LAW ENFORCEMENT CODE OF ETHICS

Prior to assuming sworn status, officers are required to pledge an oath of office to the law enforcement service. All sworn officers of the Duluth Police Department will abide by the Law Enforcement Code of Ethics of this Department.

OATH OF OFFICE

I RECOGNIZE THE BADGE OF MY OFFICE AS A SYMBOL OF PUBLIC FAITH, AND I ACCEPT IT AS A PUBLIC TRUST TO BE HELD AS LONG AS I AM TRUE TO THE ETHICS OF THE POLICE SERVICE. I WILL CONTINUALLY STRIVE TO ACHIEVE THESE OBJECTIVES AND IDEALS, DEDICATING MYSELF BEFORE GOD TO MY CHOSEN PROFESSION, LAW ENFORCEMENT. I WILL OBEY THE RULES AND REGULATIONS OF THIS DEPARTMENT -- THE ORDERS OF MY SUPERIOR OFFICERS -- AND STRIVE TO MAINTAIN A SPIRIT OF TEAMWORK AND COOPERATION -- WITH MY FELLOW OFFICERS.

LAW ENFORCEMENT CODE OF ETHICS

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against abuse or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or abuse and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

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MISSION STATEMENT

The Mission of the Duluth Police Department is to provide the highest level of service through partnerships and problem solving in a professional, ethical, and timely manner.

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Chapter 1 - Law Enforcement Role and Authority

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Law Enforcement Authority

100.1 PURPOSE AND SCOPE

Peace officers are granted the authority to perform their function based on established legal authority. This department does not tolerate abuse of law enforcement authority.

100.1.1 POLICY

Duluth police officers have the authority and responsibility to enforce all ordinances of the City of Duluth, laws of the State of Minnesota, and the United States. This authority and responsibility is generally only exercised within the corporate limits of the City of Duluth, unless acting under a mutual aid agreement, or other specific police function. M.S. 629.405 Subd. 3 gives on-duty officers police powers throughout the State.

Officers are to take all reasonable steps necessary to enforce the law. Officers are expected to exercise discretion and good judgment in determining the proper course of action. When an officer is unclear of the appropriate disposition, he should consult his unit leader.

100.2 PEACE OFFICER POWERS

Licensed members of this department are peace officers pursuant to Minn. Stat. § 626.84 Subd. 1 (c). The Minnesota Legislature acting through the Minnesota Board of Peace Officer Standards and Training (POST) has mandated that all peace officers employed within the State of Minnesota shall hold a POST Board license (Minn. Stat. § 626.846, Minn. Stat. § 626.862 and Minn. Stat. § 626.863).

The authority of a full-time peace officer extends to any place within the jurisdiction of the employing authority at all times and any place within the state while on-duty (Minn. Stat. § 629.34 Subd. 1 and Minn. Stat. § 629.40).

A full-time officer's peace officer authority when off-duty and outside the jurisdiction of the Department is limited to circumstances that would permit the officer to use deadly force under Minn. Stat. § 609.066. Under any other circumstances the off-duty officer is limited to the same power as members of the general public.

100.3 CONSTITUTIONAL REQUIREMENTS

All employees shall observe and comply with every person's clearly established rights under the United States and Minnesota Constitutions.

100.4 OFFICER'S POWER TO ARREST

Officer's powers range from verbal warnings to arrest and incarceration. Application of these powers requires officers to balance discretion and knowledge. This order is intended to provide guidelines for the proper use of discretion and arrest powers.

100.4.1 DEFINITIONS

a. Arrest

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- Arrest is the taking of a person into custody so that the person may be held to answer for a public offense. Arrest includes actually restraining a person or taking into custody a person who submits. (Minn. Stat. § 629.30) Placing someone on an arrest-hold at a non-jail facility constitutes a custodial arrest (detox or hospital)

b. Complaint

- A Complaint is a written, signed statement of the essential facts constituting the offense charged. (Rules Governing Criminal Procedure, Rule 2.01)

c. Summons

- A summons is an order which directs the defendant to appear at the stated time and place to answer the complaint before the court and which includes a copy of the complaint. (Rules Governing Criminal Procedure, Rule 3.02, Subd. 3)

d. Warrant

- A warrant is an order for the arrest of the defendant that directs that he be brought before the court. The warrant identifies the defendant, describes the offense committed, and may contain the amount of bail and conditions of release. (Rules Governing Criminal Procedure, Rules 3.01 and 3.02)

A summons, rather than a warrant, is issued for offenses punishable only by fines, and for other misdemeanors if it is believed that the defendant will respond to the summons. Failure to respond to a summons causes a warrant to be issued. (Rules Governing Criminal Procedure, Rule 3.01)

A summons, rather than a warrant, may be issued for felonies, whenever the judge is satisfied that a warrant is unnecessary to secure the appearance of the defendant. (Rules Governing Criminal Procedure, Rules 3.01)

100.5 ARREST AUTHORITY

a. DISCRETION

The police profession is one which requires officers to use considerable judgment and discretion in the performance of their daily duties. Employees will draw from department policies, procedures, training, and experience to guide them in exercising proper judgment.

The City of Duluth is composed of many different communities, each with its own lifestyle, diverse ethnic and sociological background. Persons throughout the community have a common need for protection and right to fair and impartial police service.

What is reasonable in terms of appropriate police action varies with each situation. Different facts may justify an investigation, a detention, a search, an arrest, or no police action. In every case, an officer must act reasonably within the limits of his authority as defined by statute and judicial interpretation. Officers are allowed to use discretion in many areas, such as traffic offenses, minor disputes between individuals, problems involving children, and some domestic situations.

b. ARREST POWERS

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1. On-duty Authority

On-duty officers within the state of Minnesota have the power to make arrests in the following situations: (Minn. Stat. § 629.34, 629.40)

- when a warrant exists for the individual's arrest;
- felonies committed in the officer's presence;
- felony investigations where probable cause to make an arrest exists;
- misdemeanors committed in the officer's presence; and
- certain misdemeanors even though not committed in the officer's presence.

On-duty officers have no special arrest powers outside the state except in the instance of fresh pursuit or when responding to a request for mutual aid in the City of Superior.

2. Off-duty Authority

Off-duty sworn officers are expected to take appropriate action when a crime is observed within the city of Duluth. Inside the city, off-duty officers have the same arrest power and authority that they have on duty.

Outside the city, off-duty officers have no power or authority other than that of a private citizen, unless confronted with circumstances that would permit the use of deadly force (Minn. Stat. §609.066).

Except as absolutely necessary to prevent injury or destruction of property, recruit officers participating in the Police Training Officer program should avoid direct involvement in arrests while off duty. The recruit should summon an on-duty officer and assist as necessary. Any off-duty officer who engages in any law enforcement activities, regardless of jurisdiction shall notify the Watch Commander or their Supervisor as soon as reasonably practicable.

3. Private Citizen Authority

A private citizen may arrest another:

- for a public offense committed or attempted in the arresting person's presence;
- when the person arrested has committed a felony, although not in the arresting person's presence; or
- when a felony has been committed and the arresting person has reasonable cause for believing the person arrested committed a felony.

A private person making an arrest must inform the person to be arrested of the cause of the arrest. The arrested person must be taken to a judge or peace officer without delay. (Minn. Stat. § 629.30, 629.37 through 629.39)

c. CRIMINAL CHARGES WITHOUT A CUSTODIAL ARREST

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Officers may issue citations for unwitnessed misdemeanors or petty misdemeanors. This method is more efficient than requesting a complaint/summons. If the individual does not appear, the prosecutor requests a complaint/summons be issued by the court.

100.6 FORMAL REQUEST FOR CHARGES

(a) Misdemeanor/Traffic requests: Patrol officers are expected to complete misdemeanor, and traffic related investigations. Upon completion of an investigation in which the subject is not in custody, and the officer wants the person to be charged, the reports are submitted to the appropriate prosecutor for a complaint to be issued. Reports are submitted by forwarding the completed paperwork to the respective supervisor. Once reviewed, the completed paperwork is placed in the appropriate BIN in the report room where Records and Support Unit (RSU) staff will monitor and process. The originating officer will complete a referrral to the appropriate investigative unit. Unit leaders determine the procedure for officers in their unit to submit a request for a criminal complaint. Unit leaders may allow officers to make the determination to send the request on their own, or may require the officer to submit it initially to the unit leader, who determines whether or not to request a complaint, Unit leaders are ultimately responsible for ensuring the request for a criminal complaint are completed and documented in CAL(Case Activity Log). If a warrant (order for detention) is desired the officer must articulate in the Incident report why a summons is not sufficient.

(b) Felony/Gross Misdemeanor with Follow-up requests: Patrol Officers are typically expected to complete a thorough initial investigation of felony and gross misdemeanor offenses to which they are assigned. That initial investigation may, at times, constitute the entire investigation of the incident. More commonly, felony, or gross misdemeanor (non-traffic) incidents require follow-up investigation and/or a request for a criminal complaint. In either case, these incidents are referred to the appropriate unit. Unit leaders determine the procedure for officers in their unit to make referrals for follow-up investigation. Officers may be allowed to make the referrals directly, or the unit leader may make the referral. The unit leader retains responsibility to ensure that the referral is made to the appropriate unit on a timely basis. Referrals are documented in CAL which indicates to which unit the case was referred. The unit leader receiving a referral is responsible for determining whether to assign follow-up investigation, send a request for a criminal complaint, or to suspend the case. The unit leader's action is documented in CAL. The investigator assigned a case assumes responsibility for submitting the request for criminal charges if the investigation reaches that point. All referrals, assignments, requests for criminal charges, suspensions, etc. are documented in CAL according to department procedures and Policy 345.

100.7 ARREST WARRANT EXECUTION

Arrest warrants may be executed by on-duty officers anywhere in the state. The St. Louis County Sheriff's Office has primarily responsibility for maintaining and executing arrest warrants, Duluth police officers are encouraged to take a proactive role in executing arrest warrants within the

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confines of their workload. (See G.O. 230.03) The Risk Assessment Matrix should be completed prior to affecting an arrest on warrant, if the arrest will involve a building entry.

An arrest for a felony or gross misdemeanor warrant may be made at any time.

Misdemeanor warrant arrests may not be made on Sunday, or between 10:00 p.m. and 8:00 a.m. except when:

- the judge has ordered in the warrant that the arrest may be made between those hours; or
- the person named in the warrant is found on public highway or street. (M.S. 629.31)

Most misdemeanor warrants in St. Louis County are "night capped" meaning that an arrest can be made at any time; however the officer must ensure that the judge has allowed it.

100.8 ARREST DISPOSITIONS

a. SUPERVISORY APPROVAL

Patrol officers making a custodial arrest are required to notify their sergeant of the arrest prior to, or during, transportation to the jail. If their sergeant is not available they must notify another on-duty patrol sergeant. Officers not assigned to patrol, making an arrest unrelated to a case to which they are assigned, must also notify a patrol sergeant of the arrest. Notification allows supervisory review of the arrest and the appropriateness of incarceration.

Investigators making a custodial arrest on an assigned case clear the arrest through their unit leader. In this instance the investigator making the arrest, or their unit leader, is required to make a courtesy notification of an on-duty patrol sergeant merely to make them aware of the arrest.

Sergeants/unit leaders approving an arrest are responsible for ensuring the legality of the arrest and appropriateness of confinement.

b. INCARCERATION

Incarceration is appropriate for most felonies. Incarceration for gross misdemeanors and misdemeanors occurs only when necessary to:

- ensure the defendant's appearance in court; or
- prevent further criminal conduct; or
- prevent bodily harm.

Incarceration for petty misdemeanors is inappropriate due to the fact that even if a judge finds the person guilty, the person may not be sentenced to jail.

Officers booking a person into a facility are responsible to see that the arrestee is being held on the correct charges. In cases where crimes are enhanced due to prior convictions, officers are expected to check an arrestee's prior record to determine if there were prior convictions which make the current charge more serious. Appropriate sources to check are SHIELD (department records), MINCIS (State-wide court records), and CCH (F.B.I. records). Results from each record

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source, positive and negative, must be delineated in the report. This prevents a duplication of effort by other employees. If a computer system is down, or workload absolutely prevents obtaining the records it must be specified in the Incident Report.

Officers must complete reports on any in-custody lodging prior to completion of their shift. Officers must include the name of the approving sergeant on the booking form. A copy of the booking form must be placed in the public book at the Police Customer Service Center.

Citations are issued to persons incarcerated for misdemeanors. In some cases, the release of an incarcerated misdemeanant will be mandated by jail policy. The Jail generally will hold them for twelve hours. In those cases, the jail will set the court date. Officers should consult with the booking officer for current policy and court date in such cases. Officers lodging a person on a misdemeanor may request that the person not be released, or held until sober. Habitual offenders or cases where someone needs to appear the request can be made to hold for appearance.

c. RELEASE WITH CITATION

Persons charged with petty misdemeanors, and non-violent misdemeanors, are released after the issuance of the citation(s).

Bail cannot be accepted or required from persons charged with a petty misdemeanor or an unwitnessed misdemeanor.

d. RELEASE FROM INCARCERATION

When a subject is incarcerated without a warrant the Station Commander, or their designee, may authorize the subject be released without bail if he believes (Rules Governing Criminal Procedure, Rule 4.02, Subd. 1):

- the subject will appear in court;
- the subject will not engage in further criminal activity; and
- the subject is not a danger to them self or others.

Citations must be issued prior to release for petty misdemeanors and misdemeanors. If a person charged with domestic assault is released, the victim must be notified, as required by M.S. § 629.72, Subd. 6.

Department members should be aware that the St. Louis County Jail, at their discretion, has authority to release individuals without consultation or authority of the Station Commander.

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Oath of Office

101.1 PURPOSE AND SCOPE

Officers of this department are sworn to uphold the federal and state constitutions and to enforce federal, state and local laws.

101.1.1 OATH OF OFFICE

Upon employment, all employees shall be required to affirm, sign and date the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of the position, regardless of whether law mandates such an oath. The oath shall be as follows:

I, (employee name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Minnesota, and that I will faithfully discharge the duties of (applicable position or office) within and for the (name of political entity) and State.

101.1.2 MAINTENANCE OF RECORDS

Oaths mandated by law shall be filed as required by law (Minn. Stat. § 358.11, Minn. Stat. § 387.01 and Minn. Stat. § 387.14). Other oaths shall be maintained consistent with other personnel employment records.

101.1.3 OATH OF OFFICE AND CODE OF ETHICS

OATH OF OFFICE

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held as long as I am true to the ethics of the police service. I will continually strive to achieve these objectives and ideals, dedicating myself before god to my chosen profession, law enforcement. I will obey the rules and regulations of this department -- the orders of my superior officers -- and strive to maintain a spirit of teamwork and cooperation -- with my fellow officers.

LAW ENFORCEMENT CODE OF ETHICS

"As a Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all men to liberty, equality and justice. I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept secret unless revelation is necessary in the performance of duty. I will never act officiously or permit personal feelings, prejudice, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities. I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police

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service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession--Law Enforcement."

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Policy Manual

102.1 PURPOSE AND SCOPE

The manual of the Duluth Police Department is hereby established and shall be referred to as the "Policy Manual.# The Policy Manual is a statement of the current policies, procedures, rules and guidelines of this department. All employees are to conform to the provisions of this manual. All prior and existing manuals, orders and regulations that are in conflict with this manual are revoked, except to the extent that portions of existing manuals, orders and other regulations that have not been included herein shall remain in effect where they do not conflict with the provisions of this manual.

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized that law enforcement is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

102.1.1 DISCLAIMER

The provisions contained in this Policy Manual are not intended to create an employment contract, nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Duluth Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the City, its officials or employees. Violations of any provision of any policy contained within this manual shall only form the basis for departmental administrative action, training or discipline. The Duluth Police Department reserves the right to revise any policy content, in whole or in part.

102.2 RESPONSIBILITIES

The ultimate responsibility for the content of the manual rests with the Chief of Police. Since it is not practicable for the Chief of Police to prepare and maintain the manual, the following delegations have been made:

102.2.1 CHIEF OF POLICE

The Chief of Police shall be considered the ultimate authority for the provisions of this manual and shall ensure compliance with all applicable Minnesota law. The Chief of Police is responsible for issuing General Orders, which shall modify those provisions of the manual to which they pertain. General Orders shall remain in effect until such time as they may be permanently incorporated into the manual.

102.2.2 STAFF

Staff shall consist of the following:

- Chief of Police
- The Deputy Chief from each division

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- Any other employee designated or assigned by the Chief of Police

The staff shall review all recommendations regarding proposed changes to the manual at staff meetings.

102.2.3 OTHER PERSONNEL
All Department employees suggesting revision of the contents of the Policy Manual shall forward their written suggestions to their Deputy Chief who will consider the recommendation and forward it to staff.

102.3 FORMATTING CONVENTIONS FOR THE POLICY MANUAL

All written policies will have a header at the top of the page with the subject of the policy and the policy number. Each policy will begin with a purpose statement, a policy statement when appropriate and will conclude with the directive information of that subject. The published date of the document will be printed in the footer of each page.

102.3.1 ACCEPTABLE ABBREVIATIONS
The following abbreviations are acceptable substitutions in the manual:

- General Orders may be abbreviated as #GO#
- Policy Manual sections may be abbreviated as #Section 106.X# or #§ 106.X#

102.3.2 DEFINITIONS
The following words and terms shall have these assigned meanings, unless it is apparent from the content that they have a different meaning:

Adult - Any person 18 years of age or older.

CFR - Code of Federal Regulations

Child - Any person under the age of 18 years.

City - The City of Duluth

Civilian - All employees and volunteers who are not licensed peace officers.

Department /DPD - The Duluth Police Department

DPS - The Minnesota Department of Public Safety

DVS - The Minnesota Department of Driver and Vehicle Services

Employee/personnel - Any person employed by the Department.

Lead worker or unit leader - A person assigned to direct or control employees and operations and who assigns, directs and critiques job performance of designated staff during the course of a work assignment or daily task. A lead worker does not have the authority to reward, discipline or promote. A lead worker includes assignment to the role of #officer-in-charge.#

Manual - The Duluth Police Department Policy Manual

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May - Indicates a permissive, discretionary or conditional action.

Member - Any person who is employed or appointed by the Duluth Police Department including licensed officers, part-time officers, civilian employees and volunteers.

MSP - Minnesota State Patrol

Officer/licensed - Those employees, regardless of rank, who are licensed peace officer employees of the Duluth Police Department.

On-duty - Employee status during the period when he/she is actually engaged in the performance of his/her assigned duties.

Order - A written or verbal instruction issued by a superior.

Peace officer - An employee of the Department who is required to be certified by POST pursuant to Minn. Stat. § 626.84 (c) or otherwise holds a peace officer license. The term includes licensed full-time and part-time officers who perform the duties of a peace officer.

POST - The Minnesota Board of Peace Officer Standards and Training

Rank - The job classification title held by an officer.

Shall or will - Indicates a mandatory action.

Should - Indicates generally required or expected action, absent a rational basis for failing to conform.

Supervisor - A person in a position of authority regarding hiring, transfer, suspension, promotion, discharge, assignment, reward or discipline of other employees, directing the work of other employees, or adjustment of other employees' grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment (Minn. Stat. § 179A.03 Subd. 17).

The term "supervisor" may also include any supervisor, lead worker, unit leader or other person given responsibility for direction of work without regard to formal job title, rank or aspects of compensation established by a collective bargaining agreement, the Fair Labor Standards Act, the Public Employees Labor Relations Act or any similar statutes or ordinances related to employment compensation or benefits. On those occasions where a single employee is working, that employee may also be the supervisor, except when circumstances reasonably require the notification or involvement of the employee's off-duty supervisor or an on-call supervisor.

USC - United States Code

102.3.3 DISTRIBUTION OF MANUAL

The manual is web-based and is accessed at https://policy.lexipol.com. Access to the manual will be limited to the viewing and printing of specific sections. No changes shall be made to the electronic version without authorization.

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102.3.4 ACKNOWLEDGEMENT

Each newly appointed employee will acknowledge in writing that he/she has been provided access and ability to review the Policy Manual. All employees will acknowledge in writing the receipt and review of any new directive or modifications to this manual. Signed acknowledgement forms and/or e-mail receipts showing an employee's acknowledgement will be maintained by the Personnel, Training, and Licensing Lieutenant.

102.4 MANUAL ACCEPTANCE

As a condition of employment, all employees are required to read and obtain necessary clarification of policies. All employees are required to sign a statement of receipt acknowledging that they have received a copy or have been provided access to the Policy Manual, and understand that they are responsible to read and become familiar with its contents.

102.4.1 REVISIONS TO POLICIES

All employees are responsible for keeping abreast of all Policy Manual revisions. The Personnel, Training, and Licensing Lieutenant or Administrative Sergeant will forward all revisions or changes to the Policy Manual to the Command Staff and all Department Sergeants. Command Staff and Sergeants will distribute those revisions or changes to all officers under their command. Major additions or changes to the Policy Manual may require each employee to sign their receipt of the policy changes on an acknowledgment form to be returned to the Personnel, Training, and Licensing Lieutenant or Administrative Sergeant.

Each unit commander/manager will ensure that employees under his/her command are aware of any Policy Manual revisions.

102.4.2 PERIODIC REVIEW OF POLICY MANUAL

At least annually the Chief of Police will cause the entire manual to be reviewed and updated as necessary to ensure the Policy Manual conforms to actual operation of the Department and complies with Minnesota law.

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Chapter 2 - Organization and Administration

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Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

This General Order is an overview of the Department's structure and a brief outline of duties and responsibilities related to each function.

200.2 CHIEF OF POLICE

The Chief of Police oversees and directs all activities of the Police Department. The Chief is directly responsible for:

The selection of new employees,

The promotion of existing employees,

The final Department position on grievances and discipline,

Fiscal management,

Long term planning, and

Supervision of the two Deputy Chiefs.

200.3 PATROL DIVISION

PATROL DIVISION

NOTE: Policy 400 Patrol Function describes the structure of the Patrol Division in detail. The following definitions of positions are provided for consistency in this order and throughout the Department Manual.

Watch Commander: The highest ranking, on-duty officer of the on-duty patrol crew. If there is more than one officer of the same rank it is the most senior person at that rank. A watch commander is always on-duty. This is a fluid position directly affected by schedules.

Area Commander: A lieutenant assigned to an area, as opposed to a shift. The area commander supervises designated shift lieutenants.

Command Staff: All lieutenants and above.

Unit Leader: The immediate supervisor of a work unit (applicable throughout the Department, in both investigative and patrol divisions) as designated on the organizational chart. An individual's unit leader is a fixed assignment, not affected by schedules or absences, only by the transfer of personnel. All personnel, with the exception of the Chief, have a unit leader.

Shift Lieutenant: A lieutenant assigned to a patrol crew. On-duty shift lieutenants are always the watch commander, regardless of the presence of a more senior officer.

Shift Sergeant: A sergeant assigned to a patrol crew. In the absence of a shift lieutenant the most senior, on-duty shift sergeant is the watch commander.

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Community Policing Sergeant: A sergeant assigned to an area, and supervised by the Area Commander.

A. Deputy Chief "Patrol Division The Patrol Division is supervised by a Deputy Chief. The Deputy Chief is the Chief's assistant and participates in planning and budgeting. In the Chief's absence the Patrol Division Deputy Chief assumes the Department's senior command position. The Deputy Chief is also responsible for:

- Recommending and/or approving discipline within the Patrol Division,
- Supervising the Area Commanders and Patrol Division lieutenants, and

B. Patrol Division Area Commanders and Shift Lieutenants

The Patrol Division is divided into a West Policing Area and an East Policing Area. Each of those Areas is supervised by a lieutenant (Area Commander).

The Area Commander is responsible, within their area, for:

- Assigned shift lieutenants,
- Assigned sergeants,
- Community Oriented Police,
- District assignments of officers, and
- All patrol activities occurring in their area.

Each of the four patrol shifts has a shift lieutenant assigned. Two of them are supervised by the East Area Commander, and two by the West Area Commander. These shift lieutenants serve as the Watch Commander when they are on-duty. They are responsible for supervising the sergeants and patrol officers on their shift as well as all police activities occurring when they are on- duty.

C. Patrol Division Sergeants

Ten Sergeants are assigned to the Patrol Division. Sergeants have a geographical assignment to the West or East Policing Area. To promote operational flexibility area assignments do not limit the city-wide responsibility of shift sergeants. Five Sergeants are assigned to the West Policing Area and five Sergeants are assigned to the East Policing Area. Eight sergeants are assigned as Shift Sergeants, four to each Policing Area (West and East) and two Sergeants are assigned as Community Policing Sergeants, one to each Policing Area (West and East). Shift Sergeants report directly to a Shift Lieutenant. Community Policing Sergeants report directly to Area Commanders. Each Patrol Shift has two sergeants assigned with one sergeant representing each Policing Area (West and East). One of the Sergeants on the shift will be a senior Sergeant, squad 20 and one of the Sergeants on the shift will be a junior Sergeant, squad 21. The senior Sergeant is the Watch Commander in the absence of higher ranking personnel on-duty. In instances when only one Sergeant is working, the on-duty Sergeant is the supervisor responsible for all personnel and police services on the shift. The Community Policing Sergeant is responsible for all problem solving and community policing operations in the respective Policing Areas (West and East). The

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Community Policing Sergeant directly supervises Community Police Officersand other personnel assigned to that Area.

D. Patrol Division Police Officers

The Patrol Division Deputy Chief allocates and assigns personnel to the East or West Policing Areas. An annual analysis of workloads is conducted to distribute officers equitably. Actual assignment to patrol districts and shifts is at the discretion of the Area Commander. G.O. 205.00 describes their assignments in detail.

E. Community Oriented Police (COPS)

COPS are assigned to each patrol district and their primary function is to work on community oriented projects and work as an adjunct to patrol. They are involved in both enforcement and investigative activities with a focus on community problem solving.

200.4 INVESTIGATIVE/ADMINISTRATIVE DIVISION

A. Deputy Chief "Investigative/Administrative Division The Investigative/Administrative Division is supervised by a Deputy Chief. The Deputy Chief is the Chief's assistant and participates in planning and budgeting. The Deputy Chief is also responsible for:

- Recommending and/or approving discipline within the Division,
- Supervising the Division lieutenants.
- Supervising internal investigations and administrative investigations for the entire Department

B. Administrative/Investigative Lieutenants

1. Investigative "Major Crimes Lieutenant" supervises:

- Crime Scene Investigations
- Sex Crime, Abuse, Neglect and Domestic Violence
- Violent Crimes
- Juvenile Services Unit
- Crash Investigations

2. Investigative "Organized Crime Lieutenant" supervises:

- Special Investigations Unit
- Lake Superior Drug and Violent Crime Task Force
- Property and Financial Crimes Unit

3. Administrative Support Lieutenant supervises:

- Radio

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- Animal Shelter
- Technology/MIS
- Facilities

4. Administrative Training/Licensing Lieutenant supervises:

o Personnel, Training and Licensing Unit

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General Order and Directives

201.1 PURPOSE AND SCOPE

General Orders and Directives establish an interdepartmental communication that may be used by the Chief of Police to make immediate changes to policy and procedure consistent with the current Memorandum of Understanding or other collective bargaining agreement. General Orders will immediately modify or change and supersede sections of this manual to which they pertain.

201.1.1 GENERAL ORDER PROTOCOL

General Orders will be incorporated into the manual as required upon approval of staff. General Orders will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the manual.

All existing General Orders have now been incorporated in the updated Policy Manual as of the below revision date.

Any General Orders issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number #01.# For example, 10-01 signifies the first General Order for the year 2010.

201.1.2 SPECIAL ORDERS PROTOCOL

Directives establish a temporary policy or procedure on a given subject for a specific length of time. Directives are issued to the organization as a whole, to a division, to a unit or to an individual thereof and are temporary in nature. Directives become inoperative with the passing of the incident or situation that caused the order's issuance.

201.2 RESPONSIBILITIES

It is the responsibility of the person issuing a Directive to ensure that the information is incorporated into a General Order, if necessary, prior to the expiration of the Directive.

It is the responsibility of all department personnel to assist in the maintenance of department orders. Suggestions for updating, rescinding, or revising orders may be made when an employee notes a change that will affect standing orders.

Orders specific to specialized units: It is the responsibility of the Unit Supervisor to review semi-annually, the General Orders that are specific to specialized units in order to ensure that they are current and accurately represent common practice and procedure.

Procedural changes, policy adjustments and new information received or perceived by employees should be directed to the Chief of Police for analysis and inclusion in new or revised orders.

201.2.1 CHIEF OF POLICE

The Chief of Police or designee shall issue all General Orders and Directives.

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201.3 ACCEPTANCE OF GENERAL ORDERS AND SPECIAL ORDERS

All employees are required to read and obtain any necessary clarification of all General Orders or Directives. All employees are required to acknowledge in writing the receipt and review of any new General Order.

Signed acknowledgment forms and/or e-mail receipts showing an employee's acknowledgement will be maintained by the Personnel, Training, and Licensing Lieutenant.

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Administrative Communications

202.1 PURPOSE AND SCOPE

Administrative communications of this department are governed by the following policies.

202.2 PERSONNEL ORDERS

Personnel Orders may be issued periodically by the Chief of Police or designee, to announce and document all promotions, transfers, hiring of new personnel, separations, individual and group awards and commendations or other changes in status. Such orders are personnel data under Minn. Stat. 13.43 and shall be treated accordingly.

202.2.1 DISTRIBUTION

Personnel orders dealing with assignments, transfers, and resignations will also be distributed to the following departments where files of such orders will be maintained:

(a) Payroll

(b) City Attorney's Office

(c) Record Support Unit

(d) County Attorney's Office

(e) Human Resources

202.3 SURVEYS

All surveys made in the name of the Department shall be authorized by the Chief of Police, his/her designee or a Deputy Chief.

202.4 OTHER COMMUNICATIONS

General Orders and other communications necessary to ensure the effective operation of the Department shall be promulgated by the Chief of Police, his/her designee or Deputy Chiefs.

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Retiree Concealed Firearms

203.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the issuance, denial, suspension or revocation of Duluth Police Department identification cards under the Law Enforcement Officers' Safety Act (LEOSA) (18 USC § 926C).

203.2 POLICY

It is the policy of the Duluth Police Department to provide identification cards to qualified former or retired officers as provided in this policy.

203.3 LEOSA

The Chief of Police may issue an identification card for LEOSA purposes to any former officer of this department who (18 USC § 926C(c)):

(a) Separated from service in good standing from this department as an officer.

(b) Before such separation, had regular employment as an officer for an aggregate of 10 years or more or, if employed as an officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this department.

(c) Has not been disqualified for reasons related to mental health.

(d) Has not entered into an agreement with this department where the officer acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.

(e) Is not prohibited by federal law from receiving or possessing a firearm.

203.3.1 RETIRED OFFICER PHOTOGRAPHIC IDENTIFCATION

All Duluth Police Department officer's leaving the Department's service who requests a retiree photographic identification from the Department must leave the Department in good standing. A signed retiree photographic identification agreement will be required and the identification will remain the property of the Duluth Police Department. The identification must be returned, for any reason, to the Department if requested to do so.

203.3.2 LEOSA IDENTIFICATION CARD FORMAT

The LEOSA identification card should contain a photograph of the former officer and identify him/her as having been employed as an officer.

