be established as follows:

1. The overseeing agent must complete a deactivation form that includes, at minimum, the following:
 - a. The name of the agency.
 - b. The name of the CI.
 - c. The control number of the CI, where applicable.
 - d. The date of deactivation.
 - e. The reason for deactivation.
 - f. A notification that contractual agreements regarding monetary remuneration, criminal justice assistance, or other considerations, specified or not, are terminated.
 - g. A notification that the agency will provide and assist the CI with referral to health services for assistance with any substance abuse disorder and/or physical, mental, or emotional health concerns, as requested or accepted by the CI.
 - h. A signature by the CI or documentation indicating the reason(s) why the CI was unable or unwilling to sign the form.
 - i. A signature by the overseeing agent.
2. All reasonable efforts must be taken to maintain the safety and anonymity of the CI after deactivation.

G. Monetary Payments

Monetary payments must be managed as follows:

1. All monetary compensation paid to CIs must be commensurate with the value of the information or assistance provided to the agency.

2. All CI payments must be approved in advance by the officer in charge of confidential funds.
3. Officers must provide accounting of monies received and documentation for confidential funds expended. Any documentation of monies paid or received should not contain the true identity of the informant but should use the CI's control number.
4. Two officers must be present when making payments or providing funds to CIs.
5. The appropriate individual, as designated by the agency's chief executive, must ensure that the process for authorization, disbursement, and documentation of CI payments, as well as the accounting and reconciliation of confidential funds, is consistent with agency policy.
6. If a CI is authorized to work with another law enforcement or prosecutorial agency, financial payments must be coordinated between the agencies in a manner that is proportionate to the assistance rendered to each agency and consistent with provision III.F.1. of this policy.
7. Written records of receipts are retained, or justification for the exception is documented when a written receipt is not available.