If the Duluth Police Department qualifies the former officer, the LEOSA identification card or separate certification should indicate the date the former officer was tested or otherwise found by the Department to meet the active duty standards for qualification to carry a firearm.

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203.3.3 AUTHORIZATION

Any qualified former law enforcement officer, including a former officer of this department, may carry a concealed firearm under 18 USC § 926C when he/she is:

(a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:

1. An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement agency to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.

2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.

(b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(c) Not prohibited by federal law from receiving a firearm.

(d) Not in a location prohibited by Minnesota law or by a private person or entity on his/her property if such prohibition is permitted by Minnesota law.

203.4 FORMER OFFICER RESPONSIBILITIES

A former officer with a card issued under this policy shall immediately notify the Watch Commander of his/her arrest or conviction in any jurisdiction, or that he/she is the subject of a court order, in accordance with the Reporting of Employee Convictions and Court Orders Policy.

203.4.1 RESPONSIBILITIES UNDER LEOSA

In order to obtain or retain a LEOSA identification card, the former officer shall:

(a) Sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Department.

(b) Remain subject to all applicable department policies and federal, state and local laws.

(c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.

(d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

203.5 DENIAL, SUSPENSION OR REVOCATION

A LEOSA identification card may be denied or revoked upon a showing of good cause as determined by the Department. In the event that an identification card is denied, suspended or revoked, the former officer may request a review by the Chief of Police. The decision of the Chief of Police is final.

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203.6 FIREARM QUALIFICATIONS

The Use of Force Coordinator may provide former officers from this department an opportunity to qualify. Written evidence of the qualification and the weapons used will be provided and will contain the date of the qualification. The Use of Force Coordinator will maintain a record of the qualifications and weapons used.

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Handgun Purchase and Transfer Permit

204.1 PURPOSE AND SCOPE

The Chief of Police, or designee, is given the statutory authority to issue a permit to purchase or transfer a pistol to persons within the community. This policy provides a written process for the application and issuance of such permits.

204.2 APPLICATION PROCESS

To apply for a permit to purchase or transfer a pistol, the applicant must complete and submit a signed and dated Minnesota Uniform Firearm Application and Receipt to the Department (Minn. Stat. § 624.7131, Subd. 1). These forms shall be freely available to members of the community at locations determined by the Chief of Police. Applications are also available on the Internet (Minn. Stat. § 624.7131, Subd. 3).

Incomplete applications are not suitable for processing and may not be accepted.

The Department shall provide the applicant a dated receipt upon the presentation of the application (Minn. Stat. § 624.7131, Subd. 1 (d)).

204.3 INVESTIGATION

The Department shall conduct an investigation of the applicant to determine if he/she is eligible for a permit (Minn. Stat. § 624.7131 Subd. 2). The investigation shall include no less than:

(a) A check of criminal histories and records of the applicant.

(b) A check of warrant information relating to the applicant through MJIS and NCIC.

(c) A reasonable effort to check other available state and local record-keeping systems.

(d) A check of criminal histories and records of the applicant.

204.4 GROUNDS FOR DISQUALIFICATION

The Chief of Police, or designee, shall only deny a permit to an applicant when the applicant is prohibited by Minn. Stat. § 624.713 an/or 18 U.S. Code 922 from possessing a pistol or semiautomatic military-style assault weapon.

204.5 GRANTING OR DENIAL OF PERMIT

The Chief of Police, or designee, shall issue a transferee permit or deny the application within seven days of application for the permit. The Chief of Police, or designee, shall provide an applicant with written notification of a denial and the specific reason for the denial. The permits and their renewal shall be granted free of charge (Minn. Stat. § 624.7131 Subd. 5).

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204.6 REVOKING PERMIT

The permit becomes void at the time that the holder becomes prohibited from possessing a pistol under Minn. Stat. § 624.713, in which event the holder is required to return the permit within five days to the Department (Minn. Stat. § 624.7131 Subd. 2).

A permit holder whose permit was revoked may seek a judicial review by filing a petition in the district court for the county in which the application was submitted (Minn. Stat. § 624. 7131 Subd. 8).

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Chapter 3 - General Operations

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Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or great bodily harm.

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 USE OF FORCE

Officers shall only use 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.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably

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appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

Nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

An officer may use reasonable force (Minn. Stat. § 609.06 and Minn. Stat. § 629.33):

(a) In effecting a lawful arrest.

(b) In the execution of a legal process.

(c) In enforcing an order of the court.

(d) In executing any other duty imposed by law.

(e) In preventing the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime.

(f) In restraining a person who is mentally ill or mentally defective from self-injury or injury to another.

(g) In self defense or defense of another.

An officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

(a) Immediacy and severity of the threat to officers or others.

(b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.

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(c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, and the number of officers available vs. subjects).

(d) The effects of drugs or alcohol.

(e) Subject's mental state or capacity.

(f) Proximity of weapons or dangerous improvised devices.

(g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.

(h) The availability of other options and their possible effectiveness.

(i) Seriousness of the suspected offense or reason for contact with the individual.

(j) Training and experience of the officer.

(k) Potential for injury to officers, suspects and others.

(l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.

(m) The risk and reasonably foreseeable consequences of escape.

(n) The apparent need for immediate control of the subject or a prompt resolution of the situation.

(o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.

(p) Prior contacts with the subject or awareness of any propensity for violence.

(q) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

(a) The degree to which the application of the technique may be controlled given the level of resistance.

(b) Whether the person can comply with the direction or orders of the officer.

(c) Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.4 DEADLY FORCE

Use of deadly force is justified in the following circumstances (Minn. Stat. 609.066):

(a) To protect the peace officer or another from apparent death or great bodily harm.

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(b) To effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force.

(c) To effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed.

Officers shall issue a verbal warning of their intention to use deadly force in those situations where it is feasible to do so.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 REPORTING THE USE OF FORCE

Any use of force greater than handcuffing by a member of this department shall be documented promptly, completely and accurately in an appropriate report, on a narrative report and Subject Resistance Report under the following circumstances:

- when a firearm is pointed at a person or discharged outside of the firing range except to dispatch an injured animal;
- when a use of force results in, or is alleged to have resulted in, death or injury;
- when chemical aerosol is pointed at a person or used,
- when an conducted energy weapon (Taser) is pointed at a person or discharged;
- when a take down is used;
- when hard empty hand control is used (punches, kicks, and strikes);
- when a baton is displayed or used to strike at a person;
- when specialty impact munitions or less than lethal projectiles are deployed.

The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. The purpose for the Subject Resistance Report is to collect data for training, resource allocation, analysis and other related purposes.

300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

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(a) The application caused a visible injury.

(b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.

(c) The individual subjected to the force complained of injury or continuing pain.

(d) The individual indicates intent to pursue litigation.

(e) Any application of an conducted energy weapon (Taser).

(f) Any application of a spit hood or hoble restraint.

(g) The individual subjected to the force was rendered unconscious.

(h) An individual was struck or kicked.

(i) An individual alleges any of the above has occurred.

300.6 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Supervisors should respond to these calls if possible. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

300.7 SUPERVISOR RESPONSIBILITY

Supervisors should respond to a scene where the use of force is likely.

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When a supervisor is notified of an application of force in accordance with section 300.5.1, the supervisor is expected to:

(a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.

(b) Ensure that any injured parties are examined and treated.

(c) Ensure all injuries are documented and/or photographed.

(d) Ensure witnesses not already included in related reports are identified.

(e) Review and approve all related reports.

(f) Evaluate the circumstances surrounding the incident and notify the Watch Commander.

300.7.1 WATCH COMMANDER RESPONSIBILITY

The Watch Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

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Use of Force Review Boards

301.1 PURPOSE AND SCOPE

This policy establishes a process for the Duluth Police Department to review the use of force by its employees.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of the use of deadly force.

301.2 POLICY

The Duluth Police Department will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

301.2.1 USE OF FORCE COORDINATOR'S RESPONSIBILITIES

The Administrative Deputy Chief or designee will conduct a preliminary assessment when the use of deadly force involves the discharge of a firearm. The purpose of this assessment is to form an initial determination of whether the firearm's discharge was:

- in compliance with state statute and Department policy;
- accidental; or
- the result of an equipment malfunction.

This assessment will also include an initial evaluation of tactical firearms training.

When the use of deadly force does not involve the discharge of a firearm, the Use of Force Coordinator will assume the same responsibilities as outlined above.

The Use of Force Coordinator will forward the findings to the Use of Force Review Board.

301.3 REMOVAL FROM LINE DUTY ASSIGNMENTS

Generally, whenever an employee's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The Chief of Police may exercise discretion and choose not to place an employee in an administrative assignment in any case.

301.4 REVIEW BOARD

The Use of Force Review Board will be convened when the use of force by a member results in great bodily harm or death to another.

The Use of Force Review Board will also investigate and review the circumstances surrounding every discharge of a firearm, whether the employee was on- or off-duty, excluding training or recreational use.

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The Chief of Police may request the Use of Force Review Board to investigate the circumstances surrounding any use of force incident.

The Administration Deputy Chief will convene the Use of Force Review Board as necessary. It will be the responsibility of the Deputy Chief or supervisor of the involved employee to notify the Administration Deputy Chief of any incidents requiring board review. The involved employee's Deputy Chief or supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

301.4.1 COMPOSITION OF THE BOARD

The Administrative Deputy Chief will select up to five Use of Force Review Board members which may include the following:

- Involved members Lieutenant
- Use of Force Coordinator or designee
- three members from various positions

The senior ranking command representative who is not in the same division as the involved employee will serve as chairperson.

301.4.2 RESPONSIBILITIES OF THE BOARD

The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process.

The board does not have the authority to recommend discipline.

The Chief of Police will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges, and the decision not to file criminal charges or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

The review shall be based upon those facts which were reasonably believed or known by the officer at the time of the incident, applying any legal requirements, department policies, procedures and approved training to those facts. Facts later discovered but unknown to the officer at the time shall neither justify nor call into question an officer's decision regarding the use of force.

Any questioning of the involved employee conducted by the board will be in accordance with the Department's disciplinary procedures, the Personnel Complaints Policy, the current collective bargaining agreement and any applicable state or federal law.

The board shall make one of the following recommended findings:

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(a) The employee's actions were within department policy and procedure.

(b) The employee's actions were in violation of department policy and procedure.

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Chief of Police.

The Chief of Police shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The Chief of Police's final findings will be forwarded to the involved employee's Deputy Chief for review and appropriate action. If the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated.

At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Chief of Police.

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Control Devices and Techniques

302.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

302.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Duluth Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

302.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee.

Only officers who have successfully completed department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a subject who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When reasonable and tactically appropriate, a verbal warning and opportunity to comply should precede the use of these devices.

When using control devices, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

302.4 RESPONSIBILITIES

302.4.1 WATCH COMMANDER RESPONSIBILITIES

The Watch Commander may authorize the use of a control device by selected personnel or members of specialized units who have successfully completed the required training.

302.4.2 USE OF FORCE COORDINATOR RESPONSIBILITIES

The Use of Force Coordinator shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

Every control device will be periodically inspected by the Use of Force Coordinator or the designated instructor for a particular control device. The inspection shall be documented.

302.4.3 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

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Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Use of Force Coordinator for disposition. Damage to City property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

302.5 BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should only be intentionally targeted when the officer reasonably believes the suspect poses an imminent threat of great bodily harm or death to the officer or others.

When carrying a baton, uniformed personnel shall carry the baton in its holder on the equipment belt. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

302.6 TEAR GAS GUIDELINES

Chemical munitions may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Tactical Response Team Commander may authorize the delivery and use of chemical munitions, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

When appropriate, fire personnel should be alerted or summoned to the scene prior to the deployment of chemical munitions to control any fires and to assist in providing medical aid or gas evacuation if needed.

302.7 OLEORESIN CAPSICUM (OC) GUIDELINES

302.7.1 OC SPRAY

Uniformed personnel carrying OC/CS spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.

302.7.2 TREATMENT FOR OC SPRAY EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of OC/CS should be treated for decontamination as soon as practical. Decontamination includes, increase air flow on effected person, vents, fans, or copious amounts of cool water. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

302.8 POST-APPLICATION NOTICE

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that cleanup will be at the owner's expense.

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Information regarding the method of notice and the individuals notified should be included in related reports.

This does not include secondary contamination occurring when applying chemical aerosol to a subject.

302.9 KINETIC ENERGY PROJECTILE GUIDELINES

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation. Department members must have received training and be currently approved by the departments Use of Force Coordinator in the deployment of impact munitions.

302.9.1 DEPLOYMENT AND USE

Only department-approved impact munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved impact munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Use must be approved by Command. Circumstances appropriate for deployment include, but are not limited to, situations in which:

(a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of impact munitions.

(b) The suspect has made credible threats to harm himself/herself or others.

(c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.

(d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

302.9.2 DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the officer should consider such factors as:

(a) Distance and angle to target.

(b) Type of munitions employed.

(c) Type and thickness of subject's clothing.

(d) The subject's proximity to others.

(e) The location of the subject.

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(f) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

302.10 TRAINING FOR CONTROL DEVICES

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reports pursuant to the Use of Force Policy.

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Conducted Energy Weapons Guidelines

303.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the conducted energy weapon (CEW) device.

303.2 POLICY

The CEW is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

303.3 ISSUANCE AND CARRYING CEWS

Only members who have successfully completed department approved training may be issued and carry the CEW.

CEWs are issued for use during a member's current assignment or shift. Those leaving a particular assignment may be required to return the device to the department's inventory. Those using a CEW on a SHIFT basis are required to turn them in at the end of the shift.

Officers shall only use the CEW and cartridges that have been issued by the Department. Officers who have been issued the CEW shall wear the device in an approved holster on their person.

Members carrying the CEW should perform a spark test on the unit prior to every shift.

When carried while in uniform, officers shall carry the CEW in a weak-side holster on the side opposite the duty weapon. It is recommended that officers draw the CEW with their non-dominant hand.

(a) All CEWs shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.

(b) Officers shall be responsible for ensuring that their issued CEW is properly maintained and in good working order.

(c) Officers should not hold both a firearm and the CEW at the same time.

303.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the CEW should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

(a) Provide the individual with a reasonable opportunity to voluntarily comply.

(b) Provide other officers and individuals with a warning that the CEW may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but

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is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the CEW. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the CEW in the related report.

303.5 USE OF THE CEW

The CEW has limitations and restrictions requiring consideration before its use. The CEW should only be used when its operator can safely approach the subject within the operational range of the device. Although the CEW is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

303.5.1 APPLICATION OF THE CEW

The CEW may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

(a) The subject is violent or is physically resisting.

(b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the CEW to apprehend an individual.

303.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the CEW on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

(a) Individuals who are known to be pregnant.

(b) Elderly individuals or obvious juveniles.

(c) Individuals with obviously low body mass.

(d) Individuals who are handcuffed or otherwise restrained.

(e) Individuals fleeing on foot.

(f) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based chemical aerosol weapons.

(g) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

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Because the application of the CEW in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

The CEW shall not be used to psychologically torment, elicit statements or to punish any individual.

303.5.3 TARGETING CONSIDERATIONS

When feasible reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the CEW probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

303.5.4 MULTIPLE APPLICATIONS OF THE CEW

Officers should apply the CEW for only one standard cycle and then evaluate the situation before applying any subsequent cycles. When officers deploy the CEW, assisting officer(s) should handcuff the individual while the CEW is discharging. This should likely decrease the need for additional CEW applications. Multiple applications of the CEW against a single individual are not allowed except when the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the CEW appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the CEW, including:

(a) Whether the probes are making proper contact.

(b) Whether the individual has the ability and has been given a reasonable opportunity to comply.

(c) Whether verbal commands, other options or tactics may be more effective.

Officers should not intentionally apply more than one CEW at a time against a single subject.

303.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers should immediately call for EMS to respond and remain vigilant about excited delirium and other health factors. Officers shall notify a supervisor of all CEW discharges. The expended cartridge, along with both probes and wire, should be photographed.. This photograph should include the cartridge serial number. Photographs are taken to demonst

303.5.6 DANGEROUS ANIMALS

The CEW may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective. Officers should plan on a restraint device to be applied to the animal if it is to be transported.

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303.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department CEWs while off-duty.

Officers shall ensure that CEWs are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

303.6 DOCUMENTATION

Officers shall document all CEW discharges in the related narrative report and the Subject Resistance Report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented on the report form.

303.6.1 REPORTS

The officer should include the following in the narrative report:

(a) Identification of all personnel firing CEWs

(b) Identification of all witnesses

(c) Medical care provided to the subject

(d) Observations of the subject's physical and physiological actions

(e) Any known or suspected drug use, intoxication or other medical problems

303.7 MEDICAL TREATMENT

Absent extenuating circumstances, officers may remove CEW probes from a person's body. Used CEW probes shall be treated as a sharps bio-hazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken. Officers must examine probe upon removal to determine if the probe is intact. Probes are to be photographed as indicated in 303.5.5 and disposed of properly. Photographs of probe sites and any additional injuries should be taken.

All persons who have been struck by CEW probes or who have been subjected to the electric discharge of the device shall be closely monitored by the officer to determine any need for medical attention or changes in condition prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

(a) The person may be pregnant.

(b) The person reasonably appears to be in need of medical attention or condition has changed.

(c) The CEW probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).

(d) The person requests medical treatment.

Any individual exhibiting signs of distress shall be transported by ambulance to a medical facility for examination. Any individual who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated

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prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the CEW.

303.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the CEW may be used. A supervisor should respond to all incidents where the CEW was activated.

A supervisor will review each incident where a person has been exposed to an activation of the CEW. The device's onboard memory should be downloaded through the data port by a supervisor or Use of Force Coordinator and forwarded to the Use of Force Coordinator with the Subject Resistance Report.

303.9 TRAINING

Personnel who are authorized to carry the CEW shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the CEW for a period of one year shall be recertified by the department-approved CEW instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued CEWs should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Use of Force Coordinator. All training and proficiency for CEWs will be documented in the officer's training file.

Officers who do not carry CEWs should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Use of Force Coordinator is responsible for ensuring that all members who carry CEWs have received initial and annual proficiency training. Periodic audits should be used for verification

Voluntary exposures of CEWs during training can result in injury to personnel and is not mandatory for certification.

The Use of Force Coordinator should ensure that all training includes:

(a) A review of this policy.

(b) A review of the Use of Force Policy.

(c) Performing non-dominant hand draws to reduce the possibility of accidentally drawing and firing a firearm.

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(d) Target area considerations, to include techniques or options to reduce the accidental application of probes near the head, neck, chest and groin.

(e) Handcuffing a subject during the application of the CEW and transitioning to other force options.

(f) De-escalation techniques.

(g) Restraint techniques that do not impair respiration following the application of the CEW.

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Duty Firearms

304.1 PURPOSE AND SCOPE

This policy establishes procedures for the acquisition, use and documentation of training in the use of duty firearms. The Chief of Police or his designee shall approve all duty firearms before they are acquired and utilized by any member of this department.

304.1.1 AUTHORIZATION TO CARRY FIREARMS

Only licensed personnel who have met all state standards and have been authorized by the Chief of Police shall have the peace officer privilege to carry a firearm both on- and off-duty (Minn. R. 6700.0200 and Minn. R. 6700.0300).

The Chief of Police or designee may suspend the peace officer privilege to carry a firearm during the period of a suspension from duty or other removal from active duty.

304.2 SAFE HANDLING OF FIREARMS

The intent of this policy is to promote proper firearm safety on- and off-duty. Employees shall maintain the highest level of safety when handling firearms and shall consider the following:

304.2.1 SAFETY CONSIDERATIONS

(a) Officers shall not unnecessarily display or handle any firearm.

(b) Officers shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Use of Force Coordinator. Officers shall not dry fire or practice quick draws except under Use of Force Coordinator supervision.

(c) Officers choosing to store firearms or other weapons on department premises must do so in locked storage.

(d) Officers may use weapons from the armory not previously issued to them only with approval of a supervisor or when an emergency or exigency reasonably requires immediate use of the weapon.

(e) Any weapon authorized by the Department to be carried on- or off-duty, that is found by the officer to be malfunctioning or needing service, shall not be carried. It shall be promptly presented to the Department Use of Force Coordinator for inspection. Any weapon determined to be in need of service or repair during an inspection by the Department Use of Force Coordinator will be immediately removed from service. If the weapon is the officer's primary duty weapon, a replacement weapon will be issued to the officer until the duty weapon is serviceable.

304.2.2 STORAGE OF FIREARMS AT HOME

Officers shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control in a manner that will keep the weapon inaccessible to children and irresponsible adults (Minn. Stat. § 609.666 and Minn. Stat. § 609.378 Subd. 1 (c)).

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304.3 AUTHORIZED FIREARMS

No duty firearms will be carried that have not been thoroughly inspected by the Use of Force Coordinator, or a department armorer, during a regularly scheduled range date. Except in an emergency or as directed by a supervisor, no duty firearm shall be carried by a member who has not qualified with that weapon at an authorized department range.

Officers are authorized to carry only those weapons covered by department policy. Officers must get written authorization from the employee's Deputy Chief to carry any other weapon with the exception of a folding pocket or fixed blade knife.

304.3.1 DUTY FIREARMS

The department-issued handgun is the Smith and Wesson M&P9 full size 9mm.

MAKE	MODEL	CALIBER
Smith and Wesson	M&P9 full size	9mm SW
Smith and Wesson	M&P9 compact	9mm SW

Only issued or approved shotguns and rifles are authorized for on-duty use. Additionally, members of the department's Tactical Response Team who are assigned either select-fire M-4 5.56 carbine or an H&K MP5 submachine gun are authorized to carry these firearms in their regular duty assignments.

304.3.2 AUTHORIZED SECONDARY FIREARMS

Officers desiring to carry a secondary firearm are subject to the following restrictions:

(a) The firearm shall be in good working order and on the department's list of approved calibers.

(b) Only one secondary firearm may be carried at a time.

(c) The purchase of the firearm shall be the responsibility of the officer.

(d) The firearm shall be carried out of sight at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.

(e) The firearm shall be inspected by the Use of Force Coordinator prior to being carried and thereafter shall be subject to inspection whenever deemed necessary.

(f) Ammunition shall be department issued.

(g) Prior to carrying the secondary firearm, personnel shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Officers must demonstrate proficiency, safe handling, and that the firearm functions properly.

(h) Personnel shall provide written notice of the make, model, color, serial number and caliber of a second firearm to the Use of Force Coordinator.

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304.3.3 AUTHORIZED OFF-DUTY FIREARMS

The carrying of firearms by licensed officers while off-duty is permitted by the Chief of Police but may be rescinded should circumstances dictate (e.g., administrative leave). Licensed officers who choose to carry a firearm while off-duty, based upon their authority as a peace officer, will be required to meet the following guidelines:

(a) The firearm shall be of good quality and workmanship and approved by the Department.

(b) The purchase of the firearm and ammunition shall be the responsibility of the officer.

(c) The firearm shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.

(d) It will be the responsibility of the officer to submit the firearm to the Use of Force Coordinator for inspection prior to being carried. Thereafter the firearm shall be subject to periodic inspection by the Use of Force Coordinator. Prior to carrying any off-duty firearm, the officer shall demonstrate to the Use of Force Coordinator that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.

(e) The officer will successfully qualify with the firearm prior to it being carried and thereafter at each Department firearm qualification. The range qualification dates will be specified by the Use of Force Coordinator.

(f) A complete description of the firearm shall be contained on the qualification record approved by the Use of Force Coordinator.

(g) If any member desires to use more than one firearm while off-duty, he/she may do so, as long as the officer meets all the requirements set forth in this policy for each firearm used.

(h) Officers shall only carry department-authorized ammunition.

(i) When armed officers shall carry their department identification card.

304.3.4 AMMUNITION

Officers shall carry only Department-authorized ammunition. Officers shall be issued fresh duty ammunition in the specified quantity for Department-issued handguns and approved secondary handguns each year. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Use of Force Coordinator or designee when needed in accordance with established procedure.

304.3.5 ALCOHOL AND DRUGS

Weapons shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the officer's senses or judgment.

304.4 DUTY FIREARMS PROFICIENCY

All licensed personnel shall successfully complete Department training regarding the use of force, deadly force and the use of firearms before being issued a firearm or being authorized to carry a firearm in the course of their duties (Minn. Stat. § 626.8452 and Minn. Stat. § 626.8463).

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An officer failing to demonstrate a minimum level of proficiency with any duty firearm he/she is authorized to use may not carry or use the duty firearm until he/she participates in the remedial duty firearm course provided by the Department.

All licensed personnel shall participate in annual Department training regarding the use of force, deadly force and the use of firearms (Minn. Stat. § 626.8452 Subd. 3).

304.4.1 QUALIFICATION

All licensed personnel are required to qualify semi-annually and show weapons proficiency with the duty weapon on an approved range course or as directed by the Personnel, Training, and Licensing Lieutenant. In addition to regular qualification schedules, the Use of Force Coordinator shall be responsible for providing all licensed personnel with regular practical training designed to simulate field situations, including shoot, no-shoot situations. These quarterly qualifications may be concurrent with, and used to fulfill the requirements of the Duty Firearms Policy.

304.4.2 NON-QUALIFICATION

If an officer is unable to qualify for any reason, including injury, illness, duty status or scheduling conflict, that officer shall submit a memorandum to his/her immediate supervisor prior to the end of the required shooting period.

Sworn personnel who fail to demonstrate duty firearms proficiency as required by law, or who fail to qualify over a six month period will be relieved from field assignment and appropriate disciplinary action may follow.

Sworn personnel who fail to qualify on their first shooting attempt shall be provided remedial training until proficiency is demonstrated.

304.5 DESTRUCTION OF ANIMALS

Officers are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

In circumstances in which officers have sufficient advance notice that a potentially dangerous animal may be encountered, officers should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, conducted energy weapon (CEW), chemical aerosol spray, animal control officer). Nothing in this policy shall prohibit any officer from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

304.5.1 INJURED ANIMALS

With the approval of a supervisor, an officer may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical. Because domestic pets are considered by many as family members, consultation with veterinarian services is preferred to avoid any anquish to the family. Injured domestic animals should be euthanized only after a reasonable search to locate the owner has been made.

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304.6 REPORT OF FIREARM DISCHARGE

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shooting Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

Written reports shall be made as follows:

(a) If on-duty at the time of the incident, the member shall file a written report with his/her Supervisor.

(b) If off-duty at the time of the incident, a written report shall be submitted provided no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

(c) A copy of the firearm discharge report shall be forwarded to the Use of Force Coordinator.

304.7 USE OF FORCE COORDINATOR DUTIES

The range will be under the exclusive control of the Use of Force Coordinator. All members attending will follow the directions of the Use of Force Coordinator. The Use of Force Coordinator will maintain a roster of all members attending the range and will submit the roster to the Personnel, Training, and Licensing Lieutenant after each range date. Failure of any officer to sign in and out with the Use of Force Coordinator may result in non-qualification.

The range shall remain operational and accessible to Department members during hours established by the Department.

The Use of Force Coordinator or Department armorer has the responsibility of making periodic inspection, at least once a year, of all duty weapons carried by officers of this department to verify proper operation. The Use of Force Coordinator has the authority to deem any privately owned weapon unfit for service. The officer will be responsible for all repairs to his/her personal weapon; it will not be returned to service until inspected by the Use of Force Coordinator.

The Use of Force Coordinator has the responsibility to ensure each officer on a yearly basis can demonstrate proficiency in the care and cleaning of the duty weapon.

The Use of Force Coordinator shall complete and submit to the Personnel, Training, and Licensing Lieutenant documentation of the courses provided, including the qualifications of each instructor, a description of the training provided and a list of each officer who completes training. This list should be entered on a form that has been approved by the POST Board.

304.7.1 FIREARMS INSTRUCTOR PROFICIENCY

Each firearms instructor shall meet the proficiency requirements in Minn. Stat. § 624.714 Subd. 2 (a)(d).

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304.8 MAINTENANCE AND REPAIR

Personal and Department-owned duty firearms shall be inspected annually to determine the safety and functioning of the weapon.

Firearms carried on-duty shall be maintained in a clean, serviceable condition. Since the use of personally owned weapons is at the option of the individual officer, that officer will be responsible for the furnishing, maintenance and repair of such weapon.

304.8.1 REPAIR OR MODIFICATIONS OF DUTY WEAPONS

The Use of Force Coordinator shall be the only person authorized to repair or modify any Department-owned weapon for which the Use of Force Coordinator is certified as an armorer.

All repairs and/or modifications of Department-issued weapons not performed by the Use of Force Coordinator must be authorized in advance by the Use of Force Coordinator and accomplished by a Department-approved gunsmith who is certified to repair such firearm.

Any repairs or modifications to the officer's personally owned weapon shall be done at his/her expense and must be approved by the Use of Force Coordinator.

304.9 FLYING WHILE ARMED

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to personnel who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

(a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure purposes.

(b) Officers must carry their department identification card, which must contain a full-face picture, the officer's signature and the signature of the Chief of Police or the official seal of the Department, and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver's license, passport).

(c) In accordance with TSA procedures, the Department will obtain a message containing a unique alphanumeric identifier from TSA through the National Law Enforcement Telecommunications System (NLETS) prior to the officer's travel. The officer must present the message to airport personnel as authorization to travel while armed on the day of travel.

(d) An official letter signed by the Chief of Police authorizing armed travel must accompany the officer. The letter must outline the officer's need to fly armed, must detail his/her itinerary and should include that the officer has completed the mandatory TSA training for law enforcement officers flying while armed.

(e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by a TSA approved entity.

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(f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification can be accomplished by early check-in at the carrier's check-in counter.

(g) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officers must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.

(h) Officers should not surrender their firearm but should try to resolve any problems through the flight captain, ground security manager or other management representative of the air carrier.

(i) Officers shall not consume alcoholic beverages and remain sober while carrying firearms.

304.10 CARRYING FIREARMS OUT OF STATE

Qualified active full-time officers and qualified retired officers (see Retired Officer Concealed Firearm Permit Policy) of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC § 926B; 18 USC § 926C):

(a) The officer shall carry his/her Department identification card whenever carrying such weapon.

(b) Qualified retired officers shall also carry certification of having met firearms qualification within the past 12 months.

(c) The officer is not the subject of any current disciplinary action.

(d) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.

(e) The officer will remain subject to this and all other Department policies (including qualifying and training).

(f) Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authority may not shield an officer from arrest and prosecution in such locally restricted areas.

Visiting active and retired peace officers from other states are subject to all requirements set forth in 18 USC § 926B and 18 USC § 926C.

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Vehicle Pursuits

305.1 PURPOSE AND SCOPE

Vehicle pursuits pose an extreme danger to officers and civilians; therefore it is the responsibility of the department to guide its officers in the safe and reasonable performance of their duties. To accomplish these goals, this policy is provided to regulate the manner in which vehicle pursuits are undertaken and performed. The reason for the pursuit must justify the extreme risk involved in engaging in the pursuit. When engaged in emergency vehicle operations in the performance of a vehicle pursuit, drivers of authorized emergency vehicles are granted exemptions, by statute, from certain traffic laws. These exemptions are provided to help protect lives, not to place them at undue risk.

305.2 DEFINITIONS

Definitions related to this policy include:

Roadblocks - A tactic designed to stop a violator's vehicle by intentionally placing a vehicle or other immovable object in the path of the violator's vehicle.

Vehicle pursuit - An event in which a peace officer initiates a vehicular stop and a driver resists the signal or order to stop by increasing speed, taking evasive action or otherwise refusing to stop the vehicle.

Flee - To increase speed, extinguish motor vehicle headlights or taillights, refuse to stop the vehicle, or use other means with intent to attempt to elude a peace officer following a signal given by any peace officer to the driver of the motor vehicle. (M.S. 609.487 Subd 1)

Termination of Pursuit - a pursuit is terminated when the suspect vehicle stops, or emergency signal devices are deactivated and routine vehicle operation is resumed.

Significant Threat - a strong likelihood based upon known, and articulable facts, that death or substantial bodily harm may occur if apprehension is delayed. This includes the potential for the suspect to engage in further violent crimes, or to violently resist arrest.

305.3 OFFICER RESPONSIBILITIES

a. Violent Felonies:

Officers may engage in a pursuit to apprehend a suspect wanted for a violent felony. Violent felonies include homicides, aggravated robberies, felony level assaults, felony level criminal sexual conduct, kidnapping and first degree burglaries. Other substantial public safety risks may exist which may require a deviation from this policy. In those extreme instances a supervisor's approval is necessary. The Department expects officers to terminate a pursuit whenever the risks to their own safety and the safety of others outweighs the danger to the community should the offender not be immediately apprehended.

b. Pursuit Considerations:

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Factors applied to the initiation, continuation, or termination of a pursuit include the following:

- The initial decision to engage in a pursuit shall lie primarily with the officer who has initiated the vehicle stop, after considering the elements of this policy.
- In initiating a pursuit an officer should weigh the crime for which the suspect is wanted and the need to apprehend immediately based upon the existence of a significant threat. Consider whether the suspect is known to the officer, and the risk to the community created by the pursuit (traffic, area of pursuit, environmental factors, and weather conditions).
- The officer must continually consider the risks created by the pursuit, as those risks may change during a pursuit.
- At times the termination of a pursuit may be the safest and most appropriate action. Terminating a pursuit shall be considered a decision made in the interest of public safety.
- The officer's decision to continue a pursuit may be overridden by a supervisor at any time.

305.3.1 WHEN TO INITIATE A PURSUIT

The following factors individually and collectively shall be considered in deciding whether to initiate or continue a pursuit (Minn. Stat. § 626.8458 Subd. 2(2)):

(a) Seriousness of the known or reasonably suspected crime and its relationship to community safety.

(b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists and others.

(c) Apparent nature of the fleeing suspect (e.g., whether the suspect represents a serious threat to public safety).

(d) The identity of the suspect has been verified and there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.

(e) Safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic (e.g., school zones) and the speed of the pursuit relative to these factors.

(f) Pursuing officer's familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor, and the driving capabilities of the pursuing officers under the conditions of the pursuit.

(g) Weather, traffic and road conditions that unreasonably increase the danger of the pursuit when weighed against the risks resulting from the suspect's escape.

(h) Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.

(i) Vehicle speeds.

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(j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).

(k) Age of the suspect and occupants.

(l) Availability of other resources, such as aircraft assistance.

(m) The police unit is carrying passengers other than on-duty police officers. Pursuits should not be undertaken with a prisoner in the pursuit vehicle.

305.3.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be discontinued whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspects escape.

Operating an emergency vehicle in a pursuit with emergency light(s) and siren does not relieve the operator of an authorized emergency vehicle of the duty to drive with due regard for the safety of all persons, and does not protect the driver from the consequences of his/her reckless disregard for the safety of others (Minn. Stat. § 169.17).

The above factors on when to initiate a pursuit are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists, themselves and the public when electing to continue a pursuit. In the context of this policy, the term "terminate" shall be construed to mean discontinue or to stop chasing the fleeing vehicle.

In addition to the factors listed above, the following factors should be considered when deciding whether to terminate a pursuit (Minn. Stat. § 626.8458 Subd. 2 (2)):

(a) Distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.

(b) Pursued vehicle's location is no longer definitely known.

(c) Officer's pursuit vehicle sustains damage or a mechanical failure that renders it unsafe to drive.

(d) Pursuit vehicle suffers an emergency equipment failure that causes the vehicle to no longer qualify for emergency operation use

(e) Hazards to uninvolved bystanders or motorists.

(f) Traffic conditions substantially increasing the danger of the pursuit.

(g) The violator is going the wrong way on a one-way street, divided highway, or limited-access highway.

(h) The pursuit enters a residential area or close proximity to a school.

(i) Normal communication is broken.

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(j) If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, officers should strongly consider discontinuing the pursuit and apprehending the offender at a later time.

(k) When directed to terminate the pursuit by a supervisor.

305.3.3 SPEED LIMITS

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the officer and supervisor. Evaluation of vehicle speeds shall take into consideration public safety, officer safety and the safety of the occupants of the fleeing vehicle.

Should high vehicle speeds be reached during a pursuit, officers and supervisors shall also consider these factors when determining the reasonableness of the speed of the pursuit:

(a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.

(b) Pursuit speeds have exceeded the driving ability of the officer.

(c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

305.4 PURSUIT UNITS

To limit the risk to the general public, only a primary unit and two secondary units will be actively involved in the pursuit, except when extreme circumstances exist. Multiple occupants in the fleeing vehicle may constitute extreme circumstances, particularly if a violent crime or weapons are involved. The vehicles shall be known as the primary unit, which is the unit closest to the fleeing vehicle, and the secondary unit, which shall remain at a safe distance behind the primary unit but close enough to provide support and communications. Back up units, as assigned, shall operate at a safe distance to provide support. The intent of this procedure is to eliminate a group of squads, following one another (caravaning), in pursuit of a single vehicle. Pursuing vehicles must have their emergency lights and siren activated and shall be driven in a safe manner and with due regard for public safety. Vehicles operating in emergency mode are exempt from certain traffic regulations when necessary, as long as the operator continues to exercise due care in vehicle operation.

305.4.1 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Vehicles not equipped with red light and siren are prohibited from initiating or joining in any pursuit. Officer(s) in such vehicles may provide support to pursuing units as long as their vehicle is operated in compliance with all traffic laws.

305.4.2 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing officer will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the violator's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect(s) without unreasonable danger to him/herself or other persons (Minn. Rules 6700.2701).

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The primary unit should notify the Communications Center, commencing with a request for priority radio traffic, that a vehicle pursuit has been initiated, and as soon as practicable provide information including, but not limited to:

- Reason/offense for initiating the pursuit.
- Location and direction of travel.
- Speed of the fleeing vehicle.
- Description of the fleeing vehicle and license number, if known.
- Number of occupants.
- The identity or description of the known occupants.
- Traffic conditions.
- Identity of other agencies involved in the pursuit.
- Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.
- Request for medical assistance for any person injured in the course of the pursuit (Minn. Rules 6700.2701).
- Request that a patrol unit leader be notified.

Unless relieved by a supervisor or secondary unit, the officer in the primary unit shall be responsible for broadcasting the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary unit should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit to minimize distractions and allow the primary unit to concentrate foremost on safe pursuit tactics.

The primary unit is responsible for the pursuit and determining whether to terminate or continue, unless otherwise directed by a unit leader.

When the pursued vehicle is lost, the primary unit should broadcast pertinent information to assist other units in locating the vehicle and will be responsible for coordinating any further search for either the pursued vehicle or suspects fleeing on foot.

305.4.3 SECONDARY UNIT(S) RESPONSIBILITIES

Secondary Units:

The second officer in the pursuit is responsible for the following:

(a) Immediately notifying the dispatcher of entry into the pursuit.

(b) Remaining at a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit.

(c) Broadcasting the progress of the pursuit unless the situation indicates otherwise.

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(d) Serve as backup to the primary unit once the subject has been stopped.

Backup Units:

Backup units will monitor radio transmissions and position themselves in order to be of possible assistance. Backup units must be driven in a safe manner with due regard for public safety.

Unmarked Vehicles:

Unmarked squads should not be used as primary or secondary units in a pursuit unless an emergency exists requiring their use. If an unmarked car initiates a pursuit or is otherwise involved, it should be replaced by a marked squad as quickly as possible. The unmarked squad may assume the role of a backup squad. Any unmarked squad involved in a pursuit must be equipped with emergency lights and siren.

305.4.4 PURSUIT DRIVING TACTICS

The decision to use or not use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. The following are tactics for units involved in the pursuit (Minn. Rules 6700.2701):

(a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.

(b) Officers may proceed past a red or stop signal or stop sign but only after slowing down as may be necessary for safe operation.

(c) As a general rule, officers should not pursue a vehicle driving the wrong way on a roadway, highway or freeway. In the event the pursued vehicle does so, the following tactics should be considered:

    1. Request assistance from an available air unit.
    2. Maintain visual contact with the pursued vehicle by paralleling on the correct side of the roadway.
    3. Request other units to observe exits available to the suspect(s).

(d) Notify the Minnesota State Patrol or other law enforcement agency if it appears the pursuit may enter their jurisdiction.

(e) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit, and a clear understanding of the maneuver process exists between the involved officers.

(f) Officers shall not fire at or from a moving vehicle unless the use of deadly force is authorized and articulable circumstances exist which necessitates a deviation from this standard.

(g) Intentional vehicle to vehicle contact is not allowed.

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(h) Roadblocks may only be used if the situation justifies the use of deadly force. Supervisory approval is required if time allows.

305.4.5 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT

There should be no paralleling of the pursuit route. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Officers should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

Non-pursuing personnel needed at the termination of the pursuit should respond in a non-emergency manner, observing the rules of the road.

The primary unit, secondary unit(s) and supervisor should be the only units operating under emergency conditions (emergency lights and siren) unless other units are assigned to the pursuit.

305.4.6 PURSUIT TRAILING

In the event the initiating unit from this agency relinquishes control of the pursuit to another unit or jurisdiction, that initiating unit may, with permission of a supervisor, trail the pursuit to the termination point in order to provide necessary information and assistance for the arrest of the suspect(s).

The term "trail" means to follow the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing unit will maintain sufficient distance from the pursuit units so as to clearly indicate an absence of participation in the pursuit.

305.4.7 AIRCRAFT ASSISTANCE

When available, aircraft assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, it should assume control over the pursuit. The primary and secondary ground units should consider whether the participation of an aircraft warrants their continued involvement in the pursuit (Minn. Rules 6700.2701).

The air unit should coordinate the activities of resources on the ground, report progress of the pursuit and provide officers and supervisors with details of upcoming traffic congestion, road hazards or other pertinent information to evaluate whether to continue the pursuit. If ground units are not within visual contact and the air unit determines that it is unsafe to continue the pursuit, the air unit should recommend terminating the pursuit.

305.5 SUPERVISORY CONTROL AND RESPONSIBILITIES

It is the policy of this department that available supervisory and management control will be exercised over all vehicle pursuits involving officers from this department (Minn. Rules 6700.2701).

The patrol supervisor of the officer initiating the pursuit, or if unavailable, the nearest patrol supervisor will be responsible for the following:

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(a) Upon becoming aware of a pursuit, immediately notify involved officers and the Communications Center of supervisory presence and ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established Department guidelines.

(b) Engage in the pursuit, when appropriate, to provide on-scene supervision.

(c) Exercise management and control of the pursuit even if not engaged in it.

(d) Ensure that no more than the number of required law enforcement units needed are involved in the pursuit under the guidelines set forth in this policy.

(e) Direct that the pursuit be terminated if, in his/her judgment, it is not justified to continue the pursuit under the guidelines of this policy.

(f) Ensure that aircraft assistance is requested if available.

(g) Ensure that the proper radio channel is being used.

(h) Ensure the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.

(i) Control and manage DPD units when a pursuit enters another jurisdiction.

(j) Prepare a post-pursuit critique and analysis of the pursuit for training purposes.

305.5.1 WATCH COMMANDER RESPONSIBILITIES

Upon becoming aware that a pursuit has been initiated, the Watch Commander should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and requirements of this policy. The Watch Commander has the final responsibility for the coordination, control and termination of a vehicle pursuit and shall be in overall command (Minn. Rules 6700.2701).

The Watch Commander shall review all pertinent reports for content and forward them to the Deputy Chief.

305.6 INTER-JURISDICTIONAL CONSIDERATIONS

If the pursuit leaves the city of Duluth, Duluth officers will continue to operate within the guidelines of department policy. When leaving the city, the jurisdiction being entered must be informed, and advised whether or not assistance is requested (Minn. Rules 6700.2701).

If a pursuit initiated by another jurisdiction enters the city of Duluth, a Duluth squad may be assigned to assist as requested (primary, secondary or back up unit). Patrol Supervisors may decline to have Duluth officers involved in the pursuit based upon the initial reason for the pursuit, conditions within the City, and tactics being used by the initiating agency. Supervisors may also request that the initiating agency terminate the pursuit. Officers assigned to assist will continue to operate within the guidelines of department policy and at the direction of the patrol unit leader monitoring the pursuit

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305.7 REPORTING AND REVIEW REQUIREMENTS

All the following sections (a, b, and c) apply anytime a driver fails to respond to an officer's signal to stop, whether the officer pursues or not. This allows the Department to evaluate the effectiveness of the policy and to determine if it unduly inhibits the apprehension of violators.

a. Patrol Unit Leader Evaluation

The unit leader responsible for monitoring the pursuit is also responsible for evaluating the pursuit after its conclusion. The evaluation consists of reviewing the related reports and discussing the pursuit with the involved officer(s). This evaluation is required even if the perpetrator is not apprehended. (Factors to be addressed in the evaluation are included in the Appendix to this order) The unit leader must send a copy of the evaluation to the shift lieutenant. It is then routed to the Area Commander and to the Uniform Division Deputy Chief. The evaluation states the unit leader's findings as to whether or not the initiation of the pursuit, its continuation, and the tactics used, were justified and reasonable and within Department policy.

b. Pursuit Evaluation Committee

The Uniform Division Deputy Chief chairs the Pursuit Evaluation Committee which evaluates all pursuits. The Committee consists, at a minimum of: a Uniform Division lieutenant; a Uniform Division sergeant; a patrol officer; and a member of the Board of the Duluth Police Union. The sergeant in the Officer Development Unit. The Committee reviews the written reports submitted by officers and the evaluation required in Section A, above. The purpose of the evaluation is to determine compliance with Department policy and the effectiveness of the policy, to ensure that its restrictions do not unduly interfere with enforcement.

c. Mandatory Pursuit Report

M.S. 626.5532 requires the completion of the Minnesota Bureau of Criminal Apprehension "MINNESOTA PURSUIT REPORT". The form is available on the internet. It is to be completed electronically by the unit leader monitoring the pursuit and sent to records who will submit it. The unit leader also completes a Case Activity Log entry of MNRPT (Minnesota mandated report) indicating the reporting requirement was met. The unit leader must forward a printed copy of the state report to the shift lieutenant along with the required evaluation. The documents are then forwarded to the area commander and the Uniform Division Deputy Chief.

305.7.1 POLICY REVIEW

Each licensed member of this department shall certify in writing that they have received, read and understand this policy initially and upon any amendments.

305.7.2 PUBLIC DISCLOSURE

Copies of the current pursuit policy shall be made available to the public on request.

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Officer Response to Calls

306.1 PURPOSE AND SCOPE

Varied incidents are reported to the Department. The Patrol Division is responsible for the initial response to all calls dispatched by the 9-1-1 Emergency Communications Center. This order provides guidelines for the types of response and number of officers required to respond.

306.2 RESPONSE TO CALLS

306.2.1 RESPONSE TO EMERGENCY CALLS

When incident information is reported only as a matter of record, an officer is not required to respond unless the complainant specifically requests one. Policy 325, Preliminary Investigations and Required Reports, outlines the expectations of officers.

Reports that do not require the response of an officer and may be taken over the phone:

- Lost property

Matter of record reports must be taken promptly.

Additional property loss, or identifying information on lost or stolen property, reported after the preliminary investigation may be reported directly to the Records Support Unit.

306.2.2 LIGHTING EXEMPTION OF LAW ENFORCEMENT VEHICLES

(a) "Code One" calls do not require the immediate response by an officer.

(b) In responding to a "Code One" call, traffic laws are obeyed and the emergency signal devices are not used.

(c) "Code One" calls are handled when the officer is not assigned another call with a higher priority. As a courtesy officers should notify the reporting party if the reporting party expects to see the officer, and response is going to be delayed.

(d) An officer may operate a vehicle without lights if the officer reasonably believes that operating the vehicle without lights is necessary under the circumstances to investigate a criminal violation or suspected criminal violation (Minn. Stat. § 169.541). This is not appropriate when several officers are responding to one incident or driving at a Code Two or Three Response.

306.2.3 CODE TWO RESPONSES

"Code Two" calls require the immediate, but non-emergency response by an officer. In responding to the call, traffic laws are obeyed and the emergency signal devices are not used. If the call does not require the officer to meet with the reporting party a phone call to advise them of police action on the incident is appropriate.

A minimum of two officers should respond to any "Code Two" calls that pose a threat to:

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(a) Property;

(b) Persons; or

(c) Responding officers.

Included are domestic disturbances, person disturbing, and prowler calls.

Due to the very high rate of false alarms, a "Code Two" response is made to automatic alarms at private residences. Patrol Supervisors monitor response to ensure an appropriate number of officers are responding, or are on scene.

306.2.4 CODE THREE RESPONSES

While operating a vehicle in response to an emergency call for service, officers shall do so with due regard to the safety of others as stated in Minnesota Statutes 169.03, Subd. 1 through 5 and 169.17.

169.03 EMERGENCY VEHICLES; EXEMPTIONS; APPLICATION.

Subdivision 1. Scope. The provisions of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state, or any county, city, town, district, or any other political subdivision of the state, subject to such specific exemptions as are set forth in this chapter with reference to authorized emergency vehicles.

Subdivision 2. Stops. The driver of any authorized emergency vehicle, when responding to an emergency call, upon approaching a red or stop signal or any stop sign shall slow down as necessary for safety, but may proceed cautiously past such red or sign or sign or signal after sounding siren and displaying red lights, except that a law enforcement vehicle responding to a call shall sound its siren or display at least one lighted red light to the front.

Subdivision 3. One-way roadway. The driver of any authorized emergency vehicle, when responding to any emergency call, may enter against the run of traffic on any one-way street, or highway where there is authorized division of traffic, to facilitate traveling to the area in which an emergency has been reported; and the provisions of this section shall not affect any cause of action arising prior to its passage.

Subdivision 4. Parking at emergency scene. An authorized emergency vehicle, when at the scene of a reported emergency, may park or stand, notwithstanding any law or ordinance to the contrary.

Subdivision 5. Course of duty. No driver of any authorized emergency vehicle shall assume any special privilege under this chapter except when such vehicle is operated in response to any emergency call or in the immediate pursuit of an actual or suspected violator of the law.

169.17 EMERGENCY VEHICLES

The speed limitations set forth in sections 169.14 to 169.17 do not apply to authorized emergency vehicles when responding to an emergency. Drivers of all emergency vehicles shall sound an audible signal by siren and display at least one lighted red light to the front, except that law

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enforcement vehicles shall sound an audible signal by siren or display at least one lighted red light to the front. This provision does not relieve 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 consequence of a reckless disregard of the safety of others.

Officers must operate the red lights and/or the siren when responding to an emergency in order to be exempt from traffic regulations. The siren is defined as the wail, yelp, or high low functions on the siren controller. The air horn and vehicle horn may be used in addition to the siren; however, they may not be used in place of the siren.

"Code Three" calls require an emergency response from multiple officers (the number of officers is dependent upon the type of call). The following require a "Code Three" response:

- Structure fires;
- Burglary alarms or reports of in progress burglaries:
- Code two response is made to automatic alarms at private residences(See "C" above)
- Intrusion alarms indicated by a portable Department alarm;
- Robbery alarms or reports of in progress robberies;
- Life threatening medicals (may only require one officer);
- Violent crimes (in-progress rape, homicides, in-progress assaults, aggravated robberies, felony assaults);
- Accidents with injuries or fatalities;
- Person with a gun or "shots fired"; and
- Officer needs assistance.

Some incidents require an unannounced arrival such as burglar alarms to avoid causing the burglar to flee, or robbery alarms to avoid precipitating a hostage taking. In these instances officers take the environment into account and turn off their siren prior to reaching a location where it may be heard by the offender, and turn off their emergency lights prior to being seen by the offender. Officers must proceed very cautiously when their emergency signal devices are not activated.

Officers continuously evaluate the appropriateness of an emergency response. Upon arrival at the scene officers evaluate the situation and notify other responding officers when an emergency response is no longer necessary.

306.3 REQUESTING EMERGENCY ASSISTANCE

306.3.1 NUMBER OF UNITS PARTICIPATING

Radio traffic should be severely limited when officers are responding "Code Three" to a potentially hazardous situation, such as robberies and gun calls. Consideration should be given to "securing" the radio channel and restricting its use to squads assigned to the incident.

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306.3.2 ROBBERY ALARMS

Robbery alarms require a "Code Three" response. An unannounced arrival is required. Officers secure the perimeter and make phone contact when appropriate to avoid precipitating a hostage incident. False alarms require an employee to exit the building to speak with officers. If the perpetrators have fled officers may enter the building to begin the investigation.

306.4 INITIATING EMERGENCY CALL RESPONSE

The nature of some incidents, due to being high profile, or exposing the city to liability, requires that on-scene patrol officers notify a patrol unit leader of the incident. Once notified, the unit leader must determine whether to assume command of the incident or delegate command to the officers already at the scene.

Incidents a patrol unit leader must be notified of, or acknowledge, are:

- Arson;
- Armed robbery;
- Deaths;
- Civil disturbances;
- Felony assault;
- Felony level Incidents involving weapons;
- Injury accidents involving on-duty police vehicles;
- Kidnapping;
- Officer use of deadly force;
- On-duty officer injury;
- Vehicle pursuit;
- Labor disputes;
- Sexual assault;
- Unusual Occurrences;
- Subjects injured due to police action;
- Injuries on City property;
- Fatal traffic accidents;
- Accidents with life threatening injury;
- Incidents involving significant property damage or loss;
- Threats to schools or staff;
- Significant incidents arising from extra-duty or non-duty employment; and

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- Any police response to off-duty behavior, incident, or injury involving a Department employee and investigated by the Duluth Police Department;
- Any calls that may have media attention;
- Calls that may be of concern to department administration.

Unit leaders notified of such incidents must use their own judgment on notifying command staff. Command Staff need to learn of incidents through police department channels, not when the media or City administration asks for information on the incident.

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Response to Graffiti Incidents

307.1 PURPOSE AND SCOPE

The purpose of this policy is to guide the Duluth Police Department's response in identifying, reporting and covering graffiti within the City of Duluth. It will identify a working relationship with outside agencies that also have a vested interest in eliminating graffiti.

307.2 POLICY

Graffiti constitutes damage to property, whether public or private. It also represents blight on the City, and tarnishes the overall image. The reporting and removal of graffiti involves the cooperation and coordination of various City agencies, including the Police Department. In order to make Duluth as graffiti free as possible, the City's goal is to have graffiti removed from public property within seventy-two hours of it being reported to the appropriate City agency.

307.3 EXTERNAL REPORTS

Graffiti complaints can be reported by any citizen through a phone call to 911. Citizens are encouraged to report incidents of graffiti in their neighborhood, and throughout the City.

In addition to citizen reports of graffiti, various City Departments and the Minnesota Department of Transportation will assist the Duluth Police Department in the identification, reporting and clean-up of graffiti. Incidents of graffiti that are identified by the external departments or agencies will be reported as follows:

- Contact 911 to report the location of the graffiti (ICR generated),
- Details of the type of media used to create the graffiti (paint, marker, etc.),
- Description of what was created or written,
- Indicate if their agency or department would be responsible for the clean-up/cover-up of the graffiti, and
- Document the replacement, repair or clean-up cost, when feasible.

307.4 DEPARTMENT RESPONSE-HOTLINES

East and West Community Police Districts will be assigned to specifically follow-up and catalog graffiti incidents which are received through the Graffiti Hotline and the Chief of Police's Graffiti Tip Line. Graffiti incidents from these tip lines will be included in the daily Ad/Hoc Report for clean-up. Community Officers will be expected to communicate graffiti related trends and other pertinent information to members of the Duluth Police Department and to others as appropriate.

307.5 PATROL RESPONSE

When dispatched to a graffiti call by 911 (GRAFFT), Patrol Officers should follow Policy 345 (Preliminary Investigations) when there is suspect information. Officers initiating an investigation with suspect information are expected to complete follow-up investigation until such time as the

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case is submitted for prosecution or the case is suspended due to lack of viability for prosecution. Graffiti incidents are documented on a Duluth Police Property Report to include:

- ICR,
- Location,
- Date the graffiti was written,
- Property owner if known,
- Private or public property,
- What type of property was defaced (building, bench, stop sign, etc), and
- Media used to create the graffiti, such as paint or marker, and color,
- What was written or drawn (VLK, GDK, VLN, five-pointed star, etc.)

In all cases where graffiti is written as an indication of racial hatred or other bias crime, an Incident Report and a State Bias Crime Report shall be completed and sent to the Records Services Unit (RSU) who will send it to the state. The form is located on the I-drive.

307.6 REWARDS FOR INFORMATION

At various times, individuals, civic groups and business organizations may donate money to start a reward program for information on those involved in creating graffiti in the City. Any legitimate tip that leads to an arrest can be eligible for a reward, based on the quality of the information given. Officers are encouraged to develop information through the use of rewards if they are available.

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Harassment Restraining Orders

309.1 PURPOSE AND SCOPE

The Department and State of Minnesota are committed to protecting persons from harassers. The State of Minnesota allows victims of harassment court ordered protection from their harassers. This order outlines an officer's role in enforcing these orders.

309.2 DEFINITIONS

Harassment includes:

- 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
- targeted residential picketing
- a pattern of attending public events after being notified that the actor's presence at the event is harassing to another

Respondent includes:

- any adults or juveniles alleged to have engaged in harassment or organizations alleged to have sponsored or promoted harassment

Petitioner includes:

- any adult, or children on behalf of an adult, granted court ordered protection

Targeted residential picketing includes the following acts when committed on more than one occasion:

- marching, standing, or patrolling by one or more persons directed solely at a particular residential building in a manner that adversely affects the safety, security
- privacy of an occupant of the building
- marching, standing, or patrolling by one or more persons which prevents an occupant of a residential building from gaining access to or exiting from the property on which the residential building is located

309.3 PROVISIONS

Harassment restraining orders require the respondent to cease or avoid harassing the petitioner and to have no contact with the petitioner. Harassment restraining orders do not require that a previous or current relationship exist (as with Orders for Protection).

Parents or guardian may seek a harassment restraining order on behalf of a minor.

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309.4 PROCEDURE

309.4.1 MANDATORY ARREST

Minnesota Statute § 609.748, Subd. 6 requires officers to arrest persons without warrant and take into custody a person whom the peace officer has probable cause to believe has violated a harassment order. Prior to making the arrest, officers must verify the existence of the order and that the respondent knew of the order.

Violations are misdemeanors unless that can be enhanced. Officers are to take the following actions to determine if the violation can be enhanced:

- Interview the victim
- Interview the subject
- Research available court and local records
- Review of relevant statutes

There are no time constraints on arrest. An officer, in consult with a shift sergeant, should determine a strategy to effect arrest within the next 24 hours. The strategy should be recorded in a Patrol Log entry.

309.4.2 REPORTS/INVESTIGATIONS

When a custodial arrest is mandated, but can not be made because the offender is not located, the investigating officer will dictate a "RUSH" report. If it is a misdemeanor the officer will also complete a citation. Submitted reports will include statement forms, MNCIS, criminal histories (CCH), and citations when one is issued. Reports should also include officer recommendations for follow up activity.

Reports must be completed before the end of the officer's shift:

- when a custodial arrest is made
- when there is probable cause for a custodial arrest but the subject was not arrested
- when there is concern about the safety of the victim or others

The paperwork will be given to the shift sergeant. The shift sergeant will forward the necessary reports to the Domestic Violence Response Team (DVRT). Referrals to the DVRT are documented in the Case Activity Log in conjunction with forwarding the paperwork. DVRT will process the reports necessary for custodial arrests and ensure that the charges are appropriate.

309.4.3 LOCATING SUSPECT

Officers shall attempt to locate suspects when they have probable cause to believe that they have violated a Harassment Restraining Order as long as the officer has information or knowledge regarding possible locations of the suspect. Information about possible locations and efforts to locate the suspect are documented in the investigative report. It may be appropriate to enter possible location information in the Patrol Log.

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309.4.4 VICTIM ASSISTANCE

Officers will provide the victim with the DPD Crime Victim Information Card that contains the ICR number and the officer's name. Officers shall advise victims of the availability of services of Safe Haven Shelter, Dabinoo'Igan Shelter or PAVSA if appropriate.

309.5 GROSS MISDEMEANOR AND FELONY CHARGES

A person is guilty of a gross misdemeanor who knowingly violates the order during the time period between a previous qualified domestic violence related offense conviction and the end of the ten years following conviction for that offense (regardless if the violation is domestic-related.)

A person is guilty of a felony if the person knowingly violates the order:

- during the time period between the first of two or more previous qualified domestic violence related offense convictions and the end of the ten years following conviction for that offense

Qualified domestic related offenses include First and Second degree murder and attempts, all assaults, CSC first through fourth degree, Malicious Punishment of a Child, Terroristic Threats, violation of harassment or no contact orders, orders for protection, harassment/stalking, and interference with a 911 call.

- because of the victim's or another's actual or perceived race, color, religious, sex, sexual orientation, disability as defined in Minn. Stat. § 363A.03, age, or national origin
- by falsely impersonating another
- while possessing a dangerous weapon
- with an 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 Minn. Stat. § 609.415, 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
- against a victim under the age of 18, if the respondent is more than 36 months older than the victim

Officers must document in the report, sources consulted in an effort to obtain enhancement information (MNCIS, CCH, counties contacted, etc). If officers are unable to verify a possible gross misdemeanor or felony, this must also be documented in the report.

Citations are not issued for gross misdemeanor or felony charges.

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Domestic Abuse

310.1 PURPOSE AND SCOPE

The department is committed to engaging in a comprehensive approach to intervening in domestic abuse incidents. The investigation of these cases sets the foundation for almost every subsequent action by the courts and community-based agencies. It is the cornerstone of an effective, coordinated inter-agency response. The intent of the law and this order is to protect victims from ongoing domestic abuse.

This order defines the department's procedures in the initial investigation and response to domestic abuse incidents. This order is in compliance with Minnesota Statutes pertaining to police authority and responsibilities in domestic abuse cases.

310.2 DEFINITIONS

Domestic Abuse: Minn. Stat. § 518B.01 Subd. 2(a) defines domestic abuse, if committed against a family or household member by a family or household member, as follows:

- physical harm, bodily injury or assault
- the infliction of fear of any of the following: imminent physical harm, bodily injury or assault
- terroristic threats within the meaning of Minn. Stat. § 609.713, Subd. 1
- criminal sexual conduct in the first, second, third, fourth, or fifth degree (Minn. Stat. § 609.342, 609.343, 609.344, 609.345, and 609.3451)
- interference with an emergency call within the meaning of Minn. Stat. § 609.78, Subd. 2

Family or Household Members: Minn. Stat. § 518B.01 Subd. 2 defines household members as:

- spouses and former spouses
- parents and children
- persons related by blood
- 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
- 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
- persons involved in a significant romantic or sexual relationship. (In determining whether or not a significant romantic or sexual relationship exists, the court shall consider the length of time of their relationship, type of relationship, frequency of interaction between the persons, and if the relationship has terminated, the length of time since the termination.)

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Probable Cause: A belief, based on an officer's observations and reasonable judgment, and statements by parties and witnesses involved, that a crime occurred and the subject committed the crime.

Self Defense: Reasonable force used by any person in resisting or aiding another to resist an offense against the person (M.S. 609.06 Subd. 1(3). The use of force must be reasonable for that person given the nature of the threat. Reasonable force to defend oneself does not include seeking revenge or punishing the other party.

Felony Domestic Assault by Strangulation: Unless a greater penalty is provided elsewhere, whoever assaults a family or household member by strangulation is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $5,000, or both. Strangulation is defined as "intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person." (Minn. Stat. § 609.2247)

310.3 PROCEDURES

310.3.1 SINGLE OFFENDER

If a person is determined to be the sole aggressor, and the persons involved meet the definition of family or household member; that person shall be arrested and taken into custody when an officer has probable cause to believe that the person has:

- within the past twenty four hours assaulted a family or household member causing visible signs of injury or physical impairment. within the past twenty four hours, threatened a family or household member with a dangerous weapons
- within the past twenty four hours, made terroristic threats within the meaning of Minnesota Statute 609.731 Subd. 1
- within the past twenty four hours, has committed criminal sexual conduct in the first, second, third, or fourth degree within the meaning of Minn. Stat. § 609.342, 609.343, 609.344, or 609.345.

When an officer determines that probable cause exists to make an arrest under the above conditions, the officer should make diligent efforts to ensure that the offender is arrested within twenty four hours of the incident. If the officer is unable to make an arrest by the end of his/her shift, the officer shall meet all reporting requirements as explained in section VIII and complete a patrol log indicating:

- the ICR, victim's name, date, time and location of the incident
- the name of the offender and any pertinent information that may aid in the offenders arrest
- that probable cause exists to arrest the offender and when the time period for the arrest expires

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A person may be arrested for domestic abuse and taken into custody when an officer has probable cause to believe that person has within the last twenty four hours:

- assaulted another person
- placed the victim in fear of immediate bodily harm

At no time is an officer to leave a citation with the victim to give to the offender or mail a citation to the offender.

310.3.2 MULTIPLE OFFENDERS

Minn. Stat. § 629.342, Subd. 2 discourages dual arrest. When evidence of mutual combat is present, the situation does not necessarily dictate the arrest of both parties.

Self Defense: Officers must first determine whether any injuries were inflicted as a result of self-defense. Reasonable force may be used by any person in resisting or aiding another to resist an offense against the person. The use of force must be reasonable for that person given the nature of the threat and may include the use of weapons. If one of the persons acted entirely in self-defense the situation is dealt with as if there were a single offender.

Predominant Aggressor: If the officer determines that neither party acted in self-defense and both parties have committed an act of domestic abuse, then the officer must make a custodial arrest of the predominant aggressor considering the totality of the circumstances, including:

- the relative severity of the injuries and fear inflicted in this incident
- the relative use of force and intimidation used in this incident
- information available to officers involving prior incidents involving either party
- the likelihood of either party to commit domestic abuse in the near future

The disposition of the predominant aggressor should be determined using the criteria for "Single Offenders" (Section IV.A.) The reports are forwarded by the patrol supervisor to the Domestic Violence Response Team (DVRT). The DVRT is responsible for referring the case to the appropriate prosecutor along with a recommendation concerning whether or not charges are appropriate for the non-dominant aggressor. The prosecutor is responsible for determining disposition involving the non-dominant aggressor.

Multiple Domestic Abuse Arrests: In situations where probable cause exists to arrest both parties, but self-defense is not involved, and an arrest of the predominant aggressor alone cannot be made, both persons should be arrested. In situations warranting a dual arrest, if there are children present in the home, officers may make a determination about who is best able to care for the children and issue that person a citation rather than making a custodial arrest. If neither person is able to care for the children, custodial arrests of both can be made and arrangements made for the care of the children.

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310.4 NOTIFICATION RESPONSIBILITIES

A patrol supervisor must be notified in incidents involving multiple offenders. Custodial arrests of predominant aggressor or mutual combatants in domestic situations require the approval of a patrol supervisor.

A patrol supervisor shall be notified of felony assaults and incidents involving weapons.

310.5 CHILDREN EXPOSED TO DOMESTIC ABUSE

If a child is a victim of domestic abuse, the previous sections of this order pertaining to arrests are applicable.

The presence of children, their location and any injuries, involved in any domestic abuse situation needs to be fully documented. Officers may be mandated to report if the incident involves neglect, or potential neglect, of the child whether or not an arrest is made. Officers must always make a determination about the safety or advisability of leaving the child in the residence.

Before interviewing a child as a witness of domestic abuse, the officer should consider:

- the child's physical, emotional, or psychological ability to give a statement
- the child's age and ability to understand questions and formulate responses
- the likelihood the child will suffer adverse consequences.

310.6 SEIZURE OF WEAPONS IN DOMESTIC ABUSE INCIDENTS

Officers investigating domestic abuse incidents who have probable cause to believe the domestic abuse incident involved weapons should, when lawfully possible, seize all weapons used in the assault. In other instances, it may be appropriate to take weapons for safe keeping. The purpose of this is twofold, to preserve evidence and also to safeguard the welfare of the people involved.

310.7 REPORTS

Minn. Stat. § 629.341 Subd. 4 requires an officer investigating any alleged incident of domestic abuse to complete a written report. CAD notes do not constitute a report. Per department policy an officer must complete the Risk Assessment and document the responses in the narrative.

Officers should include information related to the following in a report, as applicable (Minn. Stat. § 629.341 and 611A.0311), and see Policy 325 for additional report information:

(a) Names, addresses, telephone numbers of all involved persons

(b) Condition of clothing

(c) Description of the scene, including any property damage

(d) Evidence of physical injury, including strangulation

(e) Presence of elderly victims or persons with disabilities

(f) Facts related to any person who may have been a primary aggressor

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(g) Excited utterances of the victim and the suspect

(h) Demeanor of the victim and the suspect

(i) Medical records, including the victim's statements to paramedics, nurses and doctors

(j) Detailed statements of interviews of witnesses, including children, who may have been present, noting any language barriers

(k) A detailed explanation of the reasons for the officer's decision not to arrest or seek an arrest warrant

(l) Evidence of any prior domestic abuse, related convictions, including dates

(m) Any existing orders for protection, harassment restraining order or no contact orders

(n) Identifying information of a specific court order violated, including county of origin, the file number and the provision allegedly violated

When a custodial arrest is mandated, but cannot be made because the offender is not located, the investigating officer will dictate a "RUSH" report. If it is a misdemeanor the officer will also complete a citation. The paperwork will be given to the district sergeant, or in their absence the Watch Commander. The sergeant will be advised when the time period for the arrest expires and will attempt to have officers make the arrest. If the offender has not been arrested within the mandatory arrest period, the original responding officer shall deliver a citation to the offender. In the event the offender cannot be located, the DVRT Unit Leader should be consulted for alternatives. In instances where a citation does not apply (GM or Felony) and an arrest has not been made by the end of the shift, reports must be forwarded to DVRT. The sergeant must ensure that the disposition is recorded in the case activity log.

Computer Aided Dispatch (CAD) notes are acceptable for documenting a code change, i.e. it was not an incident of domestic abuse. For example, It was a loud, verbal argument without threats, without fear, and without physical contact.

Officers conducting all criminal investigations will, whenever possible, record oral victim and witness statements in lieu of written statements. Statement evidence obtained during an initial investigation can be very powerful evidence in determining the course of an investigation; ultimately impacting charging decisions and convictions.

It is not necessary to advise a victim or witness that their statement is being recorded. Officers should use discretion when determining the best method of recording depending on the circumstances of the event. For example with cases of domestic or sexual violence, a discrete and low profile approach to recording would be appropriate in an effort not to add to the distress the victim may already be experiencing.

310.8 MANDATED VICTIM ASSISTANCE

In all domestic abuse incidents, officers will provide the victim with the Duluth Police Crime Victim Information Card which contains the ICR number and the officer's name. Officers shall advise

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victims of the availability of services of Safe Haven Shelter and the Domestic Abuse Intervention Project (DAIP). Incidents involving child victims require notification of the Initial Intervention Unit.

Following a domestic abuse arrest, officers shall advise victims that an advocate will be contacting them. The arresting officer will also contact Safe Haven Shelter and advise them how, and where, to contact the victim. This advisory must be given prior to clearing from the incident.

If the victim needs transportation, the responding officer shall offer to transport the victim, or make arrangements for transportation to a safe place.

The officer shall obtain at least two phone numbers of persons who can reach the victims in emergencies to enable notification concerning the offender's release and other safety issues. These numbers are to be recorded on the back of the booking form.

310.9 SECOND OFFENSES AND GROSS MISDEMEANOR FELONY CHARGES

When an arrest is made, officers must determine if enhancement is appropriate by interviewing the victim and the offender and by researching available court and local records. Officers must document sources consulted in an effort to locate enhancement information (MNCIS, CCH, counties contacted, etc.).

310.10 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic abuse cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state.

310.11 DOMESTIC VIOLENCE RESPONSE TEAM (DVRT)

The DVRT Unit conducts follow up investigation on domestic arrests and reported incidents. Patrol officers will submit arrest and incident reports to their supervisor. The patrol supervisor will forward the necessary reports to the DVRT Unit. Submitted reports will include statement forms, signed medical releases, MNCIS, criminal histories, and citations when one is issued. Referrals to the DVRT Unit are made through, and documented in the Case Activity Log.

The DVRT Unit will process the reports necessary for custodial arrests and ensure that the charges are appropriate. The unit will also follow up on investigations that do not result in an arrest when they believe the offender or family needs intervention not available from the Patrol Division.

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Search and Seizure

311.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Duluth Police Department personnel to consider when dealing with search and seizure issues.

311.2 POLICY

It is the policy of the Duluth Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

In accordance with the Training Policy, the Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

311.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- Valid and voluntary consent
- Incident to a lawful custodial arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances; "Terry" stop, hot pursuit, plain view

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

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311.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances reasonably permit:

(a) Members of this department will strive to conduct searches with dignity and courtesy.

(b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.

(c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.

(d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.

(e) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:

1. Another officer or a supervisor should witness the search.
2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

311.4.1 SEIZURE OF PROPERTY

Any time a search is conducted by an officer and property is seized, a Property Receipt shall be completed and served upon the subject of the search. If the property is seized subject to forfeiture, the appropriate forfeiture form shall also be served upon the subject.

311.5 DOCUMENTATION

Officers are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- Reason for the search
- Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)
- What, if any, injuries or damage occurred
- All steps taken to secure property
- The results of the search, including a description of any property or contraband seized
- If the person searched is the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer

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Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.

311.5.1 LEAD OFFICERS RESPONSIBILITIES
An Incident Report must be completed for all search warrant executions. An Arrest Report and an Evidence Report must be completed whenever appropriate. The officer in charge is responsible for the completion of all associated reports.

311.6 SEARCH WARRANTS

311.6.1 APPLICATION
Search warrants are obtained by application to the court. Any officer may make application to the court for a sear warrant. The appropriate prosecutor will assist in preparation necessary. Applications shall be prepared and presented to a judge for review and signing pursuant to all applicable laws and procedures. Officers preparing search warrant shall take all reasonable steps to confirm and corroborate probable cause contained in the search warrant application.

311.6.2 EXECUTION

(a) The assigned Unit Leader or Lieutenant shall be notified of the planned warrant execution.

(b) Search warrants may only be executed during the daytime (0700-2000 hours) unless th warrant authorizes a nighttime search. Entry to serve the warrant must be made during daytime hours but there is no time limit on completing the search.

(c) The officer in Charge of the investigation shall complete a risk assessment matrix and operational plan. The completed risk assessment matrix and operational plan shall be reviewed and approved by the on-duty Unit Leader or Lieutenant or if they are not available, the on-duty patrol unit leader. If appropriate, the T.R.T. Commander or designee shall be consulted as to the risk assessment related to the detail.

(d) An operational plan shall be completed which will include details obtained through reconnaissance and intelligence evaluation to determine appropriate tactics. Photographs, intelligence information, and floor plans should be reviewed and included in the operational plan to bes prepare for the execution of the search warrant and to assess safety needs.

(e) In all cases, the officer in charge of the investigation shall ensure that the on-duty patrol unit leader is briefed on the operation and that appropriate patrol staff is assigned to safely execute the warrant. The same officer shall ensure that the 9-1-1 communications center is notified as to the location of the search warrant as well as a list of staff assigned to the detail. The officer in charge is responsible for briefing all assigned staff participating in the execution of the warrant.

(f) It is the responsibility f the officer in charge to assess and recommend the most effective method of target approach and entry. If the T.R.T. Commander or designee is involved in the operation, he/she will be responsible for these tactical activities. Consideration must be

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given to the selection of specific radio channels, restricting entry to and exit from the scene of the search to allow for the safety of officers, and the use of specialized weapons and tools.

(g) Securing subjects by handcuffing at the scene of a search is permitted based on the assessment of officers conducting the search. Consideration shall be given to factors including the presence of violent subjects, uncooperative subjects, subjects under the influence of drugs or alcohol, or at a location where multiple subjects are found. Frisks for weapons are permitted if consistent with current case law and necessary to protect officers.

311.6.3 SEARCH WARRANTS EXECUTED OUTSIDE THE CITY

(a) Duluth officers may apply for warrants outside the City of Duluth.

(b) Application must be made to the court which has jurisdiction in the area where the place to be searched is located.

(c) The warrant may be directed to any police officer with jurisdiction, which includes any on-duty Duluth police officer, within the State of Minnesota. Outside the state the warrant must be directed to an officer with jurisdiction.

(d) When executing a search warrant outside the city, the agency with primary jurisdiction should be notified as soon as practicable. The agency with primary jurisdiction should be responsible for the entry with Duluth officers conducting the search.

(e) In situations involving limited manpower in the primary jurisdiction, Duluth officers may assist in the entry. If practical, permission should be obtained from the Deputy Chief before participating in out of jurisdiction entry.

311.6.4 PERSONNEL

(a) The officer in charge must determine what personnel are necessary and notify those staff members.

(b) If personnel are necessary from other investigative units or agencies, a request must be made through the involved unit or agency leaders.

(c) If T.R.T. personnel are needed, on-duty personnel should be contacted first. Additional T.R.T. personnel are activated by the on-duty patrol unit leaders, the T.R.T. commander or designee.

(d) The officer in charge organizes the search, designating which officers will search what areas. Searching officers must know what items are designated on th search warrant to be seized.

(e) It is advisable that one officer is assigned to photograph and/or videotape the execution of the search warrant and to identify locations of evidence during the search.

(f) It is advisable that at least one officer be assigned to collect, package, and process all evidence seized during the warrant and complete the appropriate documentation related to this assignment.

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(g) All evidence shall be collected in accordance with Chapter 8, Policy 804 Property and Evidence.

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Custodial Transportation

312.1 PURPOSE AND SCOPE

Prisoners or persons being transported by police officers for any custodial purpose, such as to a detention facility, detoxification center, a hospital for emergency commitment, or for any other reasons where a person's freedom is restricted, will be transported using the same procedures set forth in this Policy.

312.2 PROCEDURE

The purpose of these guidelines is to promote officer safety.

312.2.1 SEARCHES

Prisoners

- All prisoners must be searched prior to placing them in squad.

Squads

- Squads must be inspected at the beginning of each shift to ensure that no contraband or other items are in the rear seat area. Squads must also be searched before and after transporting a prisoner for the same reason.

312.2.2 HANDCUFFING

All prisoners must be handcuffed, behind their backs, with exceptions noted under special situations. Officers should "gap" and double lock handcuffs.

Mentally disturbed persons that have the potential for harming themselves, or others, or are at risk of fleeing, should be handcuffed.

Persons being transported to a detoxification center are handcuffed at the officer's discretion.

312.2.3 TRANSPORTING PRISONERS

Marked squads used to transport prisoners must have the door handles and window cranks removed from the rear doors. The rear door locks must not be operable from the rear seat.

Squads Without Barriers

- In general squads without barriers should not be used to transport prisoners. Two officers are required to transport a prisoner if the squad is not equipped with a protective barrier. The prisoner must be non-combative and must be seated in the right rear seat, the passenger officer in the left rear seat. Two prisoners should not be transported in a squad not equipped with a barrier.

Barrier Equipped Squads

- When transporting with a barrier, prisoners are placed in the rear seat. Multiple, non-combative prisoners may be transported together. A combative prisoner may not be transported with another prisoner.

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Required Communications

Officers transporting a prisoner must notify the Communications Center:

- that they are transporting a prisoner
- of the number of prisoners
- of their destination
- upon their arrival
- giving mileage is recommended but not required

312.2.4 SPECIAL SITUATIONS

a. Juveniles and Prisoners of the Opposite Sex

- Officers may transport juveniles and prisoners of the opposite sex.

b. Handicapped Prisoners

- Handicapped prisoners are handcuffed at the discretion of the officer.
- Handicapped prisoners may be transported in squads if the officer believes it is safe to do so. In other situations, alternatives to custodial arrests should be considered.
- If a custodial arrest is necessary and the prisoner cannot be safely transported in a squad, the officer must contact his unit leader. The unit leader determines the appropriate vehicle for transportation (ambulance, convalescence van, etc.)

c. Injured/Sick Prisoners

- Injured prisoners are handcuffed at the officer's discretion.
- Prisoners with more than a minor injury should be evaluated/transported by Gold Cross Ambulance. Injuries or illnesses requiring medical attention must be treated at a hospital emergency room prior to going to the detention facility. While at the hospital the prisoner should not be out of the officer's sight.
- If a prisoner is admitted to the hospital, the Station Commander must be notified to determine appropriate security, if any.
- If an injured or sick prisoner is transported by ambulance one officer must accompany the prisoner in the ambulance.

312.2.5 INTERRUPTING PRISONER TRANSPORTATION

The primary responsibility of an officer transporting a prisoner is the safe delivery of the prisoner to the detention facility.

An officer transporting a prisoner may stop and render aid to third persons or police officers needing assistance. The officer must evaluate the situation to ensure that the prisoner's safety and security are not compromised. The officer must not be out of sight of the prisoner.

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312.2.6 PRISONER COMMUNICATIONS

Prisoners need not be allowed to speak with anyone prior to reaching the detention facility. Spontaneous statements made by a prisoner during transport, which are relevant to the investigation, should be documented in a report.

312.2.7 ESCAPES

Officers must make every attempt to return an escaped prisoner to custody. Upon the escape of a prisoner, the transporting officer notifies the Communications Center and requests an "Attempt to Locate" be broadcast on the escaped prisoner. The following information is provided to the Communications Center for the "ATL":

- the last known location of the prisoner
- the direction of travel
- the amount of time that has elapsed
- a complete description
- the offense for which the person was arrested

The officer should also request the Communication Center notify the Station Commander.

The Station Commander determines:

- if a canine should be dispatched to assist
- the commitment of manpower to locating the prisoner
- whether to enlist formal mutual aid in locating the prisoner
- whether any media announcements are appropriate.

312.2.8 LODGING PRISONERS

Officers arriving at the County Jail inform jail staff, prior to entering the secure garage, of the number of prisoners, their sex, and their level of cooperation. Upon entering the garage officers secure their handguns in the lockers provided, prior to removing the prisoner from the squad, officers may not bring firearms into the Jail. Prisoners remain handcuffed until entering the booking area through the sally port, Jail officials will not allow non-handcuffed prisoners into the Jail. Jail officials determine when the handcuffs are removed, and under what circumstances. Officers complete the booking paperwork required by the County and issue citations when appropriate. Copies of these documents are included with the officer's paperwork which is delivered to Headquarters. If the prisoner has medical issues, is a suicide risk, or has been violent the jail staff are notified.

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Juvenile Investigations

313.1 PURPOSE AND SCOPE

The Duluth Police Department is committed to the development and implementation of programs intended to prevent and control delinquent and criminal behavior by juveniles. These programs are developed with the input of allied agencies which also deal with juveniles so there is a coordinated effort in dealing with these problems. Responsibility and support for these programs will be shared by all members of the Department.

313.2 DEFINITIONS

Child or Juvenile - An individual under 18 years of age, and includes any minor alleged to have been delinquent or a juvenile traffic offender prior to becoming 18 (Minn. Stat. § 260B.007 Subd. 3). A child under 14 years of age is not capable of committing a crime (Minn. Stat. § 609.055 Subd. 1).

Custodian or Guardian - A person who is under a legal obligation or who is, in fact, providing care and support for a minor (Minn. Stat. § 260B.007 Subd. 13).

Delinquent Child or Juvenile - A child (Minn. Stat. § 260B.007 Subd. 6):

(a) Who has violated any state or local law, except for violation of certain traffic offenses under Minn. Stat. § 260B.225 Subd. 1, petty offenses under Minn. Stat. § 260B.007 Subd. 16, and minor marijuana offenses under Minn. Stat. § 260B.007 Subd. 18.

(b) Who has violated a federal law or a law of another state and whose case has been referred to the juvenile court.

(c) Who has escaped from confinement from a local juvenile or state juvenile correctional facility after being committed.

Legal Custody - The right to the care, custody and control of a child who has been taken from a parent by a court, or in accordance with law (Minn. Stat. § 260B.007 Subd. 8).

Parent - A birth or adoptive parent (Minn. Stat. § 260B.007 Subd. 10).

Relative - A stepparent, grandparent, brother, sister, uncle or aunt by blood or marriage (Minn. Stat. § 260B.007 Subd. 12).

Secure Detention Facility - A physically restricting facility, including, but not limited to, jails, hospitals, state institutions, residential treatment centers or a detention home (Minn. Stat. § 260B.007 Subd. 14).

313.3 AUTHORITY TO DETAIN

(a) When an officer has probable cause that a child (Minn. Stat. § 260B.143 Subd. 1):

1. Is a juvenile petty offender.

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2. Has committed a delinquent act that would be a petty misdemeanor or misdemeanor if committed by an adult.

The officer may issue a notice to the child to appear in juvenile court in the county in which the child is alleged to have committed the offense.

(b) An officer may take into immediate protective custody any juvenile (Minn. Stat. § 260C.175 Subd. 1):

1. When the child appears to be or is a runaway, but only for the purpose of transporting the child home, to the home of a relative or to another safe place.
2. When the child is found in surroundings or conditions that endanger the child's health or welfare or which an officer reasonably believes will endanger the child's health or welfare.
3. Who is a habitual truant under Minn. Stat. § 260C.143.
4. With a court order or warrant.
5. When it is reasonably believed that the juvenile has violated terms of probation, parole or other field supervision.

Whenever an officer takes a child into custody for the above section, the officer shall notify the parent, guardian or custodian as soon as possible. Unless there is reason to believe that the child would endanger him/herself or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian or other suitable relative (Minn. Stat. § 260C.176 Subd. 1).

If the child is not released, the court shall be notified as soon as possible and be provided the reasons for detention (Minn. Stat. § 260C.176 Subd. 2).

(c) An officer may take into immediate custody any delinquent juvenile (Minn. Stat. § 260B.175 Subd. 1):

1. In accordance with the laws relating to arrests.
2. With an order of the court or a warrant.
3. When it is reasonably believed that the juvenile has violated terms of probation, parole or other field supervision.

Whenever an officer takes a child into custody for the above section or Minn. Stat. § 260B.154, the officer shall notify the parent or custodian that under Minn. Stat. § 260B.181 Subd. 2, the parent or guardian may request that the child be placed with a relative or a designated caregiver instead of a shelter care facility (Minn. Stat. § 260B.175 Subd. 3).

(d) An officer shall take a juvenile into custody when there is probable cause to believe that the juvenile is committing or has committed an unlawful act that involves;

1. The possession, use or threatened use of a firearm or dangerous weapon.

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2. A crime of violence resulting in injury or domestic violence.

(e) Taking a child into custody under the provisions of these sections shall not be considered an arrest (Minn. Stat. § 260B.175 Subd. 2).

313.3.1 AUTHORITY TO SEARCH

An officer who takes a child of any age or gender into custody, or could take into custody under Minn. Stat. § 260B.175, is authorized to perform a protective pat-down search of the child in order to protect the officer's safety (Minn. Stat. § 260B.175 Subd. 4).

313.4 INTERVIEWING JUVENILES

Minnesota allows juveniles that have been taken into custody, to be interviewed if they understand their Miranda Warning. Factors to consider are:

(a) The individual's age;

(b) The individual's level of intelligence; and

(c) Whether or not the individual has had previous contact with the criminal justice system or police.

It is the officer's responsibility to ensure that the juvenile understands his rights and knowingly waives them prior to taking a custodial statement. Even if a juvenile consents to an interview if the court determines that the circumstances were coercive the statement will be suppressed. For this reason officers need to be aware of the coercive nature of multiple officers, exposed weapons, whether or not the door is closed/locked, length of the interview, etc. These considerations must be carefully considered prior to an interview and the circumstances must be documented in the report on the interview.

Parents must be notified before a custodial interview if:

- The juvenile does not understand the Miranda warning; or
- They request their parent or guardian be present.

313.4.1 LENGTH OF INTERVIEW/INTERROGATION

The length of the interrogation should be commensurate with the matter under investigation and the criteria listed above. The situation should not be unnecessarily stressful for the individual. A single officer should conduct the interview.

It is advisable to explain the Department's juvenile procedures, the court procedures, and what the juvenile can expect to occur concerning the investigation.

313.4.2 INTERVIEWS ON SCHOOL PROPERTY

Officers wishing to interview a student at school should contact the appropriate School Resource Officer (SRO) for assistance. Due to the nature of interviews on school property officers unfamiliar with the procedure should contact an SRO even if one is not assigned to the school. Because a student's mobility in school is strictly controlled a student is not "free to leave" a non-custodial

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interview unless a pass is presented to them at the time they consent to the interview. When interviewing a juvenile, witness or suspect, on school property, the school administrator shall be advised. The administrator may assist the officer in making any necessary parental contact prior to the interview.

These procedures **do not apply** to victims of alleged physical or sexual abuse, or minors that live with them.

313.5 RELEASE OF INFORMATION CONCERNING JUVENILES

Court decisions and legislation have combined to carefully specify situations in which information may be given out or exchanged when a case involves a juvenile. Officers of this department shall not divulge any information regarding juveniles in situations where they are uncertain of the legal authority to do so. Additionally, juvenile records shall be kept separate from records of those over 18 years of age (Minn. Stat. § 260B.171 Subd. 5).

313.5.1 RELEASE OF INFORMATION TO OTHER AGENCIES

Minnesota law authorizes the release of certain information to other agencies. It shall be the responsibility of the Records Supervisor and the appropriate Unit Supervisors to ensure that personnel of those bureaus act within legal guidelines (Minn. Stat. § 260B.171 Subd. 5 (b) and (8)).

313.5.2 SCHOOL NOTIFICATION

Minnesota law requires the Chief of Police or designee notify the superintendent or chief administrative officer of a juvenile's school of an incident occurring within our jurisdiction if (Minn. Stat. § 260B.171 Subd. 5 (e)):

(a) There is probable cause to believe a juvenile has committed an offense that would be a crime if committed as an adult, that the victim is a student or staff member, and the notice is reasonably necessary for the protection of the victim.

(b) For certain serious crimes regardless of whether the victim is a student or staff member.

However, the Department is not required to notify the school if it is determined that notice would jeopardize an ongoing investigation.

313.6 ADDITIONAL CONSIDERATIONS PERTAINING TO JUVENILES

313.6.1 COLLECTION OF PHYSICAL EVIDENCE

A. Photographing/Videotaping

Photographing of juveniles in custody is prohibited by M.S. 260B.171, Subd. 5, which states, in part: "No photographs of a child taken into custody for any purpose may be taken without the consent of the juvenile court unless the child is alleged to have violated Section 169A.20." This allows the videotaping of a juvenile when they have been arrested for driving while intoxicated, or aggravated driving while intoxicated, as part of the normal DWI arrest procedure. An officer photographing a child outside the statutory guidelines may be guilty of a misdemeanor.

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The Police Department has permission from the juvenile court to take photographs of all juveniles that have been found guilty of felonies or admitted to a felony.

B. Photographic Lineups of Juveniles

Photographic lineups of juveniles are conducted in the same manner as photographic lineups of adults. Only one suspect photo may be in each lineup accompanied by five photos of non-suspects that match the description provided by the witness. There are no additional restrictions concerning juveniles as photographs may be used for investigative purposes (Minnesota Statute 260B.171, Subd.5c).

C. Fingerprints of Juveniles

Juveniles arrested for felonies may be fingerprinted.

D. Other Forms of Biological Evidence

Procedures for obtaining other forms of biological evidence, such as blood or urine samples, from juveniles are the same as for adults, i.e., consent search, search warrant, etc. If records of these items are retained, they are kept separate from adult records.

313.6.2 DETENTION OF JUVENILES

Criteria for dention of juveniles. Minnesota Statute 260B.171, Subd. 1, governs the detention of juveniles for a crime and states that a juvenile should not be taken into custody unless:

- it is reasonably believed that the child would physically endanger himself or others;
- it is believed the juvenile would not return for a court hearing;
- it is believed the juvenile would not remain in the care and control of the person to whose lawful custody he/she is released; or
- by releasing the child his health or welfare would immediately be endangered.

Juveniles arrested without a warrant and placed in a detention facility must have a judicial determination made, within 48 hours that probable cause exists for the detention. Officers complete a "Judicial Determination of Probable Cause to Detain" form in order for the judicial review to occur.

313.6.3 STATUS OFFENSES

Juveniles who have committed only a status offense who are not able to be released to a parent or guardian may be taken to the St. Louis County Initial Intervention Unit if the officer believes he cannot safely release the individual. Status offenses are acts which, if committed by an adult, would not be a crime.

313.6.4 TRANSPORTATION

Juveniles lodged at the Arrowhead Juvenile Center, Detox, or taken to the Initial Intervention Unit are transported without delay to those locations after the completion of the initial investigation. If

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the juvenile requires medical assistance, it is obtained prior to transporting them to the appropriate facility.

313.6.5 PARENTAL NOTIFICATION

Minnesota Statute 260C.176, outlines an officer's responsibilities concerning notification of the parents, guardian or custodian of a child taken into custody. Officers must provide the following information:

- The reason for custody and why the child is being placed in detention; and
- The location of the facility unless that would pose a danger for the child; and
- That the parents, guardian or custodian and the attorney or guardian ad litem may make an initial visit at any time to see the juvenile; and
- That the child may make an initial telephone call to the parents, guardian, custodian or attorney immediately.

If notification is not made by the officer, it is the responsibility of the supervisor of the detention facility or shelter care facility to make the notification.

313.6.6 DOCUMENTATION

Whenever a juvenile is detained (this does not include investigatory detentions which result in the juvenile being released), an investigation report detailing the incident must be completed by the officer involved.

When the detention is for a status offense (an act which, if committed by an adult, would not be a crime, e.g., runaway, consumption of alcohol, truancy), a delinquent act, or a crime, an arrest report must be completed. The initials of the juvenile arrested and other information requested is entered into the arrest record located at the Police Desk.

313.6.7 CRIMINAL CONDUCT ON SCHOOL BUSSES

When responding to allegations of criminal conduct on school buses or Duluth Transit Authority (DTA) buses being used to transport Duluth School District students, officers will consult with school officials, transportation personnel, parents, and the students involved to ensure student safety and deal appropriately with those who violate the law.

When dispatched to an incident involving criminal conduct on a school bus the responding officer shall:

- Investigate the incident using the same procedures as followed in other criminal investigations involving juveniles or adults;
- Complete an INCIDENT REPORT if required Or appropriate;
- Issue citations or take persons into custody, if appropriate;
- Notify school officials of the reported incident and what action was taken.

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313.7 ALTERNATIVES TO DETENTION

313.7.1 ISSUING CITATIONS

When a juvenile is not placed in detention but is being charged, citations may be issued using the following guidelines taking into consideration The Juvenile Division of the County Attorney's Office prosecutes in the following instances so the court date is "to be set":

- All violations committed by persons up to and including fifteen years of age;
- Major violations committed by 16 and 17 year olds defined as misdemeanors and gross misdemeanors (including reckless driving, careless driving, hit and run, no insurance, driving after revocation, driving after suspension, driving after cancellation, no valid driver's license). (Does not include DWIs committed by 16 and 17 year olds);

Adult court handles the following traffic violations committed by juveniles (16 and 17 year olds):

- Petty misdemeanor traffic violations; and
- DWIs committed by 16 and 17 year olds, and any traffic offenses committed as one course of action with the DWI.

Officers should attempt to contact the parents and advise them of the incident. Parents may be summoned to the scene, asked to respond to Headquarters to pick up their child or contacted by phone. If parents are unable to respond or be located, juveniles may be released or transported home.

313.7.2 DETOXIFICATION OF JUVENILES

Juveniles under the influence of alcohol or a controlled substance may be transported to the Detoxification Center if their parent or guardian cannot be located or if the parents feel they are unable to control the juvenile in their current condition. Juveniles considerably under the influence should never be released without adult supervision.

Officers' responsibility to notify the parents of children placed in the Detoxification Center is outlined in Section V. D, of this order. If the officer does not make the notification, it is the responsibility of the supervisor of the care facility to make the notification.

313.7.3 ALTERNATIVES TO CITATION/WARN AND RELEASE OF JUVENILES

Officers should consider alternatives to citations and may warn and release juveniles involved in minor offenses particularly if the juvenile is a first time offender. Officers should attempt to advise parents of the incident. Parents may be summoned to the scene, asked to respond to Headquarters to pick up the juvenile or contacted by phone. If parents are unable to respond or be located, juveniles may be released or transported home. Officers are encouraged to work with schools to consider alternatives to citations and arrests.

313.8 SCHOOL RESOURCE OFFICERS

School Resource Officers (SRO) are assigned to high schools and middle schools. Their primary responsibility is to conduct criminal investigations regarding school aged juveniles, and act as a

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liaison and resource for educators, parents, and students. Due to their high level of involvement with the students the Department relies on their judgment and grants them great leeway in how they deal with juveniles regarding enforcement.

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Orders for Protection

314.1 PURPOSE AND SCOPE

The Department and State of Minnesota are committed to protecting persons from violence. Minnesota Statute 518B.01 allows arrests for violations of Orders for Protection and No Contact Orders based on probable cause.

In addition, the 1994 Violence Against Women Act (VAWA) directs jurisdictions to give full faith and credit to [enforce] valid orders of protection issued by other jurisdictions. (18 U.S.C. 2265) Officers shall enforce the provisions of valid protection orders issued in other jurisdictions and by tribal nations in compliance with Title IV of the Violent Crime Control and Law Enforcement Act (P.L. 103-322, Section 225).

314.2 DEFINITIONS

Minnesota Statute 518B.01(b) "Family or household members" means:

(a) spouses and former spouses;

(b) parents and children;

(c) persons related by blood;

(d) persons who are presently residing together or who have resided together in the past;

(e) persons who have a child in common regardless of whether they have been married or have lived together at any time;

(f) 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

(g) persons involved in a significant romantic or sexual relationship.

Probable Cause: A belief, based on an officer's observations and reasonable judgment, and statements by parties and witnesses involved, that a crime occurred and the subject to be arrested committed the crime.

Ex Parte Order: An order granted by the court (including an Order for Protection) granted for a set period of time, usually for the period between application and a formal hearing. If no hearing is held, then the Ex Parte Order stands as the protection order. An Ex Parte Order carries the full force and effect of any post-hearing order.

Protection Order: Under the Federal Violence Against Women Act a protection order is defined as: any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact, or communication with, or physical proximity to, another person. (M.S. 518B.01, Subd. 14)

Criminal No Contact Order: An order issued by the court against a defendant in a criminal proceeding for domestic abuse which prohibits the defendant from any contact with the victim. A

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Criminal No Contact Order is initiated by the Judge, not on petition from the victim; it is personally issued to the Respondent by the Judge and is signed by the Respondent. (M.S. 518.B01, Subd 22)

314.3 PROCEDURE

For the purpose of this general order, Ex Parte Orders, Orders for Protection, Criminal No Contact Orders and protection orders from other jurisdictions are referred to as Protection Orders; there is no distinction in actions or obligations of the officer in response to violations of these orders unless specified.

314.3.1 MANDATORY ARREST

A warrantless probable cause arrest is **required** for violations of the following conditions of a protection order:

- restraining the person (from committing further acts of domestic abuse), (518B.01, Subd 14(e)); or
- violations excluding the person from the residence or the petitioner's place of employment; (518B.01, Subd 14(e)). (518B.01, Subd 18(2) states that the respondent is forbidden to enter or stay at the petitioner's residence, even if invited to do so by the petitioner or any other person; in no event is the order for protection voided.)
- violations of a domestic abuse criminal no contact order (this includes any type of contact) (518B.01, Subd 22).

An arrest is **required** even if the violation did not take place in the officer's presence; it is <u>not</u> a violation by the petitioner to invite and/or admit the other person into the residence. A violation of a protection order is a misdemeanor, unless it can be enhanced. Officers must determine if enhancement is appropriate by:

- interviewing the victim;
- interviewing the subject;
- researching available court and local records; and
- review of relevant statutes

There are no time constraints on arrest. An officer, in consult with a shift sergeant or lieutenant should determine a strategy to affect the arrest within the next 24 hours. The strategy should be recorded in a patrol log entry.

314.3.2 DISCRETIONARY ARRESTS

Officers **may** make an arrest for an un-witnessed violation of an order for protection, even if it is not mandated (Section 325.3.1, above), Officer's may use their discretion in determining whether a custodial arrest, or the issuance of a citation (misdemeanors only) is warranted.

In all cases prior to making the arrest the officer must verify:

- the existence of the protection order;

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- that a violation of terms and conditions of the protection order occurred; and
- that probable cause exists that the offender knew the protection order existed.

314.3.3 FOLLOW-UP / REPORTS

When a violation of a protection order does not require a mandatory arrest, officers must determine if the conduct necessitates an arrest or the issuance of a citation to resolve the situation.

Department policy requires an officer investigating any alleged violation of a protection order to complete a written report. CAD notes do not constitute a report. Per department policy an officer must complete the Risk Assessment and document the responses in the narrative. In all cases submitted reports will include statement forms, medical releases, MNCIS, criminal histories, and citations when one is issued. Reports should also include officer recommendations for follow up activity.

Reports should be completed before the end of the officer's shift:

- when a custodial arrest is made;
- when there is probable cause for a custodial arrest but the subject was not arrested; or
- when there is a compelling public safety risk

The patrol supervisor will ensure the necessary referrals to DVRT are made and documented in the Case Activity Log.

The Domestic Violence Response Team (DVRT) conducts follow up investigation on domestic arrests and arrests for violations of protection orders. DVRT will process the reports necessary for custodial arrests and ensure that the charges are appropriate. The unit will also follow up on investigations that do not result in an arrest when they believe the offender or family needs intervention not available from the Patrol Division.

314.3.4 LOCATING SUSPECT

Officers shall attempt to locate suspects when they have probable cause to believe that suspects have violated a protection order as long as the officer has information or leads regarding possible locations of the suspects.

314.3.5 VICTIM ASSISTANCE

Officers will provide the victim with the DPD Crime Victim Information Card that contains the ICR number and the officer's name. Officers shall advise victims of the availability of services of Safe Haven Shelter and Dabinoo'Igan Shelter.

Following an arrest for protection order violation, officers shall advise the victim that an advocate will be contacting them to explain their legal rights and options.

Before clearing the incident officers shall notify the local battered women's program if :

- an arrest for violation of a protection order has been made;
- an arrest for a domestic assault has been made;

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- the respondent makes a statement or threat that indicates a risk to the petitioner during or after being served or arrested.

If possible they will also notify the victim if threats are made against them.

Officers shall include in their report who was notified.

314.4 FIREARMS - VIOLATION OF OFP/CONVICTIONS/SEIZURE

(a) Federal law prohibits a respondent in a protection order from possession of firearms and ammunition (18 U.S.C. 922(g) (8). When an officer determines that a valid protection order has been issued against a respondent, the officer should enforce the firearms prohibition and seize the weapons and ammunition. The seizure must be reported to the Federal Bureau of Alcohol, Tobacco, and Firearms by the seizing officer for possible prosecution. Seizure of weapons and ammunition subject to this prohibition is essential to victim and community safety.

(b) Minnesota Statute 518B.01 Subd.14(j). When a person is convicted of violating an order for protection and the court determines the person used a firearm in anyway during commission of the violation, the court may prohibit the person from possessing any type of firearm for a designated period of time (refer to Statute for specific limitations in effect). The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant. A violation is a gross misdemeanor.

(c) Minnesota Statute 518B.01 Subd.14 (k). Except as otherwise provided in paragraph (j), a person is not entitled to possess a pistol if the person has been convicted under paragraph (b) or (c) after August 1, 1996, of violating an order for protection, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of this section. Property rights may not be abated but the courts may restrict access. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

In other instances, it may be appropriate to take weapons for safe keeping. The purpose of this is twofold, to preserve evidence and also to safeguard the welfare of the people involved.

314.5 MUTUAL ORDERS

Sometimes a protection order will contain a mutual "no contact" provision or it will direct both parties not to abuse each other. The full faith and credits section of VAWA requires special safeguards for inter-jurisdictional enforcement of this type of order. Basically it states that an order should be enforced against the respondent and not the petitioner unless the issuing court made a specific finding that each party had abused the other. If such findings were made, the order may be enforced against both parties.

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314.6 SHORT FORM NOTIFICATION

M.S. 518B Subd 8a. provides that in lieu of personal service of an Ex Parte Order or Order for Protection, a law enforcement officer may serve a person with a Short Form Notification. Standard Short Forms are available in the department. Short Form Notifications may be served anytime, including Sundays and legal holidays; officers are granted statutory authority to detain the respondent for a reasonable time necessary to complete and serve the short form notification. Officers shall not indicate to the respondent the existence of an OFP prior to its service. When the short form is first served upon the person at a location at which, under the terms of the order, the person's presence constitutes a violation, the person shall not be arrested for the violation of the order without first being given a reasonable opportunity to leave the location in the presence of the peace officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

In the case where an OFP was served via publication, squads should serve a short form to the respondent upon contact. This will ensure that future violations can be charged out appropriately.

After serving a short form notification, officers are to put the "court" copy and the "serving agency" copy in patrol's non-custodial in box.

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Abuse of Vulnerable Adults

315.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure members of this department comply with laws designed to prevent and detect harm to adults who may need heightened protection due to their age or physical or mental infirmities (Minn. Stat. § 626.557).

315.1.1 DEFINITIONS

Definitions related to this policy include (Minn. Stat. § 626.5572):

Abuse - Includes, but is not limited to, any act against a vulnerable person, including assault, the use of drugs to injure or facilitate crime, prostitution, criminal sexual conduct, conduct that produces or reasonably could produce physical pain, injury or emotional distress, and forcing or compelling a vulnerable adult to perform any services against his/her will for the advantage of another. Abuse need not constitute a crime. Serious and egregious conduct including verbal abuse that could reasonably be expected to cause emotional distress can be considered abuse.

Care or services - Care or services provided for the health, safety, welfare or maintenance of a vulnerable adult.

Caregiver - An individual or facility responsible for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract or by agreement.

Financial exploitation - May include, but is not limited to, misuse of funds, breach of a fiduciary duty or withholding a vulnerable adult's funds or property. The acts or omissions need not constitute a crime to qualify as financial exploitation.

Neglect - The failure or omission by a caregiver, that is not the result of an accident or therapeutic conduct, to supply a vulnerable adult with care or services including, but not limited to, food, clothing, shelter, health care or supervision that is necessary to obtain or maintain the vulnerable adult's health, safety or comfort, considering the physical and mental capacity or dysfunction of the vulnerable adult.

Vulnerable adult - A person 18 years of age or older who:

(a) Is a resident or patient of a facility.

(b) Receives services at or from a specific and licensed facility that is required to be licensed to serve adults under Sections 245A.01 to 245A.15.

(c) Receives services from a licensed home care provider or a particular medical assistance program.

(d) Who possesses a physical or mental infirmity or other physical, mental or emotional dysfunction:

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1. That impairs the individual's ability to provide adequately for his/her own care without assistance, including the provision of food, shelter, clothing, health care or supervision.
2. Because of the dysfunction or infirmity and the need for care or services, the individual has an impaired ability to protect him/herself from abuse, neglect or financial exploitation.

315.2 POLICY

The Duluth Police Department will meet Minnesota mandates related to adults who may need heightened protection due to their age or infirmities. Members of the Duluth Police Department will treat these persons with a high level of compassion and care.

315.3 MANDATORY REPORTING REQUIREMENTS

Officers are mandated reporters (Minn. Stat. §626.5572 Subd. 16). If, during the course of an investigation, an officer has reason to believe that a vulnerable adult is being or has been abused, neglected or financially exploited, or who has knowledge that a vulnerable adult has sustained a physical injury that is not reasonably explained, the officer shall take a report, investigate and immediately make a telephone report to the county agency designated to receive such reports (Minn. Stat. § 626.557 Subd. 3; Minn. Stat. § 626.557 Subd. 4).

Failure to report or document an incident, which includes providing false, deceptive, misleading or omitted information by any employee, may be a crime (Minn. Stat. § 609.234 Subd. 1).

Officers should report incidents to St. Louis County Common Entry Point at (218)726-2164 or 800-450-9777.

315.4 OFFICER'S RESPONSE

All incidents involving actual or suspected vulnerable adult abuse shall be responded to immediately, fully investigated and appropriately documented (Minn. Stat. § 626.557 Subd. 9b). A CAL referral shall be made to the appropriate investigative unit.

315.4.1 PROTECTIVE ORDERS AND EMERGENCY PROTECTIVE ORDERS

In any situation where an officer reasonably believes that a vulnerable adult is in immediate and present danger of abuse based on an allegation of a recent incident of abuse or threat of abuse (other than financial abuse alone), the officer may contact Adult Protective Services and request that they obtain a protective order against the person alleged to have committed or threatened such abuse if that person is not in custody (Minn. Stat. § 524.5-401). If an offense is taken where it is clear there has been family violence against an elder or dependent adult, upon arrest of the suspect, the officer should request that a social services agency seek an Emergency Protective Order.

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315.4.2 INVESTIGATION OF VULNERABLE ADULT ABUSE

The Department shall, as soon as reasonably practicable, investigate any incident in which there is reason to believe a crime against a vulnerable adult has been committed. The investigating officer will cooperate with county agencies involved in the investigation, including the exchange of records and information (Minn. Stat. § 626.557 Subd. 9b).

Officers assigned to vulnerable adult investigations will participate in training as specified by state law (Minn. Stat. § 626.557 Subd. 9e).

315.5 VULNERABLE ADULT ABUSE REPORTING

Every allegation of vulnerable adult abuse shall be documented. When documenting vulnerable adult abuse cases, officers should include, at minimum (Minn. Stat. § 626.557 Subd. 9):

(a) Time and date of the report.

(b) Time, date and location of the incident.

(c) Name, address and telephone number of the person reporting.

(d) The basis of the reporter's belief that the vulnerable adult has been abused, neglected, exploited or isolated.

(e) The name and address of the person responsible for care, if there is one.

(f) Names, addresses and telephone numbers of persons involved, including, but not limited to, perpetrators, alleged victims and witnesses.

(g) Whether there was a risk of imminent danger to the alleged victim.

(h) The nature and extent of the abuse, neglect, exploitation or isolation of the vulnerable adult.

(i) Any evidence of previous injuries.

(j) Disability, if any, of the alleged victim.

(k) Relationship of the alleged perpetrator to the alleged victim.

(l) Whether or not a facility was involved.

The identity of persons reporting cases of vulnerable adult abuse is confidential and will only be released per the Records release and Security Policy (Minn. Stat. § 626.557 Subd. 5).

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Discriminatory Harassment

316.1 PURPOSE AND SCOPE

This policy is intended to prevent department members from being subjected to discrimination or sexual harassment.

316.2 POLICY

The Duluth Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The Department will not tolerate, discrimination against employees in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The non-discrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

316.3 DISCRIMINATION PROHIBITED

316.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by an employee that adversely affects an applicant or employee and is based on race, color, religion, sex, age, national origin or ancestry, genetic information, disability, military service, sexual orientation and other classifications protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment, can include making derogatory comments, crude and offensive statements or remarks, making slurs or off-color jokes, stereotyping, engaging in threatening acts, making indecent gestures, pictures, cartoons, posters or material, making inappropriate physical contact, or using written material or department equipment and/or systems to transmit or receive offensive material, statements or pictures. Such conduct is contrary to department policy and to the department's commitment to a discrimination free work environment.

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because he/she has engaged in protected activity, filed a charge of discrimination, participated in an investigation or opposed a discriminatory practice. Retaliation will not be tolerated.

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316.3.2 SEXUAL HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or an employee because of that person's sex.

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors or other verbal, visual or physical conduct of a sexual nature when:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an employee's employment, position or compensation.

(b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.

(c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile or offensive work environment.

316.3.3 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles or standards including:

(a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) or the Minnesota Department of Human Rights.

(b) Bona fide requests or demands by a supervisor that an employee improve his/her work quality or output, that the employee report to the job site on time, that the employee comply with City or department rules or regulations, or any other appropriate work-related communication between supervisor and employee.

316.3.4 STATE DISCRIMINATION LAW

Unlawful employment practices include discrimination on the basis of race, color, creed, religion, national origin, sex, marital status, disability, a person's status with regard to public assistance, age, disability or national origin; interfering with an aid or appliance that is used for a disability; and refusing to permit service animals at the place of employment (Minn. Stat. § 363A.02; Minn. Stat. § 363A.19; Minn. Stat. § 256C.01; Minn. Stat. § 256C.02).

316.3.5 IMPARTIALITY

All employees shall perform their duties and apply the law impartially and without prejudice or discrimination.

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, sex, marital status, status with regard to public assistance, disability, sexual orientation, or age.

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It is prohibited by law for peace officers to stop, detain, search or arrest anyone based on the person's race, national origin, citizenship, religion, ethnicity, economic status, disability, age, gender, sexual orientation or marital status without legal premise to do so. Especially done in such a manner that it may be construed to be Racial Profiling; the detention, interdiction, or other disparate treatment of any person on the basis of their racial or ethnic status or characteristics.

316.3.6 CLASSROOM DISCRIMINATION

Discrimination in the classroom reduces the effectiveness of the training provided and generates biased images and models of performance. Complaints regarding discrimination in access to, or during a Department training program are promptly accepted and investigated.

Classroom discrimination is defined as; "An act or comment of prejudice by a faculty member, staff person, or student which relates to race, gender, creed, age, color, religion, national origin, marital status, physical disability, mental disability, or characteristics identified as sexual orientation, and that offends another." Minnesota Rule 6700.0100 Subpart 25"

(a) Complaints may be made orally or in writing by a person who was present when the alleged classroom discrimination took place, and was offended by it. Complaints are accepted following the completion of the class session during which the alleged discrimination took place. To facilitate the investigation of the complaint, the complaint should be presented as soon as possible after the conclusion of the classroom session.

(b) The complaint may be made to the instructor of the class in which the alleged discrimination took place, the Officer Development Unit, or the Administrative Lieutenant. If the complaint is made to the class instructor that person must notify the Officer Development Unit as soon as possible. Officer Development must notify the Administrative Lieutenant and the accused of the complaint.

316.4 RESPONSIBILITIES

This policy applies to all department personnel. All members shall follow the intent of these guidelines in a manner that reflects department policy, professional law enforcement standards and the best interest of the Department and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and make the report to a higher ranking supervisor or manager. Complaints may also be filed with the Chief of Police, Director of Human Resources or the City Administrator.

Any member who believes, in good faith, that he/she has been discriminated against, harassed, subjected to retaliation, or who has observed harassment or discrimination, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

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316.4.1 SUPERVISOR RESPONSIBILITY
Each supervisor and manager shall:

(a) Continually monitor the work environment and strive to ensure that it is free from all types of unlawful discrimination, including sexual harassment and retaliation.

(b) Take prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment or retaliation.

(c) Ensure that their subordinates understand their responsibilities under this policy.

(d) Ensure that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.

(e) Notify the Chief of Police or Director of Human Resources in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

316.4.2 SUPERVISOR'S ROLE
Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory, harassing or retaliatory. Supervisors and managers shall be aware of the following considerations:

(a) Behavior of supervisors and managers should represent the values of the Department and professional law enforcement standards.

(b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent members.

(c) Supervisors and managers must act promptly and responsibly in the resolution of such situations.

(d) Supervisors and managers shall make a timely determination regarding the substance of any allegation based upon all available facts.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling employees or issuing discipline, in a manner that is consistent with established procedures.

316.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved members should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination or harassment shall be fully documented, and promptly and thoroughly investigated. The participating or opposing member should be protected against

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retaliation, and the complaint and related investigation should be kept confidential to the extent possible.

316.5.1 SUPERVISORY RESOLUTION

Members who believe they are experiencing discrimination, harassment or retaliation should be encouraged to inform the individual that his/her behavior is unwelcome. However, if the member feels uncomfortable, threatened or has difficulty expressing his/her concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

316.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the process described above, a formal investigation will be conducted.

The employee assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint or for offering testimony or evidence in any investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include, but not be limited to, details of the specific incident, frequency, dates of occurrences and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed or retaliated against because of their protected status are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, Director of Human Resources or the City Administrator.

316.5.3 EQUAL OPPORTUNITY EMPLOYMENT COMPLAINTS

No provision of this policy shall be construed to prevent any employee from seeking legal redress outside the Department. Employees who believe that they have been harassed or discriminated against are entitled to bring complaints of employment discrimination to federal, state and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Employees are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

316.6 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and actions taken to remedy the complaint.

316.7 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

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- Approved by the Chief of Police, the City Administrator or Director of Human Resources if more appropriate.
- Maintained for the period established in the department's retention schedule.

316.8 TRAINING

All new employees shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new employee. The employee shall certify by signing the prescribed form that he/she has been advised of this policy, is aware of and understands its contents and agrees to abide by its provisions during his/her term of employment.

All employees shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents and agree that they will continue to abide by its provisions.

316.8.1 QUESTIONS REGARDING DISCRIMINATION OR SEXUAL HARASSMENT

Members with questions regarding discrimination or sexual harassment are encouraged to contact a supervisor, manager, the Chief of Police, Director of Human Resources or the City Administrator, or they may contact the Minnesota Department of Human Rights.

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Child Abuse

317.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Duluth Police Department members are required to notify the county social services agency of suspected child abuse.

317.1.1 DEFINITIONS

Definitions related to this policy include:

Child - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

Child abuse - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency (Minn. Stat. § 626.556; Minn. Stat. § 626.5561).

317.2 POLICY

The Duluth Police Department will investigate all reported incidents of alleged criminal child abuse and ensure the county social services agency is notified as required by law.

317.3 MANDATORY NOTIFICATION

Members of the Duluth Police Department shall notify the county social services agency when they have reason to believe any of the following may have occurred or when someone reports any of the following (Minn. Stat. § 626.556):

(a) A child is being neglected or has been neglected within the preceding three years.

(b) A child is being physically abused or has been physically abused within the preceding three years by a person responsible for the child's care.

(c) A child is being sexually abused, threatened with sexual abuse or has been sexually abused within the preceding three years by a person responsible for the child's care, by a person who has a significant relationship to the child or by a person in a position of authority.

(d) A woman is pregnant and has used a controlled substance for a non-medical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol (marijuana), or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive (Minn. Stat. § 626.5561).

Notification is mandatory for any acts of neglect, physical abuse and sexual abuse that constitute a crime, whether or not the suspect had any relationship to or responsibility for the child (Minn. Stat. § 626.556, Subd. 10a).

For purposes of notification, physical abuse includes injuries, mental injuries or injuries that cannot be reasonably explained (e.g., punching, kicking, burning). Sexual abuse includes criminal sexual conduct and prostitution offenses. Neglect includes failure to supply a child with necessary

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clothing, shelter, medical care, etc. See Minn. Stat. § 626.556, Subd. 2 for full definitions of physical abuse, sexual abuse and neglect.

317.3.1 NOTIFICATION PROCEDURE
Notification should occur as follows (Minn. Stat. § 626.556):

(a) The member tasked with the investigation shall call the county social services agency and report the alleged abuse as soon as possible but always within 24 hours. The time of the call and the name of the person should be documented.

(b) Notification, when possible, should include:

1. The child's current location and whether the child is in immediate danger.
2. A description of when and where the incident occurred and what happened to the child.
3. A description of the injuries or present condition of the child.
4. The names and addresses of the child, parents or caregivers.
5. Whether there were any witnesses to the incident and their names.
6. Any additional information about the child, family or caregivers that may be helpful.
7. Whether the incident occurred in a licensed facility or a school and what actions the facility employees may have taken.
8. Whether there are immediate family, relative or community resources that would offer protection or support to the child.

(c) Forms that may be required by the county social services agency or other written notification shall be completed and faxed or delivered to the county social services agency as soon as possible but always within 24 hours.

(d) Approved investigation reports should be forwarded to the county social services agency as soon as practical.

(e) When the child abuse occurred at a facility or by a person from a facility that requires a state license (e.g., foster homes, group homes, day care), notification shall also be made to the agency responsible for licensing the facility (Minn. Stat. § 626.556).

317.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available for child abuse investigations. These investigators should:

(a) Conduct interviews in child appropriate interview facilities.

(b) Be familiar with forensic interview techniques specific to child abuse investigations.

(c) Present all cases of alleged child abuse to the prosecutor for review.

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(d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.

(e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.

(f) Participate in or coordinate with multidisciplinary investigative teams as applicable.

317.5 INVESTIGATIONS AND REPORTING

In all reported or suspected cases of child abuse, a report will be written. Officers shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.

(b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.

(c) Any relevant statements the child may have made and to whom he/she made the statements.

(d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.

(f) Whether the child victim was transported for medical treatment or a medical examination.

(g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.

(h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.

(i) Previous addresses of the victim and suspect.

(j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

317.6 PROTECTIVE CUSTODY

Before taking any child into protective custody, the officer should make reasonable attempts to contact the county social services agency. Generally, removal of a child from his/her family,

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guardian or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove a child from his/her parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the officer should take reasonable steps to deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the officer shall ensure that the child is delivered to the county social services agency.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

Children may only be removed from a parent or guardian in the following situations (Minn. Stat. § 260C.175):

(a) When a court has issued an order for removal.

(b) When a child is found in surroundings or conditions that pose an imminent threat to the child's health or welfare or that a peace officer reasonably believes pose an imminent threat to the child's health or welfare.

(c) If an Indian child is a resident of a reservation or is domiciled on a reservation but temporarily located off the reservation, taking the child into custody under this clause shall be consistent with the Indian Child Welfare Act (25 USC § 1922).

317.6.1 NOTICE TO PARENT OR CUSTODIAN

Whenever an officer takes a child into protective custody, the officer shall notify the parent or custodian that he/she may request that the child be placed with a relative or a designated caregiver instead of in a shelter care facility. The officer also shall give the parent or custodian a list, published by the Minnesota Department of Human Services, of names, addresses and telephone numbers of social services agencies that offer child welfare services. If the parent or custodian was not present when the child was removed from the residence, the list shall be left with an adult who is on the premises or left in a conspicuous place on the premises if no adult is present. If the officer has reason to believe the parent or custodian is not able to read and understand English, the officer must provide a list that is written in the language of the parent or custodian (Minn. Stat. § 260C.175; Minn. Stat. § 260C.181).

The above notifications may be made by the county social services agency representative if he/she is at the scene.

317.6.2 SAFE PLACE FOR NEWBORNS

A person may leave an unharmed newborn less than seven days old with the staff of a hospital, urgent care facility or ambulance service without being subject to prosecution (Minn. Stat. §

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609.3785). The responsible social service agency is charged with addressing these matters but may contact law enforcement if child abuse is suspected (Minn. Stat. § 145.902; Minn. Stat. § 609.3785).

317.7 INTERVIEWS

317.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

317.7.2 DETAINING ABUSE VICTIMS FOR INTERVIEW

An officer should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

(a) Exigent circumstances exist, such as:

1. A reasonable belief that medical issues of the child need to be addressed immediately.
2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.

(b) A court order or warrant has been issued.

317.7.3 NOTIFICATION TO PARENTS

Generally, officers should cooperate with parents and guardians and seek consent prior to conducting interviews of children. However, when reasonably necessary, state law grants officers the authority to interview a child who is the alleged victim of abuse or neglect, and any other children who currently reside or have resided with the alleged victim, without parental consent (Minn. Stat. § 626.556, Subd. 10).

The interview may take place at school or at any facility or other place where the alleged victim or other children might be found, or the child may be transported to, and the interview conducted at, a place that is appropriate for the interview and has been designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian or school official (Minn. Stat. § 626.556, Subd. 10).

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The officer shall notify the parent, legal custodian or guardian that the interview occurred as soon as reasonably practicable after the interview, unless the juvenile court has determined that reasonable cause exists to withhold the information (Minn. Stat. § 626.556, Subd. 10).

317.7.4 INTERVIEWS AT SCHOOL

If officers assigned to investigate a report of maltreatment determine that an interview should take place on school property, written notification of the intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview and a reference to the statutory authority to conduct an interview on school property (Minn. Stat. § 626.556, Subd. 10).

The investigating officer shall determine who may attend the interview, although school officials may set reasonable conditions as to the time, place and manner of the interview (Minn. Stat. § 626.556, Subd. 10).

317.7.5 DOCUMENTING AND RECORDING INTERVIEWS

Any statement made by an alleged child abuse victim during the course of a criminal investigation shall be documented. The documentation of the interview must contain, at a minimum (Minn. Stat. § 626.561):

(a) The date, time, place and duration of the interview.

(b) The identity of the persons present at the interview.

(c) A summary of the information obtained during the interview if it was not audio recorded.

Members should follow the written guidelines of the county attorney's office regarding recording interviews of a child abuse victim.

317.8 MEDICAL EXAMINATIONS

If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The officer should also arrange for the child’s transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination.

317.9 DRUG-ENDANGERED CHILDREN

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

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317.9.1 SUPERVISOR RESPONSIBILITIES
The Major Crimes Unit supervisor should:

(a) Work with professionals from the appropriate agencies, including the county social services agency, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

(b) Activate any available interagency response when an officer notifies the Major Crimes Unit supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.

(c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the child.

317.9.2 OFFICER_DEPUTY RESPONSIBILITIES
Officers responding to a drug lab or other narcotics crime scene where a child is present or where there is evidence that a child lives should:

(a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.

(b) Notify the Major Crimes Unit supervisor so an interagency response can begin.

317.10 STATE MANDATES AND OTHER RELEVANT LAWS
Minnesota requires or permits the following:

317.10.1 RELEASE OF REPORTS
Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Release and Security Policy (Minn. Stat. § 626.556, Subd. 11).

317.10.2 CHILD MORTALITY REVIEW PANELS
Child mortality review panels are entitled to access all investigative information of law enforcement agencies regarding the death of a child. This department shall cooperate fully with any such team and investigation (Minn. Stat. § 256.01, Subd. 12).

317.10.3 COORDINATION WITH SOCIAL SERVICES
In every case of child abuse that would require notification to a local county social services agency, the investigating officer shall coordinate the planning and execution of the investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. The investigating officer shall prepare a report separate from the social services agency (Minn. Stat. § 626.556, Subd. 10).

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317.10.4 NOTIFICATION PROCESS

The Patrol Supervisor is responsible for ensuring the mandatory notifications to the county social service agency are carried out. This should be achieved, in part, by establishing and reviewing related procedures and through ongoing training (Minn. Stat. § 626.556).

317.11 TRAINING

The Personnel, Training, and Licensing Unit should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

(a) Participating in multidisciplinary investigations, as appropriate.

(b) Conducting forensic interviews.

(c) Availability of therapy services for children and families.

(d) Availability of specialized forensic medical exams.

(e) Cultural competence (including interpretive services) related to child abuse investigations.

(f) Availability of victim advocate or guardian ad litem support.

317.12 ADDITIONAL INFORMATION

See the Department's procedural standard of practice guidelines for more information.

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Missing Person Reporting

318.1 PURPOSE AND SCOPE

This policy describes the procedure for acceptance, reporting, documenting and investigating missing persons in compliance with the Minnesota Missing Persons' Act, (Minn. Stat. § 299C.51 to Minn. Stat. § 299C.565, the Minnesota Law-Enforcement Model Policy and Procedures for Reports of Missing Persons (Minn. Stat. § 626.8454) and federal law (42 USC 5779 (a)).

The Department shall comply with requirements specified in federal law for reporting and investigating missing persons (Minn. Stat. § 299C.53 Subd. 4).

318.1.1 DEFINITIONS

For purposes of this section, the following definitions are provided (Minn. Stat. 299C.52 Subd. 1):

Child - Any person under the age of 18 years or any person certified or known to be mentally incompetent.

CJIS - The Criminal Justice Information System.

DNA - Deoxyribonucleic acid from a human biological specimen.

Endangered - There is sufficient evidence that the missing person is at risk of physical injury or death. Examples include:

(a) The person is missing because of a confirmed abduction or under circumstances that indicate the person's disappearance was not voluntary.

(b) The person is missing under known dangerous circumstances.

(c) The person is missing more than 30 days.

(d) The person is under the age of 21 and at least one other factor is applicable.

(e) There is evidence the person is in need of medical attention or prescription medication.

(f) The person does not have a pattern of running away or disappearing.

(g) The person is mentally impaired.

(h) There is evidence that a non-custodial parent may have abducted the person.

(i) The person has been the subject of past threats or acts of violence.

(j) There is evidence that the person is lost in the wilderness, backcountry or outdoors where survival is precarious and search and rescue efforts are critical.

(k) Any other factor the Department deems to indicate 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.

(l) There is sufficient evidence that a child is with a person who presents a threat of immediate physical injury to the child or physical or sexual abuse of the child.

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Missing - The status of a person following a report that he/she is missing and a preliminary investigation by a law enforcement agency determines the person cannot be located.

NCIC - The National Crime Information Center.

Sufficient Evidence - Facts and circumstance that would induce a reasonably prudent peace officer to believe that a crime has been or is about to be committed.

318.2 REPORT ACCEPTANCE

The Duluth Police Department shall accept missing person reports in person and should accept reports by telephone or other electronic means to the extent reasonable and practicable. Missing person reports shall be accepted without delay and a report shall not be refused based upon the following (Minn. Stat. § 299C.53 Subd. 1):

(a) The missing person is an adult.

(b) The circumstances do not indicate foul play.

(c) The person has been missing for a short period of time.

(d) The person has been missing for a long period of time.

(e) There is no indication that the missing person was in the jurisdiction served by this department at the time of the disappearance.

(f) The circumstances suggest that the disappearance may be voluntary.

(g) The reporting person does not have personal knowledge of the facts.

(h) The reporting person cannot provide all of the information requested by this department.

(i) The reporting person lacks a familial or other relationship with the missing person.

(j) For any other reason, except in cases where this department 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.

State statute requires the local law enforcement agency having jurisdiction over the location where a person has been missing or was last seen has the responsibility to take a missing person report from an interested party. If this location cannot be clearly and easily established, the local law enforcement agency having jurisdiction over the last verified location where the missing person last resided has the responsibility to take the report. In the event any circumstances delay a determination of which law enforcement agency has the responsibility to take a missing person report from an interested party, the Bureau of Criminal Apprehension shall offer prompt guidance to the agencies involved (Minn. Stat. § 299C.565).

Regardless of the statutory determinations of Minn. Stat. § 299C.565, in any instance where there is a disagreement over reporting responsibility that is not immediately resolved, it is the policy of this department to promptly commence taking and investigating a missing person report while concurrently pursuing guidance from the Bureau of Criminal Apprehension. Any

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investigation completed and information obtained in a case that is ultimately the responsibility of another jurisdiction shall be recorded in an incident report, including information regarding the determination of jurisdiction, and forwarded to the appropriate agency.

318.3 INITIAL RESPONSE AND INVESTIGATION

Patrol personnel should be assigned to handle the initial missing person report and to conduct a preliminary investigation involving additional resources as necessary (Minn. Stat. § 299C.53 Subd. 1 (b)).

The handling officer shall immediately contact such persons and, using interpretive services as reasonably necessary, make inquiries concerning the missing person and make an assessment of reasonable steps to be taken to locate the person. Initial investigation should include:

(a) Interview the persons who made the initial report, and if the person is a child, the child's parent(s) or guardian(s).

(b) Determine when, where and by whom the missing person was last seen.

(c) Interview the individual(s) who last had contact with the person.

(d) Obtain a detailed description of the missing person, abductor, vehicles and other pertinent information.

318.4 INVESTIGATIVE PROCEDURES AND DILIGENCE

If an initial investigation reveals that a person reasonably appears to be missing, further actions may be necessary. Determine from the information available whether a physical search is appropriate. In circumstances that appear to be an endangered missing person or missing children, each of the following actions should be performed:

(a) If a search is warranted, conduct a search of the home, building or other area/location where the incident took place and conduct a search including all surrounding areas. Obtain consent or a search warrant if necessary.

(b) If a search is not warranted or does not recover the missing person, additional investigation may be warranted:

1. A neighborhood/vehicle canvas.
2. Identification of persons at the scene and conducting separate interviews.
3. Documentation of actions, telephone communications and other activities.
4. Assigning an investigator or officer whose duties will include coordination of the investigation.
5. Involvement of media coverage.
6. Assigning a department liaison who shall check in with the family on a regular basis.

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During missing person investigations, the handling employee shall attempt to obtain the most recent photograph available of the missing person. The photograph(s) will be forwarded to the Bureau of Criminal Apprehension. These photograph(s) may be used for public information bulletins without written authorization (Minn. Stat. § 299C.54 Subd. 2 and Minn. Stat. § 299C.535).

318.4.1 INVESTIGATIVE RESOURCES AND SUPPORT

Additional support, investigative and supervisory assistance should be requested as reasonably necessary. Any support assistance should be properly briefed and updated on the investigation status.

The handling investigator is responsible for seeing that all appropriate law enforcement agencies in the state are promptly notified. If deemed appropriate, law enforcement agencies in adjacent states or jurisdictions should be provided with any information that may aid in the location and return of the missing or endangered person (Minn. Stat. § 299C.53 Subd. 3). If necessary, use the International Justice and Public Safety Network (NLETS), the Minnesota Crime Alert Network and MNJIS KOPS Alert to alert state, regional and federal law enforcement agencies.

318.4.2 INVESTIGATION OF MISSING AND ENDANGERED PERSONS

If it is determined the person is missing and endangered, the handling officer shall immediately (Minn. Stat. § 299C.53 Subd. 1 (b)):

(a) Ensure that identifying and descriptive information about the person and involved suspects and vehicles is immediately entered into the NCIC system for persons under 21 years of age (42 USC. 5779 (a)).

(b) Ensure the information is broadcast regionally, statewide and nationally, or solicit the assistance of the Bureau of Criminal Apprehension to make the broadcasts.

(c) Consult with the Bureau of Criminal Apprehension and request assistance as necessary.

(d) Secure the crime scene and/or last known position of the missing person and, if not already completed, attempt to identify and interview persons in the area at the time of the incident.

(e) Implement multi-jurisdictional coordination and mutual aid plans when necessary. Factors to consider include:

    1. Inadequate Department resources.
    2. The investigation crosses jurisdictional lines.
    3. Existence of pre-established task forces or investigative teams.

(f) Notify the family of the Minnesota Missing/Unidentified Persons Clearinghouse services available.

(g) Obtain and protect uncontaminated missing person scent articles for possible use by search canines.

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(h) Activate protocols for working with the media, including AMBER Alert and Minnesota Crime Alert Network.

For cases involving missing children the investigator shall comply with federal laws regarding the reporting and investigation of missing children cases (Minn. Stat. § 299C.53 Subd. 4).

318.4.3 SUPERVISOR RESPONSIBILITY

Once it is determined that the person is missing and endangered and the person was not found during the initial investigation, the watch commander or their designee must:

(a) Notify the BCA (M.S. 299C.53) at 1-800-832-6446 (Section IV); notify the Major Crimes Bureau;

(b) Instruct the communications center to enter the person in NCIC as missing; within two (2) hours of receiving the call from dispatch (U.S. Code, Title 42, Section 5781).

(c) Instruct the communications center to notify all appropriate law enforcement agencies in the state and, if deemed appropriate, law enforcement agencies in adjacent states and jurisdictions of any information that may aid in the prompt location and safe return of a missing and endangered person.

(d) An AMBER ALERT may be activated if the following criteria are met:

- A child 17 years of age or younger is abducted;
- There is reason to believe the victim is in immediate danger of physical injury, or physical or sexual abuse, and
- There is information available to disseminate to the general public which could assist with the safe recovery of the victim and/or the apprehension of the suspect.

When all of these conditions are met, the watch commander, or their designee, contacts the Minnesota Bureau of Criminal Apprehension at 1-800-832-6446. The BCA will need descriptive information about the child and the abductor. The BCA activates the MN Crime Alert Network (MCAN) and works in conjunction with the Duty Officer from the Division of Emergency Management to activate the alert over the State Emergency Alert System (EAS). The duty officer activates the EAS which immediately delivers the information to all participating radio and television stations. Stations are requested to broadcast the information every fifteen minutes for the first two hours, then every half hour for the next three hours. THE BCA must be immediately notified of the recovery of the child in order to cancel the AMBER ALERT.

318.5 REPORT HANDLING

Missing person reports require special handling and timely notifications. At any time a missing report is made the officer shall complete a dental and medical release form that will be provided to the reporting party. If the form is properly endorsed, the completed form shall be attached to the missing person report.

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Information that is not immediately available, is obtained later or updated shall be documented in a supplemental report to the original, as required. Entry into MJIS and NCIC databases shall be conducted as soon as reasonably possible by the handling investigator.

318.5.1 TELETYPE NOTIFICATIONS

When a missing person is under the age of 21, Dispatch shall send a teletype to the US Department of Justice and the NCIC within two hours after accepting the report (42 USC. § 5779(a) and 42 USC. § 5780(3)). To assist the Department of Public Safety, the teletype must note if the case involves an endangered person.

318.6 MISSING MORE THAN 30 DAYS

In any case where a person remains missing more than 30 days from entry into NCIC, the Department will prepare for release when contacted by the BCA Missing and Unidentified Persons Clearinghouse the following information for entry into appropriate databases, unless previously released:

(a) DNA samples from family members and, if possible, from the missing person.

(b) Dental information and X-rays.

(c) Additional photographs and video that may aid the investigation or identification.

(d) Fingerprints.

(e) Other specific identifying information.

If a person is still missing after 30 days, review the case file to determine whether any additional information received on the missing person indicates that the person is endangered, and update the record in NCIC to reflect the status change as soon as reasonably possible (Minn. Stat. § 299C.535).

318.6.1 SCHOOL NOTIFICATION

As necessary, the handling investigator will request that the school district in which a missing child is enrolled flag the pupil's records in such a manner that it is clear the record is that of a missing pupil. The school is responsible to flag the missing child's record and immediately notify law enforcement of an inquiry or request for the missing child's records (Minn. Stat. § 123B.08).

318.7 MISSING PERSONS LOCATED

When a missing person is located, the appropriate actions related to the type of recovery are required:

(a) When a missing person is located alive, the investigation may be concluded after completion of the following:

1. Verification that the located person is the reported missing person.

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2. Notify the family/reporting party that the missing person has been located. In adult cases, if the located adult permits the disclosure of their whereabouts and contact information, the family/reporting party may be informed of this information.
3. Cancel alerts (Minnesota Crime Alert, AMBER Alert), remove case from NCIC (Minn. Stat. § 299C.53. Subd. 2) and other information systems and remove posters and other publications from circulation.

(b) When a missing person is located deceased, additional investigation includes the following:

1. Secure the crime scene if this Department has jurisdiction.
2. Contact the coroner, medical examiner or forensic anthropologist to arrange for body recovery and examination.
3. Collect and preserve any evidence at the scene.
4. Cancel alerts and remove case from NCIC and other information systems, remove posters and other publications from circulation.

318.7.1 RECOVERED MISSING DATA ENTRY

When a missing person who was reported by another jurisdiction is located, Dispatch shall notify the original law enforcement agency having jurisdiction over the investigation. That agency shall cancel the entry from the NCIC computer (Minn. Stat. § 299C.53 Subd. 2).

When this department discovers that a missing person being handled by this department has been found, the Records Bureau shall cancel the NCIC entry (Minn. Stat. § 299C.53 Subd. 3). If a missing person under the age of 21 is located, the detective must ensure that a teletype is sent within 24 hours to the U.S. Department of Justice noting that information.

318.7.2 DECEASED FOUND TO BE A MISSING PERSON

If a deceased person has been identified as a missing person, the Bureau of Criminal Apprehension or this department shall attempt to locate family members and inform them of the death and location of the deceased missing person's remains. All efforts to locate and notify family members shall be recorded in appropriate reports and properly retained.

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Public Alerts and Missing and Endangered Persons

319.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for alerting the public to important information and soliciting public aid when appropriate.

319.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

319.2.1 STATUTE REQUIREMENTS

Release of information is controlled by Minnesota Legislation regarding Data Practices, Minnesota Statute Chapter 13.

319.3 RESPONSIBILITIES

319.3.1 EMPLOYEE RESPONSIBILITIES

Employees of the Duluth Police Department should notify their supervisor, Watch Commander or Major Crimes Unit Supervisor as soon as practicable upon learning of a situation where public notification, a warning or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person or gathering information.

319.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Chief of Police, the appropriate Deputy Chief and the Public Information Officer when any public alert is generated.

The supervisor in charge of the investigation to which the alert relates is responsible for the following:

(a) Updating alerts

(b) Canceling alerts

(c) Ensuring all appropriate reports are completed

(d) Preparing an after-action evaluation of the investigation to be forwarded to the Deputy Chief

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319.3.3 INCIDENTS INVOLVING OTHER AGENCIES

In instances involving other agencies, including the Medical Examiner, Duluth Fire Department, etc., information is only released by the Police Department's assigned Public Information Officer (PIO) or their designee. A coordinated release of information is most appropriate.

319.4 AMBER ALERTS

America's Missing: Broadcast Emergency Response (AMBER) Alert™ is the recruitment of public assistance to locate an abducted child via a widespread media alert. Utilizing the assistance of local radio, television and press affiliates, the public will be notified of the circumstances of a child's abduction and how it can assist law enforcement in the child's recovery. The goal of the AMBER Alert program is the safe return of an abducted child by establishing an effective partnership between the community, the media and law enforcement through the Minnesota Crime Alert Network (Minn. Stat. § 299A.61 Subd. 1).

319.4.1 CRITERIA

Any non-familial case in which an individual is abducted and the public can assist will trigger the activation of either the AMBER Alert and/or the Minnesota Crime Alert Network (MCAN) to inform the public and request its assistance in locating the individual.

Employees shall follow the requirements of the Bureau of Criminal Apprehension (BCA) and implement an AMBER Alert if both of the following criteria are met:

(a) A child 17 years of age or younger was abducted and there is reason to believe the victim is in imminent danger of serious bodily injury or death.

(b) There is information available to disseminate to the general public that could assist with the safe recovery of the victim and/or the apprehension of the suspect.

An AMBER Alert should not be activated if there is no information to distribute. In cases where the AMBER Alert criteria are not met, MCAN can be activated to notify the public and request information on the case.

319.4.2 PROCEDURE

The supervisor shall review the AMBER Alert checklist provided by the BCA to determine whether the abduction meets the AMBER Alert criteria. If the supervisor determines that the criteria are met, the supervisor shall contact the BCA Operations Center and provide the requested information using the following contact numbers:

- (651) 649-5451
- (800) 832-6446

In the event of a confirmed child abduction, whether or not an AMBER Alert is activated, procedures designed to alert the media should be followed.

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(a) The Public Information Officer, Watch Commander or Major Crimes Unit Supervisor will prepare an initial press release that includes all available information that might aid in locating the child, such as:

1. The child's identity, age and description.
2. Photograph if available.
3. The suspect's identity, age and description, if known.
4. Pertinent vehicle description.
5. Detail regarding location of incident, direction of travel, potential destinations, if known.
6. Whether there is reason to believe the suspect has a relationship to the victim.
7. Name and phone number of the Public Information Officer or other authorized individual to handle media liaison.
8. A telephone number for BCA to call for further information.
9. A telephone number for the public to call with leads or information.

(b) The Public Information Officer, Watch Commander or Major Crimes Unit Supervisor will notify the Communications Center at the BCA. After the information is checked, an AMBER Alert will be issued and the Minnesota Emergency Alert System (EAS) will be activated.

(c) Fax the press release to the local television and radio stations.

(d) The individual responsible for making notifications shall also consider the following resources, as the circumstances dictate:

1. Minnesota State Patrol (MSP)
2. FBI local office
3. Prompt entry of information into the U.S. Department of Justice National Crime Information Center Missing and Unidentified Person System (MUPS)
4. National Center for Missing and Exploited Children
5. Department Internet sites, communications and resources

(e) As additional information pertinent to the case becomes available, it shall be forwarded to BCA.

(f) The Major Crimes Unit supervisor investigating the abduction or other individual responsible for making notifications shall prepare and forward to the previously described locations, additional information regarding the search and investigation.

(g) Upon closure of the child abduction, the Major Crimes Unit Supervisor shall immediately notify BCA with the pertinent information.

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319.5 MINNESOTA CRIME ALERT NETWORK

MCAN is a statewide communications network that enables law enforcement agencies to quickly alert the public (Minn. Stat. § 299A.61). In cases where the AMBER Alert criteria are not met, MCAN can be activated to notify the public and request information on the case. Law enforcement agencies, businesses, schools and community members participate in the network.

319.5.1 CRITERIA

MCAN is available for disseminating information regarding the commission of crimes, including information on missing and endangered children or vulnerable adults, or attempts to reduce theft and other crime.

319.5.2 PROCEDURE

If a supervisor determines that a MCAN alert should be requested, the supervisor should contact the BCA Operations Center and provide the requested information using the following contact numbers:

- (651) 649-5451
- (800) 832-6446

319.6 MISSING AND ENDANGERED PERSONS

319.6.1 DEFINITIONS

(a) "Missing" means the status of a person after a law enforcement agency that has received a report of a missing person has conducted a preliminary investigation and determined that the person cannot be located. (M.S. 299C.52)

(b) "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 person is at risk of physical injury or death:

- the person is missing as a result of a confirmed abduction or under circumstances that indicate the person's disappearance was not voluntary;
- the person is missing under known dangerous circumstances;
- the person is missing more than 30 days;
- the person is under the age of 21 and at least on other factor in this paragraph is applicable;
- 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 needed care or medication;
- the person does not have a pattern of running away or disappearing;
- the person is mentally impaired;
- there is evidence that the person may have been abducted by a noncustodial parent;

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- the person has been the subject of past threats or acts of violence;
- there is evidence the person is lost in the wilderness, back-country, or outdoors where survival is precarious and immediate and effective investigation and search and rescue efforts are critical; or
- any other factor that he 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 missing and endangered.

319.6.2 INITIAL RESPONSE

Officers shall accept, without delay, any report of a missing person. The officer may not refuse to accept a missing person report on the basis that:

- the missing person is an adult;
- the circumstances do not indicate foul play;
- the person has been missing for a short period of time;
- the person has been missing for a long period of time;
- there is no indication that the person was in the jurisdiction of the Duluth Police Department at the time of the disappearance;
- the circumstances suggest that the disappearance may be voluntary;
- the reporting person does not have personal knowledge of the facts;
- the reporting person cannot provide all of the information requested by the officer;
- the reporting person lacks a familial or other relationship with the missing person; or
- for any other reason, except in cases where the officer 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 being made.

If a person is determined to be missing and endangered, officers must treat it as an in progress major crime and ensure that their shift sergeant is notified. Time is a serious factor and assistance must be summoned early in the investigation.

Once it is determined that the person is missing and endangered, the investigating officers must:

- locate and interview witnesses , parents, family members, etc. obtaining descriptive information about the person (including recent photographs) and abductor (if applicable);
- if appropriate search the last known location of the victim, including the victim's home to ensure that the person is not present and to determine if there is a potential for trace evidence (officers must be aware that the parents, family members, etc. could be suspects and take that into consideration prior to searching and ensure that they have consent, exigent circumstances, or consider a search warrant (Policy 322 ,# Search and Seizure);

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- broadcast descriptive information as soon as possible;
- determine if there is an identified crime scene and take control of it which may include requiring the victim family to depart from their residence.

The watch commander or their designee must:

- notify the BCA (M.S. 299C.53) at 1-800-832-6446 (Section IV);
- notify the Major Crimes Bureau;
- instruct the communications center to enter the person in NCIC as missing; within two (2) hours of receiving the call from dispatch (U.S. Code, Title 42, Section 5781);
- instruct the communications center to notify all appropriate law enforcement agencies in the state and, if deemed appropriate, law enforcement agencies in adjacent states and jurisdictions of any information that may aid in the prompt location and safe return of a missing and endangered person.

319.6.3 RECOVERY/CASE CLOSURE

When a missing and endangered person has been located, Investigators shall:

- verify that the person is the reported missing person;
- cancel alerts (Minnesota Crime Alert, AMBER Alert, etc), remove case from NCIC (as required by MN Statute 299C.53. Subd 2) and other information systems and remove posters and other publications from circulation;
- upon locating a missing and endangered person who was reported missing in another jurisdiction, officers shall instruct the communications center to notify the law enforcement agency having jurisdiction over the investigation, and that agency shall be responsible for making the appropriate cancellations;
- if appropriate, arrange for a comprehensive physical examination of the victim;
- conduct a careful interview of the person, document the results of the interview and involve all appropriate agencies;
- notify the family/reporting party that the missing person has been located (In adult cases, the disclosure of the person's whereabouts and contact information cannot be given out without their consent);
- depending on the circumstances of the disappearance, consider the need for reunification assistance, intervention, counseling or other services for either the missing person or family/reporting party;
- perform constructive post-case critique. Re-assess the procedures used and update the department's policy and procedures as appropriate;
- if applicable, the case will be prepared for prosecution as any other major felony;

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- if a deceased's remains are identified as a missing person, the Major Crime Bureau shall attempt to locate family members of the deceased person and inform them of the death and location of the deceased person's remains. All efforts to locate and notify family members shall be recorded in the Case Activity Log (CAL).

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Victim and Witness Assistance

320.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources, and that the agency meets all related legal mandates.

320.2 POLICY

The Duluth Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The employees of the Duluth Police Department will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

320.3 CRIME VICTIM LIAISON

The lead investigator shall serve as the crime victim liaison. The crime victim liaison will be the point of contact of individuals requiring further assistance or information from the Duluth Police Department regarding benefits from crime victim resources. This person shall also be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

320.3.1 SPECIFIC VICTIM LIAISON DUTIES

The crime victim liaison shall assist the Minnesota Crime Victims Reparations Board in performing its duties and ensure that the Records Bureau forwards copies of requested reports to the board or other authorized organizations within 10 days of receipt, in compliance with the Records Release and Security Policy. These reports include those maintained as confidential or not open to inspection under Minn. Stat. § 260B.171; Minn. Stat. § 260C.171 (Minn. Stat. § 611A.66).

320.4 CRIME VICTIMS

Officers should provide all victims with the applicable victim information handouts.

Officers will encourage victims and witnesses not to speak with the media prior to case resolution as it may jeopardize the investigation and the case prior to trial.

Officers should never guarantee a victim's safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Officers should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written department material or available victim resources.

320.5 VICTIM INFORMATION

The Administration Supervisor shall ensure that victim information handouts are available and current. These should include as appropriate:

(a) Shelters and other community resources for victims of domestic violence.

(b) Program for Aid to Victims of Sexual Assault (PAVSA).

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(c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams (42 USC § 3796gg).

(d) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.

(e) A clear explanation of relevant court orders and how they can be obtained.

(f) Information regarding available compensation for qualifying victims of crime.

(g) Resources available for victims of identity theft.

(h) A place for the officer's name, badge number and any applicable case or incident number.

(i) Notices and information regarding the rights of crime victims, domestic abuse victims, and offender release as detailed in the following:

1. Safe at Home address confidentiality program (Minn. Stat. 5B.03)
2. Offender release notification (Min. Stat. 244.052; Minn. Stat. 244.053; Minn. Stat. 611A.06; Minn. Stat. 629.73)
3. Tenancy issues (Minn. Stat. 504B.205; Minn. Stat. 504B.206)
4. Victim and specific domestic violence victim information/Minnesota CHOICE (Minn. Stat. 611A.02 et seq.; Minn. Stat. 629.341; Minn. Stat. 629.72)

(j) A notice that a decision to arrest is the officer's and the decision to prosecute lies with the prosecutor, even when a victim requests no arrest or prosecution.

(k) Contact information for the Office of Justice Programs and the Emergency Fund and Crime Victims Reparations .

320.6 WITNESSES

Officers should never guarantee a witness' safety from future harm or that his/her identity will always remain confidential. Officers may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

Officers should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable.

320.7 ADDITIONAL INFORMATION

See the Department's procedural standard of practice guidelines for more information.

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Bias/Hate Crimes

321.1 PURPOSE AND SCOPE

The Duluth Police Department recognizes and places a high priority on the rights of all individuals guaranteed under the constitution and the laws of this state. When such rights are infringed upon by violence, threats or other harassment, this department will utilize all available resources to see that justice is served under the law. This policy has been developed to meet or exceed the provisions of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, and provides members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

321.1.1 FEDERAL JURISDICTION

The federal government also has the power to investigate and prosecute bias-motivated violence by providing the U.S. Department of Justice with jurisdiction over crimes of violence where the perpetrator has selected the victim because of the person's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or disability (18 USC § 245).

321.2 DEFINITIONS

Bias/Hate Crime - Conduct that would constitute a crime and was committed because of the victim's or another's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or disability (see generally Minn. Stat § 611A.79 Subd. 1).

321.3 PREVENTING AND PREPARING FOR LIKELY HATE OR PREJUDICE CRIMES

While it is recognized that not all crime can be prevented, this department is committed to taking a proactive approach to preventing and preparing for likely bias/hate crimes by among other things:

(a) Officers should make an affirmative effort to establish contact with persons and groups within the community who are likely targets of hate crimes to form and cooperate with prevention and response networks.

(b) Providing victim assistance and follow-up as outlined below, including community follow-up.

(c) Educating community and civic groups relating to hate crime laws.

321.4 PROCEDURE FOR INVESTIGATING HATE OR PREJUDICE CRIMES

Whenever any member of this department receives a report of a suspected bias/hate crime or other activity that reasonably appears to involve a potential bias/hate crime, the following should occur:

(a) Officers will be promptly assigned to contact the victim, witness or reporting party to investigate the matter further as circumstances may dictate.

(b) A supervisor shall be notified of the circumstances as soon as practicable.

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(c) Once "in progress" aspects of any such situation have been stabilized (e.g., treatment of victims or apprehension of present suspects), the assigned officers will take all reasonable steps to preserve available evidence that may tend to establish that a bias/hate crime was involved.

(d) The assigned officers will interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a bias/hate crime.

(e) Depending on the situation, the assigned officers or supervisor may request additional assistance from investigators or other resources to further the investigation.

(f) The assigned officers will include all available evidence indicating the likelihood of a bias/hate crime in the relevant report(s). All related reports will be clearly marked as "Bias/Hate Crimes" and, absent prior approval of a supervisor, will be completed and submitted by the assigned officers before the end of the shift.

(g) The assigned officers should make reasonable efforts to assist the victim(s) by providing available information on local assistance programs and organizations as required by the Victim Assistance Policy.

(h) The assigned officers and supervisor should take reasonable steps to ensure that any such situation does not escalate further and provide information to the victim regarding legal aid, e.g., a possible Temporary Restraining Order through the courts, prosecuting attorney or City Attorney.

321.5 MAJOR CRIMES UNIT RESPONSIBILITIES

If a case is assigned to the Major Crimes Unit, the assigned investigator will be responsible for following up on the reported bias/hate crime as follows:

(a) Coordinating further investigation with the prosecuting attorney and other appropriate law enforcement agencies, as appropriate.

(b) Maintaining contact with the victim(s) and other involved individuals as needed.

(c) Maintaining statistical data and tracking of suspected hate or prejudice crimes as indicated or required by state law.

321.5.1 STATE HATE CRIME REPORTING

This department shall report bias/hate crime offenses in the form and manner and at regular intervals as prescribed by rules adopted by the Department of Public Safety. This shall be conducted by the Records Supervisor (Minn. Stat § 626.5531 Subd. 1). Reports are required to include:

(a) The date of the offense.

(b) The location of the offense.

(c) Whether the target of the incident was a person, private property or public property.

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(d) The crime committed.

(e) The type of bias and information about the offender and the victim that is relevant to that bias.

(f) Any organized group involved in the incident.

(g) The disposition of the case.

(h) Whether the determination that the offense was motivated by bias was based on the officer's reasonable belief or on the victim's allegation.

(i) Any additional information the superintendent deems necessary for the acquisition of accurate and relevant data.

321.5.2 FEDERAL HATE CRIME REPORTING

The Records Supervisor shall send to the BCA all Bias/Hate Crime Reports.

321.6 TRAINING

All members of this department will receive training on bias/hate crime recognition and investigation and will attend periodic training that incorporates a bias/hate crime training component (Minn. Stat § 626.8451 Subd. 1 and 4).

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Civil Disturbances/Labor Disputes

322.1 PURPOSE AND SCOPE

It is the responsibility of the Department to preserve the peace while protecting the rights of individuals to peacefully assemble and exercise free speech. The Department will only intervene when necessary and will take the least intrusive action necessary to maintain the peace. Officers will make reasonable efforts to employ non-arrest methods of crowd control but, when necessary, shall make arrests for violations of the law. Arrests should be non-custodial if possible.

Officers shall display a neutral attitude for any civil disturbance, or labor dispute. Participants should be advised of their rights and any activities that would be deemed unlawful in order to preclude the need for arrests or enforcement action.

322.2 DEFINITION

A civil disturbance is an action by any group or gathering that poses a substantial threat to peace, life, or property, or any tumultuous or violent activity that creates a grave risk of causing public alarm.

322.3 PROCEDURE

322.3.1 INITIAL RESPONSE

The district patrol squad and a shift sergeant are responsible for the initial response to a civil disturbance. The Watch Commander needs to be notified of the following as soon as possible:

- The number of participants;
- Identification of the leaders, contact information, and the purpose of the demonstration;
- Identification of complainant and desired police action;
- Potential for violence or disruptive behavior;
- Any observed or alleged criminal violations; and
- Any need for additional equipment (barricades, personnel, etc.)

In the initial response to a labor dispute the watch commander, or his designee, contacts management and labor officials directly. The purpose is to avoid any potential conflict between the groups by explaining their rights and restrictions. This communication should continue throughout the dispute.

322.3.2 WATCH COMMANDER'S RESPONSIBILITIES

The Watch Commander, or his designee, is responsible for continued monitoring of the situation and the Department's operational response. As necessary the Watch Commander will:

- Set up a command post;
- Designate a radio channel for all communications concerning the disturbance;

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- Initiate a request for mutual aid in accordance with Policy 328;
- Determine necessary traffic control;
- Ensure necessary equipment is obtained;
- Notify Command Staff through the Command Incident Notification process.

The Watch Commander may delegate any of the above activities but remains responsible for each of them being addressed as necessary.

322.3.3 LONG TERM OPERATIONAL PLANS

Prolonged events require the designation of an individual to be responsible for operational plans. This individual communicates plans, contact information, and other necessary information though the Command Incident Notification process. This eliminates the duplication of effort and ensures a consistent response by the Department. Shift sergeants are to be included in the distribution.

322.3.4 PUBLIC INFORMATION

The Watch Commander, or his designee, will be in charge of all information disseminated by the Department. Other personnel asked for information on the incident may only provide information on the time and location of the press conference. The release of information is regulated by Policy 346 - News Media Relations.

322.3.5 DE-ESCALATION/POST OCCURRENCE

The Watch Commander is responsible for reducing the number of personnel at the scene and those involved in related tasks, as the need for them subsides. Some security may need to be provided after the crowd has been dispersed.

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Conduct Policy

323.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of this department and are expected of its members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning member conduct. Members are also subject to provisions contained throughout this manual as well as any additional guidance on conduct that may be disseminated by the Department or the member's supervisors. This policy incorporates the elements of the Peace Officer Standards and Training Board (POST) Model Policy regarding the professional conduct of peace officers. However, this policy shall apply to all employees of this department (including volunteer, part-time and auxiliary employees).

The provisions of this policy are in addition to collective bargaining agreements or any other applicable law (see generally Minn. R. 6700.1500).

The Department shall report annually to POST data regarding the investigation and disposition of cases involving alleged misconduct of officers (Minn. Stat. § 626.8457, Subd. 3).

323.2 CONDUCT POLICY

The continued employment of every employee of this department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure of any employee to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action (see generally Minn. R. Ch. 6700.2000 to Minn. R. Ch. 6700.2600).

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may materially affect or arise from the employee's ability to perform official duties, that it may be indicative of unfitness for his/her position or that brings discredit or harm to the professional image or reputation of the Department, its members, the City or the law enforcement profession.

Any disciplinary actions against officers arising from violations of this policy shall be investigated in accordance with the Internal Investigations Policy and the Peace Officer Discipline Procedures Act (Minn. Stat. § 626.89).

323.2.1 LAWFUL ORDERS

Employees shall comply with lawful directives and orders from any supervisor or person in position of authority absent a reasonable and bona fide excuse.

An employee who believes any written or verbal order to be in conflict with another order or unlawful shall:

(a) Immediately inform the supervisor issuing the order, the employee's immediate supervisor or the Watch Commander of the conflict or error of the order.

(b) Provide details explaining the grounds for the belief of the conflict or error of the order.

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(c) Request clarification, guidance and direction regarding following the order.

(d) Request the order in writing should the conflict or error be unresolved.

(e) Respectfully inform the supervisor if he/she intends to disobey what he/she reasonably believes to be an unlawful order.

An employee's election to disobey an order he/she believes to be unlawful is not a bar to discipline should the order be determined as lawful.

323.3 CONDUCT THAT MAY RESULT IN DISCIPLINE

The following causes for disciplinary action constitute a portion of the disciplinary standards of this department. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient department service.

Employees 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.

Employees shall refrain from any conduct in an official capacity that detracts from the public's faith in the integrity of the criminal justice system. Police officers shall not, whether on or off duty, exhibit any conduct which discredits themselves or their department or otherwise impairs their ability, the ability of other officers, or the department to provide law enforcement services to the community.

Any of the following actions may be deemed sufficient cause for the discipline, discharge, suspension, demotion or removal of any employee:

(a) Failure to abide by the standards of ethical conduct for employees, including fraud in securing appointment or hire.

(b) Activity that is incompatible with an employee's conditions of employment established by law or that violates a provision of any agreement or contract.

(c) Violation of any rule, order, requirement or the failure to follow instructions contained in Department or City manuals.

(d) Willful disobedience to any legal order properly issued by any superior officer of the Department.

(e) Willful neglect of duty, including failure or refusal to perform a known mandatory, non-discretionary, ministerial duty of the office or employment within the time or in the manner required by law to perform (Minn. Stat. § 609.43 (1)).

(f) Dissemination of non-public data.

(g) Unreasonable and unwarranted violence to a person encountered or person under arrest.

(h) Under pretense or color of official authority intentionally and unlawfully injures another in the other's person, property or rights (Minn. Stat. § 609.43 (3)).

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(i) Use of obscene, profane or derogatory language while on-duty or in uniform.

(j) Unauthorized attendance while on-duty at official legislative or political sessions or functions.

(k) Willful and inexcusable destruction or loss of Department property.

(l) Violations of federal, state, local or administrative laws that are willful or inexcusable or involve moral turpitude, including violations of Minn. R. Ch. 6700.1600.

(m) Commits any act in an official capacity knowing it is excess of authority or forbidden by law (Minn. Stat. § 609.43 (2))

(n) Any on- or off-duty conduct that any employee knows or reasonably should know is unbecoming a member of the Department or that is contrary to good order, efficiency or morale, disgraceful or that tends to reflect unfavorably upon the Department or its members.

323.3.1 ATTENDANCE

(a) Leaving the job to which assigned during duty hours without reasonable excuse and proper permission and approval.

(b) Tardiness on scheduled day(s) of work.

(c) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

(d) Failure to notify the Department within 72 hours of any change in residence address, phone number or emergency contact information.

(e) Unauthorized absence from duty or abuse of leave privileges.

323.3.2 GENERAL CONDUCT

(a) Any failure or refusal of an employee to properly perform the function and duties of an assigned position.

(b) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily injury on another.

(c) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment without first notifying the Chief of Police of such action.

(d) Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while onduty, on Department or City property or while in any way representing him/herself as a member of this department, except as expressly authorized by the Chief of Police.

(e) Engaging in political activities during assigned working hours except as expressly authorized by the Chief of Police.

(f) Failure to maintain required and current licenses (e.g. driver's license, POST license) and certifications (e.g. first aid).

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(g) Establishing an inappropriate social relationship with a known victim, witness, suspect or defendant of a Department case while such case is being investigated or prosecuted as a result of such investigation.

(h) Using Department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

(i) Engaging in horseplay resulting in injury or property damage or the reasonable possibility thereof.

(j) Unauthorized possession of, loss of or damage to Department property or the property of others, or endangering it through unreasonable carelessness or maliciousness.

(k) Failure of any employee to promptly and fully report activities on his/her part or the part of any other employee where such activities may result in criminal prosecution or discipline.

(l) Failure of any employee to promptly and fully report activities that have resulted in official contact by any other law enforcement agency.

(m) Using or disclosing one's status as an employee with the Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-Department business or activity.

(n) The use of any not public data obtained or accessed as a result of employment with the Department for personal or financial gain or without the express authorization of the Chief of Police or a designee may result in discipline.

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

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

(q) Employees shall not make referrals to specific attorneys, bail bondsmen, towing services or other businesses, or in other ways show a preference for any business while performing on-duty services.

(r) On-duty officers shall be armed at all times anytime they are outside of headquarters, with exceptions approved by their unit leader. Weapons must conform to Department specifications.

(s) All sworn uniform personnel are required to carry their badges, handcuffs, and chemical aerosol while on duty or in uniform. Plainclothes officers must carry their badges, handcuffs, and Department issued identification when on-duty. It is strongly recommended that plainclothes officers carry chemical aerosol while on duty. Exceptions may be made if the nature of the assignment necessitates.

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(t) Employees shall not allow any person to enter a police facility to sell goods or services, to offer them for sale, or to canvas or solicit for any purpose without authorization from the Station Commander.

(u) Except while engaged in undercover operations, all employees shall identify themselves by name and/or badge number when on-duty upon request.

323.3.3 DISCRIMINATION, OPPRESSION, HARASSMENT OR FAVORITISM

(a) Discriminate against, oppress or provide favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, national origin, ancestry, marital status, physical or mental disability or medical condition or intentionally deny or impede another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

(b) Discourteous, disrespectful or discriminatory treatment toward any member of the public or any member of this department.

(c) Intentionally subjecting another to sexual harassment.

(d) Racial profiling (Minn. Stat. § 626.8471 Subd. 2).

323.3.4 INTOXICANTS

(a) Reporting for work or being at work following the use of intoxicants where such use may impair the employee's ability to perform assigned duties or where there is an immediate suspicion of ineffectiveness during public contact resulting from the use of intoxicants.

(b) Unauthorized possession or use of, or attempting to bring intoxicants to the work site, except as authorized in the performance of an official assignment. An employee who is authorized to consume intoxicants is not permitted to do so to such a degree that it may impair on-duty performance.

(c) Reporting for work or being at work following the use of a "controlled substance" or any drug (whether legally prescribed or otherwise) where such use may impair the employee's ability to perform assigned duties without prior notification of a supervisor.

(d) Unauthorized possession, use of or attempting to bring a controlled substance or other illegal drug to any work site.

323.3.5 PERFORMANCE

(a) Sleeping during on-duty time or assignments without permission.

(b) Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned.

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

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(d) Concealing, attempting to conceal, removing or destroying defective or incompetent work.

(e) Disobedience or insubordination to constituted authorities, including refusal or deliberate failure to carry out or follow lawful directives and orders from any supervisor or person in a position of authority.

(f) The wrongful or unlawful exercise of authority on the part of any employee for malicious purpose, personal gain, willful deceit or any other improper purpose.

(g) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Department or subverts the good order, efficiency and discipline of the Department or that would tend to discredit any member thereof.

(h) The falsification of any work-related records, the making of misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any Department record, public record, book, paper document (Minn. Stat. § 609.43 (4)).

(i) Wrongfully loaning, selling, allowing unauthorized use, giving away or appropriating any Department badge, uniform, identification card or property for personal use, personal gain or any other improper or unauthorized use or purpose.

(j) Carrying, while on the premises of the workplace, any firearm or other deadly weapon that is not required for the performance of the employee's current job duties or authorized by his/her appointing authority.

(k) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties (lawful subpoena fees and authorized work permits excepted).

(l) Any knowing or negligent violation of the provisions of the Department manual, operating procedures or other written directive of an authorized supervisor. The Department shall make this manual available to all employees. Employees shall familiarize themselves with and be responsible for compliance with this manual and each of the policies contained herein.

(m) Work-related dishonesty, failure to disclose, being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm or destroy the reputation, authority or official standing of the Department or members thereof, misrepresenting material facts, including upon or within any application, examination form or other official document, report or form, or during the course of any investigation, including failure to participate in any Department-related investigation or business.

(n) Violating a law related to employment or any misdemeanor or felony statute; involvement in any criminal, dishonest, infamous or disgraceful conduct adversely affecting the employee/employer relationship, whether on- or off-duty, including associating with, or joining a criminal gang, organized crime and/or criminal syndicate, security threat group or persons who engage in serious violations of state or federal laws when an employee knew or

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reasonably should have known of the criminal nature of the organization, except as specifically directed and authorized by the Department.

(o) Attempted or actual theft of Department property, misappropriation or misuse of public funds, property, personnel or services or the property of others or the unauthorized removal or possession of Department property or the property of another person.

(p) Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved Department practices or procedures.

(q) Offer or acceptance of a bribe or gratuity.

(r) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.

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

1. While on department premises
2. At any work site
3. While on-duty or while in uniform
4. While using any department equipment or system

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

323.3.6 SAFETY

(a) Failure to observe posted rules, signs and written or oral safety instructions while on-duty and/or within Department facilities or to use required protective clothing or equipment.

(b) Knowingly failing to report any on-the-job or work-related accident or injury within 24 hours.

(c) Substantiated employee record of unsafe or improper driving habits or actions in the course of employment.

(d) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.

(e) Any personal action contributing to involvement in a preventable traffic collision, or other unsafe or improper driving habits or actions in the course of employment.

(f) Violating Department safety standards or safe working practices.

323.3.7 SECURITY

(a) Unauthorized, intentional release of designated confidential, private, non-public or protected non-public data.

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323.3.8 SUPERVISOR RESPONSIBILITIES

If an employee's conduct is a cause of action for discipline, the supervisor shall inform the employee promptly and specifically of the improper conduct.

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

(a) Failure to take appropriate action to ensure that employees adhere to the policies and procedures of this department and that the actions of all personnel comply with all laws.

(b) Failure of a supervisor to report in a timely manner any known misconduct of an employee to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.

(c) The unequal or disparate exercise of authority on the part of a supervisor toward any employee for malicious or other improper purpose.

323.3.9 USE OF INFLUENCE

Officers are prohibited from using their influence to effect the investigation, charging, or prosecution of an individual unless they are assigned to, or involved in the case. This prohibits discussing a case in which they are not involved, with other officers or prosecutors in an effort to affect the outcome of the investigation and/or prosecution. This does not prevent officers from engaging in the free expression of speech in their capacity as private citizens

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Department Technology Use

324.1 PURPOSE AND SCOPE

This policy describes the use of Department computers, software and systems.

324.1.1 PRIVACY POLICY

Any employee utilizing any computer, electronic storage device or media, Internet service, telephone service, information conduit, system or other wireless service provided by or funded by the Department expressly acknowledges and agrees that the use of such service, whether for business or personal use, shall remove any expectation of privacy the employee, sender and recipient of any communication utilizing such service might otherwise have, including as to the content of any such communication. The Department also expressly reserves the right to access and audit any and all communications, including content that is sent, received and/or stored through the use of such service.

324.2 DEFINITIONS

The following definitions relate to terms used within this policy:

Computer System - Includes all computers (on-site and portable), MDC hardware, software and resources owned, leased, rented or licensed by the Duluth Police Department, that are provided for use by Department employees.

Hardware - Includes, but is not limited to, computers, computer terminals, network equipment, modems or any other tangible computer device generally understood to comprise hardware.

Software - Includes, but is not limited to, all computer programs and applications including shareware. This does not include files created by the individual user.

Temporary File or Permanent File or File - Includes any electronic document, information or data residing or located, in whole or in part, on the system, including but not limited to spreadsheets, calendar entries, appointments, tasks, notes, letters, reports or messages. Such data is classified as government data under the Minnesota Government Data Practices Act and shall be treated as such by all employees.

324.3 SYSTEM INSPECTION OR REVIEW

There is no expectation of privacy regarding files contained in or on Department computers or systems. A Department designee has the express authority to inspect or review the system, any and all temporary or permanent files and related electronic systems or devices and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

When requested by an employee's supervisor, or during the course of regular duties requiring such information, a member(s) of the agency's information systems staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the system.

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Reasons for inspection or review may include, but are not limited to, system malfunctions, problems or general system failure, a lawsuit against the agency involving the employee or related to the employee's duties, an alleged or suspected violation of any Department policy, request for disclosure of data, or a need to perform or provide an agency service.

324.4 AGENCY PROPERTY

All information, data, documents and other entries initiated on any of the agency's computers, whether downloaded or transferred from the original agency computer, shall remain the exclusive property of the Department and shall not be available for personal or non-Department use without the express written authorization of an employee's supervisor.

324.5 UNAUTHORIZED DUPLICATION OF SOFTWARE

Employees shall not copy or duplicate any copyrighted and/or licensed software except for a single copy for backup purposes. To reduce the risk of an agency computer virus infection, employees are not permitted to install personal copies of any software onto the computers owned or operated by the Department. If an employee must copy data onto a disk and download it on a non-Department computer, the employee shall scan the disk for viruses before reloading the data on the Department computer system.

No employee shall knowingly make, acquire or use unauthorized copies of computer software not licensed to the Department while on Department premises or on the Department computer system. The Department and individuals can be subject to civil damages per title copied, along with criminal penalties, including fines and imprisonment. Individuals who violate this policy may also be subject to discipline.

324.6 INTRODUCTION OF SOFTWARE

Introduction of software by users should only occur as a part of the automated maintenance or update process of Department or City-approved or installed programs by the original manufacturer, producer or developer of the software. Any other introduction of software requires prior authorization by the IT Department.

324.7 PROTECTION OF DEPARTMENT SYSTEMS AND FILES

All employees have a duty to protect the system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care and maintenance of the system.

It is expressly prohibited for an employee to allow an unauthorized user to access the system at any time or for any reason.

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Preliminary Investigation/Required Reports

325.1 PURPOSE AND SCOPE

Preliminary investigations vary widely from case to case. The scope of preliminary investigation may be limited by investigative policy or by an officer's workload. Officers should continue a preliminary investigation if there is a viable lead, but shall not delay the investigation to the point where it will jeopardize the investigation.

Timely and thorough preliminary investigations are essential to tracking crime patterns and trends; influencing the development of policing plans and the deployment of police resources necessary for effective and efficient problem solving and crime prevention.

The Department relies on real time records to guide intelligence-led policing efforts; focusing on developing actionable criminal intelligence, analysis of crime trend data, timely communication to stakeholders and effective operational responses to problem solve and reduce crime.

325.1.1 POLICY

Preliminary investigations are the responsibility of patrol officers. The Department prefers that officers speak to victims and witnesses in person. Non-verbal information can be an important factor in many investigations, but is lost when interviews are conducted over the phone. The gathering of physical evidence and observations by the investigating officer may also be compromised. A phone response to calls for service is acceptable if the incident is of a minor nature and the phone response does not compromise the quality of the response, including the quality of information gathered and evidence collection. Crimes of violence and crimes against persons shall not be investigated over the phone.

Officers conducting all criminal investigations will, whenever possible, record oral victim and witness statements in lieu of written statements. Statement evidence obtained during an initial investigation can be very powerful evidence in determining the course of an investigation; ultimately impacting charging decisions and convictions.

It is not necessary to advise a victim or witness that their statement is being recorded. Officers should use discretion when determining the best method of recording depending on the circumstances of the event. For example with cases of domestic or sexual violence, a discrete and low profile approach to recording would be appropriate in an effort not to add to the distress the victim may already be experiencing.

325.2 PRELIMINARY INVESTIGATIONS

The preliminary investigation consists of:

- Locating, identifying, and interviewing victim/complainant and witnesses; including full name, date of birth, address, place of employment, work and home phone
- Neighborhood canvas if appropriate
- Statements of all involved persons and witnesses

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- Observations of conditions at the scene
- Events observed
- Interviewing the suspect if appropriate
- Maintaining the crime scene and protecting evidence
- Collecting evidence if an evidence technician does not respond
- Effecting the arrest of the suspect, if appropriate
- Documenting the incident fully and accurately
- Notifying any other jurisdiction that may be effected by the incident

325.2.1 CONTINUED INVESTIGATIONS BY PATROL

Patrol officers shall conduct continued investigations when:

- There is a reasonable chance of apprehending the suspect
- It is necessary to prevent further criminal conduct; and/or
- Information or evidence will deteriorate if the investigation is delayed

Officers are expected to continue investigations in the above circumstances. Officers are encouraged to continue investigations which do not fall into the above categories, as time and duties permit. CAL entries must be made on continued investigative activities to eliminate a duplication of effort.

Supervisory approval should be obtained when officers need additional time or must leave their district for further investigation.

325.2.2 AT MAJOR CRIME SCENES

The nature of some crimes requires specialized and in-depth investigation. The following incidents may require on-scene investigative assistance:

- Arson
- Armed robbery
- Death scenes
- Felony assault
- Kidnapping
- Sexual assault
- Serial crimes
- Major or multiple burglaries
- Major traffic crashes/CVO

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- Domestics

Investigating officers will notify their shift sergeant in the above listed instances and of any felony cases they respond to. The shift sergeant will determine the need for assistance. In some circumstances officers can directly contact an appropriate investigator for consultation.

325.2.3 SOLVABILITY FACTORS-ASSESSMENT

After an officer has completed an initial investigation, the case will be assessed as to the likelihood of the crime being solved through continued investigation. This assessment is done by the initial investigating officer through the use of the Solvability Factor Matrix.

Solvability Factors are defined as: "Elements of information about a crime which have proven in the past to be important in the successful conclusion of a case. Case screening is designed to provide sufficient information about a case at the earliest possible time in the investigative process in order to permit a decision to be made regarding the value of continuing an investigation. These solvability factors are weighted in order to help officers decide how to move cases through the department, based on the determination that some information obtained in a case is more valuable toward a successful conclusion than other information."

Solvability factors include, but are not limited to the following:

(a) Reliable witness (3); Individual with factual information regarding crime elements

(b) Suspect names (5); Actual identity has been determined

(c) Suspect described (2); Description is adequate to separate suspect from others

(d) Suspect Location (2); Residence, locations frequented or other known location

(e) Suspect identified (2); Identity can be determined by photo images or line-up

(f) Suspect previously seen (1); Victim/witness has seen suspect before

(g) Suspect vehicle described (2); License #, make, model, color, or distinctive identifiers

(h) Traceable property (1); Serial #, owner applied marks, damage, or unique description

(i) Significant modus operandi (1); Distinct pattern or method linking suspect to multiple crimes

(j) Usable physical evidence (2); Significant physical evidence collected

(k) Limited opportunity for anyone other than suspect to commit the crime (1); Evidence eliminates other potential suspects

The numbers in parenthesis represent the point value assigned to that category; a total of 5 points is needed for a case to remain in an "open" status.

325.2.4 DISPOSITION

Officers will advise the complainant of the anticipated disposition of the case ("open" or "suspended") and of the complainant's role in the investigation. A complainant will be advised that

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their case may be suspended if the solvability assessment totals less than five. A complainant will be advised that the case may remain open for further investigation if the total is five or above.

Officers should provide the complainant with a completed INFORMATION CARD. The INFORMATION CARD contains the officer's name and badge number, and information about applicable services available to them. Additional information, such as the case number, phone numbers to call to provide additional information or to check the case status will also be provided. Information is verbally provided to explain what to do if the victims or witnesses are threatened by the perpetrators, and what steps may be taken to resolve the incident. It is important for the officer to communicate to a complainant that case status can change if additional information comes to light.

325.3 REPORTS

Officers are required to complete all narrative reports and property reports on incidents they are assigned prior to the end of shift. Prior supervisory authorization must be obtained if completion of a report is delayed. Officers are also required to make appropriate CAL entries regardless of the case status. This is done to insure that any potential crime patterns or trends are not over looked. CAL entries should provide details as to type of crime, time of day, place of occurrence and information relating to the solvability factors used.

Officers must include in their reports adequate reference to all material evidence and facts which are reasonably believed to be exculpatory to any individual in the case. If an officer learns of potentially exculpatory information any time after submission of the case, the officer must notify the prosecutor as soon as practical.

Evidence or facts that are considered material if there is a reasonable probability that they may impact the result of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. An officer who is uncertain whether evidence or facts are material should address the issue with a supervisor.

325.3.1 FOLLOW UP INVESTIGATION

Officers are encouraged to do follow-up investigations. The Officer, who will be doing follow-up on a case, must do a CAL entry indicating that they will be doing follow-up. In addition to a CAL entry, a HEADER and SYNOPSIS report is required. Any follow-up documentation is done in the form of a SUPPLEMENTAL REPORT.

325.3.2 ARREST REPORTS

In addition to arrest reports, all in-custody arrests (adult and juvenile) require the completion of an APPLICATION FOR JUDICIAL DETERMINATION FOR PROBABLE CAUSE TO DETAIN (48 hour hold) Arrests for warrants with no additional charges only require appropriate CAD notes.

Arrest reports must be completed for:

- Felony arrests
- Gross misdemeanor arrests

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- Non-traffic misdemeanor arrests
- Some misdemeanor traffic arrests

325.3.3 OTHER REPORTS
All other reports such as crash reports or other hand-written or electronic reports must be completed prior to the end of the Officer's four-day rotation or as otherwise directed. Prior supervisory authorization must be obtained if completion of a report is delayed.

325.3.4 INCIDENT REPORTS
INCIDENT REPORTS must be completed for:

- State Mandated Reports

Minn. Stat. § 626.5531 mandates that police officers must report all crimes motivated by bias (race, religion, national origin, sex, age, disability, or characteristics identified as sexual orientation). If the officer or the victim believes the crime was motivated by bias, the State of Minnesota "Bias Offense Report" must be completed. The form is located on the I-drive. The completed form is sent to the Records Services Unit (RSU). The reporting officer should note in the narrative report that the form was completed. The RSU personnel routing reports will make a CAL entry (MNRPT) noting the form was completed and sent to the State.

325.3.5 WARRANT ARREST PROCEDURES
Officers arresting an individual on a warrant that encounter no resistance, and there are no additional charges may make CAD notes in the following manner using the "Attach Info" function, in the following order, separated by semi- colons:

- Start the entry with WARRANT/NR/SDL; (NR €# no resistance, SDL-handcuffs spaced and double locked)
- Race of arrested person (B,W,A,I)
- Sex of arrested person (M/F)
- School
- Employer
- Next of kin in parenthesis (mother, father, spouse,) followed by full name (L, F M), and DOB and NOK
- Home address
- Phone number
- Originating agency for the warrant
- Originating Agency Case Number
- Click the "Attach Info" button

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Code the disposition "Jail".

325.4 REPORT DICTATION AND ROUTING

Reports are to be dictated in the following order:

- Header
- Name type
- Synopsis
- Narrative

Name type: spell-out the name and give DOB the first time the name is mentioned in the name type format.

- Last, first, middle; pronounced then spelled

Synopsis and Narrative: spell out the name and give the DOB the first time the name is mentioned.

- First, middle, last: pronounced then spelled

Dictation: dictate and download the report in the digital dictation system. Paperwork is placed in the appropriate bin, organized as follows, from the top of the packet down:

- Citation
- St. Louis County Jail Request for Commitment
- Remainder of paperwork in no particular order

325.5 UNIT LEADERS

Unit leaders are responsible for reviewing and tracking the investigations and reports completed by officers assigned to their unit. Public confidence and perception is partially formed by the thoroughness of reports which are reviewed by members of the criminal justice community and the public. The supervisory review of reports and citations (except parking citations) is critical to maintaining complete and accurate records.

325.5.1 WRITTEN REPORTS AND CITATIONS

When a report or citation is handwritten by an officer, the officer must turn the report into a Shift Report bin for supervisory review. The Shift Sergeant must review the report for:

- Full name and date of birth of all mentioned persons
- Complete address including zip code
- Complete phone numbers (home, work, cellular) including area code
- Detailed narrative and statement of probable cause (if required)
- Completeness (all blanks completed)

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Incomplete or inaccurate reports are returned to the officer by the Shift Sergeant for corrections. Acceptable reports are initialed by the approving Shift Sergeant and forwarded to the appropriate unit, Records Support Unit, or to the Court.

325.5.2 DICTATED REPORTS

Officers will receive a copy of their dictated reports via email. They will make corrections and forward the corrected report in electronic WORD document form to unit folder located in the 'I' -Drive, for unit leaders who will review it for completeness. Officers should diligently complete timely review and correction of draft reports so final approval will be without delay.

Supervisors should review reports for:

- Full name and date of birth on all persons mentioned
- Complete addresses, including zip codes
- Complete phone numbers (home, work, cellular) including area code
- Detailed synopsis including call type, noteworthy names, final disposition (jail, detox, tag, rpt, etc.) charges, Miranda read and suspect response
- Chronological narrative describing the investigation in detail, the arrest and/or facts constituting probable cause, and a foundation for further investigation
- Supervisors should diligently complete timely review of officer draft reports so final approval will be without delay and should not extend past a four-day rotation.

Incomplete/inaccurate reports are returned to the officer by the Supervisor. Approved reports are placed in the approved folder located in the 'I'-Drive.

Subsequent to Supervisors approval, reports are downloaded into Shield and are available to anyone with proper access. Cases requiring follow-up are referred to the appropriate unit via CAL referral. Cases of interest to a particular unit, but not sent for further investigation or assignment purposes are also referred to that unit via a CAL referral by either the Officer or the Supervisor.

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News Media Relations

326.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

326.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police. However, in situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Deputy Chiefs, Command Staff, Watch Commanders and designated Public Information Officer(s) may prepare and release information to the media in accordance with this policy and the applicable law.

326.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the designated Department media representative, or if unavailable, to appropriate Command Level Staff. Prior to releasing any information to the media, employees shall consider the following:

(a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor, Public Information Officer, Command Level Staff or Chief of Police.

(b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.

(c) Under no circumstance should any member of this department make any comment(s) to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police.

326.3 MEDIA ACCESS

Authorized members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions:

(a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.

(b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.

    1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the department Public Information Officer or other designated spokesperson.

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(c) No member of this department shall be required to submit to media visits or interviews without the consent of the involved employee.

(d) Media interviews with individuals who are in custody shall not be permitted unless in compliance with a jail facility policy. Exceptions are only permitted with the approval of the Chief of Police and the express written consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Public Information Officer.

326.3.1 TEMPORARY FLIGHT RESTRICTIONS

Whenever the presence of media or other aircraft poses a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR § 91.137).

326.3.2 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception, the Chief of Police will consider, at minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person or is otherwise prohibited by law.

326.4 SCOPE OF INFORMATION SUBJECT TO RELEASE

The Department will provide information on significant law enforcement activities upon request to media representatives through the Public Information Officer. This log will consist of data classified as public and should generally contain the following information (Minn. Stat. § 13.82 Subds. 2, 3 and 6):

(a) The date, time, location, case number, type of crime, extent of injury or loss and names of individuals (except confidential informants) involved in crimes occurring within this jurisdiction, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.

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(b) The date, time, location, case number, name, birth date and charges for each person arrested by this department, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.

(c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law.

At no time shall identifying information pertaining to a juvenile arrestee be publicly released without prior approval of a competent court or as permitted by state law (Minn. Stat. § 260B.171 Subd. 5.

At no time shall identifying information pertaining to a juvenile victim be publicly released without prior approval of a competent court when access to the data would reveal the identity of a victim or alleged victim of criminal sexual conduct or would be a violation of Minn. Stat. § 617.246 Subd. 2 (Minn. Stat. § 13.82 Subd. 17 (b)).

At no time shall identifying information pertaining to a juvenile witness be publicly released without prior approval of a competent court when this department has determined that the identity of a juvenile witness reasonably requires protection (Minn. Stat. § 13.82 Subd. 17 (g)).

Information concerning incidents involving persons whose identities are classified as private data under Minn. Stat. § 13.82 Subd. 17, shall be restricted from disclosure in accordance with that statute. Further detail is available in the Records Release and Security Policy.

Identifying information concerning deceased individuals should only be released to the media when the decedent's identity has been verified and the release is approved by a supervisor.

Any media requests for copies of related reports or additional information shall be referred to the Public Information Officer, the custodian of records, or if unavailable, to the Watch Commander. Such requests will generally be processed in accordance with the provisions of the Minnesota Data Practices Act (Minn. Stat. § 13.03).

326.4.1 STATE RESTRICTED INFORMATION

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department (See the Records Release and Security Policy and the Personnel Files Policy). When in doubt, authorized and available legal counsel should be obtained. Examples of such restricted information include, but are not limited to:

(a) The identities of involved officers only when the release hinders a law enforcement purpose or reveals the identity of an undercover law enforcement officer and as otherwise required by law (Minn. Stat. § 13.82).

(b) Photographs of an officer without his/her permission except as provided in Minn. Stat. § 626.89 Subd. 12.

(c) Copies of traffic collision reports except to those authorized pursuant to Minn. Stat. § 169.09 Subd. 13.

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(d) Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.

(e) Information pertaining to pending litigation involving this department.

(f) Information that uniquely describes stolen, lost, confiscated or recovered property (Minn. Stat. § 13.82 Subd. 20).

(g) Any information that is otherwise privileged or restricted under state or federal law.

326.4.2 DULUTH POLICE DATA REQUEST REQUIREMENTS

All data requests not mentioned in this policy need to be made in written form and delivered to PIO/Command Staff/Custodian of Records.

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Court Preparation

327.1 PURPOSE AND SCOPE

An officer's court testimony and the impression made on the jury have a serious impact on the outcome of a trial. This policy outlines responsibilities for officers appearing in court as witnesses.

327.2 NOTIFICATION/RESCHEDULING COURT APPEARANCES

Officers are notified in writing and/or by their unit leaders of court appearances. It is the officer's responsibility to appear in court after being notified. The Department realizes that court schedules and an officer's schedule are often incompatible and rescheduling may be desirable. Officers with a court date which constitutes a hardship should notify their unit leader who will attempt to adjust the officer's work schedule.

327.3 PREPARATION

Officers are expected to review their reports and other pertinent reports prior to their court appearance. Officers are encouraged to meet with the prosecutor prior to the court date. Officers are required to meet with the prosecutor if asked, they must read their reports prior to the conference, and must take copies of their reports with them to the meeting. Officers are expected to fully cooperate with the prosecutor to facilitate the prosecutor's preparation of the case.

327.4 EVIDENCE

It is the prosecutor's responsibility to determine if any physical evidence obtained during the investigation is necessary at trial. The prosecutor notifies the appropriate officer of what evidence will be needed in court.

All evidence needed for any court proceedings, the checking out, transportation, and returning, will be the responsibility of the officer requested to testify. If the court proceeding is resulting from the work of an investigator, the investigator will be responsible for the evidence. If an investigator is not involved with the court preceding it will be upon the officer who made the arrest or issued the citation to provide the evidence required for the proceeding. This process will require a discussion with the prosecutor prior to court, such as during the pretrial meeting, detailing what will be needed. During the pretrial discussion with the prosecutor, if you as the arresting or assigned officer/investigator are eliminated from testifying, remind the prosecutor to assign this task to someone who is being called to testify.

327.5 PERSONAL APPEARANCE

The impression an officer's appearance makes on people can not be underestimated. The Department expects officer's to have a neat, professional appearance in court. Uniformed officers wear the uniform of the day to court unless requested by the prosecutor to wear plain clothes. For safety reasons officers are encouraged to take all of the equipment they normally carry on their person when on-duty. Officers are encouraged to wear long sleeve shirts and ties to court,

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particularly to jury trials. Lieutenants and above may establish higher standards for particular officers on specific court cases, on a case-by-case basis.

Plain clothes worn to court must conform to Department policy regulating dress by plain clothes officers. Plain clothes officers are expected to wear coats and ties to court appearances regardless of the season.

327.6 TESTIMONY

Officers must answer all questions in a truthful, professional and courteous manner. Officers must take care to avoid giving opinion as testimony, providing concise, fact based answers.

327.7 CONTACT WITH DEFENSE ATTORNEY

Officers may be contacted by defense attorneys for information. An officer must notify the prosecutor prior to meeting with the defense attorney to determine if they wish to be present at the meeting. Officers should review reports on the matter.

Officers must be aware that contact with defense attorneys is never informal. They should conduct themselves accordingly.

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Mutual Aid and Outside Agency Assistance

328.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to officers in the request of or answering the request for assistance involving another law enforcement agency.

It is the policy of this department to provide assistance whenever reasonably possible, in accordance with the applicable laws of arrest and detention policies of this department, when another law enforcement agency requests assistance with an arrest or detention of any person. This department may also request an outside agency to provide assistance. The Department may, at the discretion of the Chief of Police, establish an agreement with another agency to (Minn. Stat. § 626.76 Subd. 1):

(a) Assist other peace officers in the line of their duty and within the course of their employment.

(b) Exchange Department peace officers with peace officers of another agency on a temporary basis.

328.1.1 RESPONSIBILITIES

Officers shall obtain permission from their unit leader prior to requesting, or responding to a request for, mutual aid unless an extreme circumstance exists. Officers must advise their unit leader that they are responding to, or have requested, mutual aid.

Situations not requiring immediate assistance require the Watch Commander, or above, to initiate or approve requests for mutual aid.

328.2 ASSISTING OUTSIDE AGENCIES

Generally, calls for assistance from other agencies are received via radio transmission and are routed to the Watch Commander for approval. Any such response to assist an outside agency may be considered for authorization regardless of whether an agreement for reciprocal aid under Minn. Stat. § 626.76 Subd. 1 exists.

When an authorized employee of an outside agency requests the assistance of this department in taking a person into custody, available officers shall respond and assist in making a lawful arrest. If an officer receives a request in the field for assistance, that officer shall notify a supervisor. Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency. Only in exceptional circumstances will this department provide transportation of arrestees to other county facilities. When such assistance is rendered, a case number will be issued to report action taken by Duluth Police Department personnel.

328.2.1 DUTIES

Officers acting under a mutual aid agreement are to report to the senior law enforcement official of the agency requesting assistance. The senior official of the requesting agency will determine how officers are assigned. Officers may be assigned to any function, including:

- Making arrests

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- Security
- Mass processing of arrestees
- Transporting prisoners
- Operating temporary detention facilities

The Joint Powers Act, Minnesota Statute 471.59, Subd. 12, states that under the mutual aid agreements police officers assisting another agency have the same power of arrest and police authority that they have in their own jurisdiction. M.S. 629.40, Subd3 gives Minnesota officers jurisdiction throughout the state when they are on-duty.

328.3 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES

If assistance is needed from another agency, the employee requesting assistance shall first notify a supervisor of his/her intentions, except in those situations where the employee or another is in imminent danger and there is an immediate need for assistance. The involved officer or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

328.3.1 FRESH PURSUIT

Officers in fresh pursuit of a person may arrest and hold the person in custody, even though outside their jurisdiction, including the state of Wisconsin. In this event the arrest is not a citizen's arrest.

Duluth officers making an arrest in Wisconsin must turn them over to an officer having jurisdiction where the arrest occurred. They may not transport the prisoner back to Minnesota; the prisoner will have to be extradited. Minnesota Statute 626.65 and Wisconsin Statute 976.04 allow officers reciprocal powers when in fresh pursuit.

Officers making an arrest anywhere in Minnesota may transport the prisoner to the St. Louis County Jail.

328.4 CONCURRENT JURISDICTION

Port of Duluth/Foreign Vessels

The Duluth Police Department has the same authority on waters within the Duluth city limits as it has on land within the city limits. Vessels at the Port Terminal, whether flying foreign flags or not, are within the city limits and Duluth police officers have jurisdiction.

Gaining access to vessels within the city limits is the same as gaining access to any private property. Permission to board must be obtained from the person having control of the vessel unless exigent circumstances exist, or a search warrant is obtained.

a. Customs and Border Protection

Customs and Border Protection can board any ship in the port, at any time. The Border Patrol, which is part of Customs and Border Protection, may board any ship in the port that has arrived from another U.S. port. They are available on a 24 hour basis to assist the Department.

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b. U. S. Coast Guard

The U.S. Coast Guard has jurisdiction in the harbor, Lake Superior, and the St. Louis River. The Coast Guard can board any vessel, foreign or domestic, at any place. The boarding is under the auspices of a safety inspection. As with any law enforcement endeavor information gained while on-board may allow them to develop probable cause to investigate further. The Coast Guard can prevent a ship from entering or leaving the port, and can require a vessel to depart. Law enforcement petty officers and ranks above, have the power of arrest for federal crimes. The Coast Guard does not have a detention facility and relies on local agencies to assist them. The Coast Guard is available to assist the Department on a 24-hour basis. Officers are expected to assist the Coast Guard whenever requested.

Federal Building

The Duluth Federal Building is under exclusive Federal jurisdiction. Enforcement of laws in the Federal Building and on adjacent property is the responsibility of the Federal Protection and Safety Division. We may serve civil and criminal processes there; enter and arrest when in hot pursuit. We may not make misdemeanor arrests within areas of exclusive Federal jurisdiction, other than citizen's arrest, or exercise other police powers. The Federal Protection and Safety Division have a written agreement with the Police Department which is similar to a mutual aid agreement, in that we respond to the Federal Building and have full police powers when requested.

Interstate Highways

The Minnesota State Patrol has primary, but not exclusive, jurisdiction over interstate highways in the city of Duluth. The Police Department and the Minnesota State Patrol have agreed that the Police Department has primary jurisdiction of "on" ramps to the point where they converge with an interstate traffic lane. The Minnesota State Patrol has primary jurisdiction for "off" ramps to the point where they converge with a city street. This agreement is for convenience and clarification and in no way restricts the powers of the officers of the Duluth Police Department or the Minnesota State Patrol. If an accident on the interstate is discovered by a Duluth Police officer, the squad is required to stop and render aid. The State Patrol is to be notified and they will determine if one of their squads will respond. If the State Patrol cannot respond, the Duluth Police Department will conduct an accident investigation.

Duluth International Airport

The Duluth International Airport is located in the city limits and officers have jurisdiction there. The Duluth Airport Authority employs full-time security officers. They have no police authority except on airport property.

Minnesota Air National Guard

The Minnesota Air National Guard base is within city limits and officers respond when requested. The Air Guard employs security guards who do not have arrest powers greater than those of a citizen. The guards have the right to detain and hold a person but may call the Police Department

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for assistance. It should be treated as a citizen's arrest. Officers are expected to assist whenever requested.

University of Minnesota-Duluth

The Duluth Police Department and the University of Minnesota-Duluth Police Department have concurrent jurisdiction on the campus. The UMD Police Department has primary jurisdiction on campus and on University-owned property. Minnesota Statute 629.40, Subdivision 3, gives UMD police officers jurisdiction throughout the state, when on duty.

Fond du Luth Gambling Casino

The Fond du Lac Band acknowledges that criminal prohibitory laws and jurisdiction of the State of Minnesota are applicable at the Fond du Luth Gambling Casino. According to the agreement with the Band, officers "have unfettered right to enter" for the purpose of enforcing "laws, rules, and regulations."

St. Louis County Property

St. Louis County has primary jurisdiction for crimes that occur on County property within the city limits, including:

- the St. Louis County Jail
- the St. Louis County Court House
- county Highway Department garages

Minnesota Bureau of Criminal Apprehension

The Department maintains a good working relationship with the Bureau of Criminal Apprehension (BCA). They process evidence which is submitted for analysis. The BCA may conduct investigations within the City and officers are expected to cooperate with them.

328.5 FEDERAL AGENCIES

Non-emergency Situations

There are no formal criteria to be met prior to requesting assistance from a Federal agency. When requesting assistance there should be an indication that there has been a violation of a Federal law. Investigators are encouraged to maintain cooperative relationships with Federal law enforcement officers.

Any non-emergency request from a Federal agency for assistance must be approved by the Watch Commander, a Deputy Chief, or the Chief. If the request is for assistance outside the City of Duluth, it must be approved by the Chief or his designee.

Emergency Situations

When an emergency exists, indicating Federal Agency assistance may be required; the Station Commander may request assistance from the appropriate Federal agency. See the Procedural

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Standard of Practice Guideline for this policy for a list of Federal agencies that may be required for emergency assistance.

Federal law enforcement agencies have jurisdiction in the City of Duluth. Duluth police officers are directed to provide immediate assistance to these agencies, upon request, in situations involving officer safety.

328.6 NATIONAL GUARD

Only the governor has the authority to activate the Minnesota National Guard and the request must come from the County Sheriff. Only the Station Commander, or above, may initiate the request, through the County Sheriff.

National Guard assistance will complement, not replace the Police Department's responsibility in handling an emergency. National Guard personnel remain under military command at all times.

328.7 CORRECTIONAL INSTITUTIONS

The Department will assist correctional institutions experiencing disorder due to the potential of extraordinary violence. This policy includes correctional institutions outside the corporate limits of the City of Duluth.

Our response to correctional institutions outside of the City is predicated upon mutual aid agreements with the law enforcement agency having primary jurisdiction for the facility. Consequently, our response will follow mutual aid agreement guidelines. This requires that Duluth officers responding be under the direction and control of the on-duty senior law enforcement official of the requesting agency.

When the Department's response entails more than a limited number of officers for a brief period of time, the Chief, or his designee, must be contacted by the Watch Commander.

a. Federal Prison Camp

The Federal Prison Camp is located in Hermantown. Mutual aid agreements with federal agencies or institutions are prohibited. The St. Louis County Sheriff's Department and the Hermantown Police Department have jurisdiction when requested by the prison to respond. Duluth officers are directed to respond to the prison when requested by the Sheriff's Department or the Hermantown Police Department. Mutual aid agreements with those departments grant responding officers full police authority and jurisdiction when acting upon the request.

b. St. Louis County Jail

Officers are to respond immediately to the St. Louis County Jail upon their request, under the scope of our mutual aid agreement.

As a courtesy our Department may assist in the investigation of crimes or deaths which occur at the Jail, at the discretion of the Department's administrative staff.

c. Arrowhead Juvenile Center

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The Arrowhead Juvenile Center is located in the City of Duluth. The Department has primary jurisdiction at the Juvenile Center. We will investigate crimes and respond to disturbances on the property. Since Juvenile Center employees have no police powers, they will not direct Duluth officers in the performance of their duties.

d. Northeast Regional Correctional Center (NERCC)

NERCC is located outside the City of Duluth. The St. Louis County Sheriff's Department has primary jurisdiction. This Department may respond to disturbances at NERCC on the request of the Sheriff's Department, in accordance with our mutual aid agreement.

328.8 HAZARDOUS MATERIAL EMERGENCIES MUTUAL AID

The Minnesota Department of Health All-Hazards Response and Recovery Base Plan identifies on-scene command and control responsibilities when an incident occurs (http://www.health.state.mn.us/oep/plans/allhazardsbase.pdf). The Incident Commander is charged with making an immediate appraisal of the situation and its potential in compliance with mutual aid response guidelines. The All-Hazards Response and Recovery Base Plan base elements recommends that responders should:

- Establish scene management
- Detect the presence of hazardous materials
- Begin identification of hazardous materials
- Begin evacuation or direct in-place sheltering
- Consider personal protection/decontamination
- Isolate incident and identify zones of activity
- Contain the incident without risking exposure
- Perform firefighting, rescue, emergency medical and other critical life-saving response activities in accordance with the City Emergency Plan Manual
- Seek additional appropriate resources if the event exceeds, or is expected to exceed, the capability of local resources, including mutual aid and state or federal assistance. When requesting local, state or federal assistance, this Department should clarify if it is requesting assistance only or complete scene management.

Officers should contact the Minnesota Pollution Control Agency's (MPCA) Emergency Response Team (ERT) Duty Officer to request assistance at hazardous material emergencies (800-422-0798 or 651-649-5451).

328.9 UNUSUAL OCCURRENCES OUTSIDE DULUTH

An unusual occurrence outside the City of Duluth requiring an extensive law enforcement response may necessitate the Department providing officers for an extended period of time.

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a. Short-term Assistance

Upon receiving a request for assistance from an agency with which we have a mutual aid agreement, the Watch Commander may authorize the response of on-duty patrol personnel. The Watch Commander must approve the request prior to officers responding.

If the request is for more officers than the Watch Commander can provide the Watch Commander should notify a Deputy Chief or the Chief to determine the appropriate response.

b. Long-term Assistance

The Chief, or his designee, must approve of any long-term use of Duluth Police Department personnel by another agency.

328.10 ADDITIONAL INFORMATION

See the Procedural Standard of Practice Guideline for additional information.

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Registered Predatory Offender

329.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Duluth Police Department will address issues associated with certain offenders who are residing in the jurisdiction and how the Department will disseminate information and respond to public inquiries for information about registered offenders.

329.2 POLICY

It is the policy of the Duluth Police Department to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

329.3 REGISTRATION

The SCAN Unit Supervisor shall establish a process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome or difficult for compliance. Registration Paperwork will be handled by Records Services Personnel at the front desk. If an offender needs photographs taken RSU staff is instructed to contact the SCAN Unit Supervisor or on duty shift Sergeant in order to have photographs taken. Completed Paperwork will be forwarded to SCAN Unit Supervisor for review. Once review is complete paperwork will be returned to RSU for entry into Shield. SCAN Unit Supervisor will also make a CAL referral to the appropriate COP Sergeant for assignment to a COP officer. Employees assigned to register offenders should receive appropriate training regarding the registration process.

Upon conclusion of the registration process, the RSU staff shall ensure that the registration information is provided to the Bureau of Criminal Apprehension (BCA) in accordance with Minn. Stat. § 243.166.

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to register.

329.3.1 REGISTRATION PROCESS

When an offender arrives to register with this department, the assigned staff should review the completed registration form to:

(a) Determine in what state the offense was committed.

(b) Confirm the individual is required to register by reviewing the list of offenses on the Bureau of Criminal Apprehension (BCA)'s Predatory Offender Registration website or in the BCA Predatory Offender Registration (POR) Manual.

(c) If a person is required to register, contact BCA (POR Website) to verify whether the offender is already registered and a DNA sample has been submitted.

(d) If the offender is already registered, complete a Change of Information Form (available at BCA's website).

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(e) If the offender is not registered, complete a Predatory Offender Registration Form (available at BCA's website).

(f) If the offender is from another state, contact the state (information for each state is listed on BCA's website) and request a copy of the offender's original registration form, criminal complaint and sentencing documents.

(g) Staff should review the most recent city map detailing where level 3 POR's are allowed to live in accordance with city ordinance 34-17

Additional information regarding offender registration is available in the POR Manual or by contacting the Predatory Offender Unit at (651) 793-7070 or 888-234-1248, or through the BCA website.

329.4 MONITORING OF REGISTERED OFFENDERS

The assigned officer should maintain a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration regardless of POR level. This verification should include:

(a) Efforts to confirm residence using an unobtrusive method, such as an Internet search or drive-by of the declared residence.

(b) Review of information on the Department of Corrections Offender Information website.

(c) Contact with a registrant's parole or probation officer.

Any discrepancies should be reported to BCA.

329.5 DISSEMINATION OF PUBLIC INFORMATION

Employees will not unilaterally make a public notification advising the community of a particular registrant's presence in the community. Employees who identify a significant risk or other public safety issue associated with a registrant should promptly advise their supervisor. The supervisor should evaluate the request and forward the information to the Chief of Police if warranted. A determination will be made by the Chief of Police, with the assistance of legal counsel as necessary, whether such a public alert should be made.

Members of the public requesting information on registrants should be provided the Department of Corrections Offender Information website or the Duluth Police Department's website.

The SCAN Unit Supervisor through the Public Information Officer shall release local registered offender information to residents in accordance with state law (Minn. Stat. § 244.052; Minn. Stat. § 13.01 et seq.) and in compliance with a Minnesota Government Data Practices Act request.

329.5.1 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

(a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.

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(b) The information is provided as a public service and may not be current or accurate.

(c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.

(d) The crime for which a person is convicted may not accurately reflect the level of risk.

(e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.

(f) Other cautionary notices included in the Minnesota Department of Correction's (DOC) material for public recipients.

329.5.2 MANDATORY DISSEMINATION

The Department shall provide and release all predatory offender data, or updated data, obtained from BCA or the DOC based upon the offender's status of a Level 1, 2 or 3.

The Department shall continue to disclose data on an offender as required by law for as long as the offender is required to register under Minn. Stat. § 243.166.

Disclosure to the health care facility of the status of any registered predatory offender under Minn. Stat. § 243.166 who is receiving inpatient care shall be made by this department (Minn. Stat. § 244.052 Subd. 4c).

329.5.3 LEVEL 1 DISCLOSURE

Data maintained by law enforcement may be subject to limited disclosure (refer to the BCA document #Confidential Fact Sheet - For Law Enforcement Agency Use Only#):

(a) Mandatory disclosure:

1. Victims who have requested disclosure

(b) Discretionary disclosure:

1. Other witnesses or victims
2. Other law enforcement agencies

329.5.4 LEVEL 2 DISCLOSURE

Data is subject to limited disclosure for the purpose of securing institutions and protecting individuals in their care while they are on or near the premises of the institution (refer to BCA document #Law Enforcement Agency Fact Sheet - Notification of Release in Minnesota - Risk Level 2#):

(a) In addition to Level 1 disclosure, the Department may disclose data to:

1. Staff members of public and private educational institutions, day care establishments and establishments that primarily serve individuals likely to be victimized by the offender.
2. Individuals likely to be victimized by the offender.

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(b) Discretionary notification must be based on the offender's pattern of offending or victim preference as documented by DOC or the Minnesota Department of Human Services (DHS).

329.5.5 LEVEL 3 DISCLOSURE

Data is subject to disclosure not only to safeguard facilities and protect the individuals they serve but also to protect the community as a whole (refer to the BCA document "Law Enforcement Agency Fact Sheet - Notification of Release in Minnesota"):

(a) In addition to Level 2 disclosure, the Department shall disclose data to other members of the community that 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 the victim.

(b) A good faith effort must be made to complete the disclosure within 14 days of receiving documents from DOC.

(c) The process of notification is determined by this department. The current standard for a Level 3 offender is to initiate a press release and disclose the necessary data. Assistance is available from DOC Risk Assessment/Community Notification (RA/CN) Unit.

Data disclosed to the public of a Level 3 predatory offender shall be forwarded to DOC within 48 hours of dissemination (Minn. Stat. § 244.052 Subd. 4 (g)).

329.5.6 HEALTH CARE FACILITY NOTIFICATION

Upon notice that a registered predatory offender without a supervising agent has been admitted to a health care facility in this jurisdiction, this department shall provide a fact sheet to the facility administrator with the following data:

(a) Name and physical description of the offender

(b) Offender's conviction history, including the dates of conviction

(c) Risk level assigned to the offender, if any

(d) Profile of likely victims

329.5.7 SPECIALIZED NOTIFICATION

Offenders from other states and offenders released from federal facilities are also subject to notification:

(a) If this department learns that a person under its jurisdiction is subject to registration and desires consultation on whether the person is eligible for notification, the Department must contact DOC. The DOC will review the governing law of the other state and, if comparable to Minnesota requirements, inform this department whether to proceed with community notification in accordance with the level assigned by the other state.

(b) If DOC determines that the governing law in the other state is not comparable, community notification by this department may be made consistent with that authorized for risk Level 2.

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(c) If this department believes that a risk level assessment is needed, the Department may request an end-of-confinement review. The Department shall provide to DOC the necessary documents required to assess a person for a risk level.

329.5.8 VICTIM NOTIFICATION

If a predatory offender resides, expects to reside, is employed or is regularly found in this jurisdiction, the Department shall provide victims who have requested notification with data that is relevant and necessary to protect the victim.

The DOC will provide victim contact data to this department when there is a victim who has requested notification.

It may be appropriate for members of the Department to directly contact the victim. Community victim advocacy or prosecutor resources may also be available to assist with locating and notifying a victim. Assistance is also available from the DOC victim services staff.

SCAN Unit Supervisor may determine to contact other victims, witnesses and other individuals who are likely to be victimized by the offender.

329.5.9 HOMELESS NOTIFICATION PROCESS

If public notice (Level 2 or 3) is required on a registered homeless offender, that notice should be as specific as possible. These offenders are required to check in weekly with local law enforcement.

329.5.10 LIMITATIONS OF RELEASE OF DATA

Disclosures permitted or required for Level 2 or 3 offenders shall not be made if the offender is placed or resides in a DOC-licensed residential facility. Upon notification that the offender is released to a permanent address, the disclosures permitted or required by law shall be made (Minn. Stat. § 244.052, Subd. 4). Data regarding the victim or witnesses shall not be disclosed (Minn. Stat. § 244.052, Subd. 4(e)).

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Major Incident Notification

330.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this department in determining when, how and to whom notification of major incidents should be made.

330.2 POLICY

The Duluth Police Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

330.3 MINIMUM CRITERIA FOR NOTIFICATION

The nature of some incidents, due to being high profile, or exposing the city to liability, requires that on-scene patrol officers notify a patrol unit leader of the incident. Once notified, the unit leader must determine whether to assume command of the incident or delegate command to the officers already at the scene.

Incidents a patrol unit leader must be notified of, or acknowledge, are:

- Arson;
- Armed robbery;
- Violent death or death under unusual circumstances;
- Civil disturbances;
- Felony assault;
- Felony level Incidents involving weapons;
- Injury accidents involving on-duty police vehicles;
- Kidnapping;
- Officer use of deadly force;
- On-duty officer injury;
- Vehicle pursuit;
- Labor disputes;
- Sexual assault;
- Unusual occurrences;
- Subjects injured due to police action;
- Injuries on City property;
- Fatal traffic accidents;

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- Incidents involving significant property damage or loss;
- Threats to schools or staff;
- Significant incidents arising from extra-duty or non-duty employment; and
- Any significant off-duty behavior, incident, or injury involving a Department employee and investigated by the Duluth Police Department.

The above list of incident types is provided as a guide for notification and is not intended to be all inclusive.

330.4 WATCH COMMANDER RESPONSIBILITIES

The Watch Commander is responsible for making the appropriate notifications. The Watch Commander shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Watch Commander shall attempt to make the notifications as soon as practicable. Notification should be made by using the call notification protocol posted in the Communications Center.

330.4.1 STAFF NOTIFICATION

In the event an incident occurs as identified in the Minimum Criteria for Notification, the Chief of Police, the Deputy Police Chiefs, and the Command Staff, shall be notified.

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Death Investigation

331.1 PURPOSE AND SCOPE

The investigation of cases involving death includes those ranging from natural cause to homicide. Some causes of death may not be readily apparent and some cases differ substantially from what they appeared to be initially. The thoroughness of death investigations cannot be emphasized enough.

Death investigations shall be conducted pursuant to Minn. Stat. § 390.005 through 390.252 if the county has an elected or appointed Coroner (Minn. Stat. § 390.34).

331.1.1 INVESTIGATION PURPOSE

Investigation of deaths and surrounding circumstances is a duty delegated to the Duluth Police Department by the St. Louis County Medical Examiner and the St. Louis County Sheriff. Death investigations are necessary to ensure that the circumstances of a death are properly determined.

331.1.2 DEFINITIONS

For Department purposes there are two basic categories of human death:

- Death from natural causes; or
- Violent deaths (suicides, accidents, homicides) or death under unusual circumstances.

Unattended deaths are defined as a death which occurs outside of a licensed nursing home or hospital.

331.2 INVESTIGATION CONSIDERATIONS

331.2.1 UNIDENTIFIED DEAD BODIES

If the identity of a dead body cannot be established after the Medical Examiner arrives, the Medical Examiner will issue a #John Doe" or "Jane Doe# number for the report.

331.2.2 UNIDENTIFIED BODIES DATA ENTRY

As soon as reasonably possible, but no later than 30 working days after the date a death is reported to the Department, all available identifying features of the unidentified body, including dental records, fingerprints, any unusual physical characteristics and a description of clothing or personal belongings found on or with the body, shall be forwarded to the Medical Examiner for entry into the Missing Children and Missing Persons Information Clearinghouse and the National Crime Information Center (NCIC) file (Minn. Stat. § 390.25 Subd. 2 (a)).

331.2.3 DEATH INVESTIGATION REPORTING

All incidents involving a death shall be documented on the appropriate form.

331.2.4 EMPLOYMENT RELATED DEATHS OR INJURIES

Any member of this agency who responds to and determines that a death, serious illness or serious injury has occurred as a result of an accident at or in connection with the victim's employment,

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may ensure that the nearest office of the Minnesota Department of Labor and Industry is notified by telephone or teletype with all pertinent information.

331.3 DEATH WHILE IN REGISTERED OR NON-REGISTERED HOSPICE CARE

The following sections will clarify the terms Registered Hospice Care Death and Non-Registered Hospice Care Death, and will detail the required Patrol response in each case.

In the event that an Officer cannot determine whether the deceased person is Registered or Non-Registered, the on-call Medical Examiner's Investigator will be contacted.

331.3.1 REGISTERED HOSPICE CARE DEATHS

When an individual is at the end of a terminal illness or condition, and death is both expected and imminent, they may be placed in a Registered Hospice Care setting. In this setting, the patient's physician is required to register the patient's pending death with the St. Louis County Medical Examiner's Office. Once the patient is registered with the Medical Examiner's Office, a Registered Hospice Nurse is assigned to monitor the patient until they die.

At the time of death, the Registered Hospice Nurse will make an assessment of the death. If the Hospice Nurse determines that the death was due to the terminal illness or condition, a Patrol squad does not need to respond to the scene, and a DHB Report does not have to be done. In the rare case where the Hospice Nurse determines that the death appears suspicious, they are required to call 911 and a Patrol squad response and DHB Report is necessary.

331.3.2 NON-REGISTERED HOSPICE CARE DEATHS

Some individuals with a terminal illness or condition may choose not to be part of a Registered Hospice Care program. They may live out their remaining days in a home setting. These patients will not be registered with the St. Louis County Medical Examiner's Office as a pending death. Patrol squad response, Medical Examiner notification and a DHB Report are required in these cases.

331.4 DEATH FROM OTHER THAN NATURAL CAUSES

If the death is a suicide, accident, homicide or occurred under unusual circumstances, the following procedures will apply:

a. Crime Scene Protection

Officers must ascertain that the person is deceased. If it is readily apparent, entry need not be made into the scene. The scene needs to be protected. Crime Scene Investigations (CSI) is responsible for processing the scene for evidence and will determine appropriate entry into the scene. CSI and the Medical Examiner's investigator will coordinate their efforts to process the scene and preserve the evidence. The Medical Examiner's office will not move the body, independent of the police.

Officers are cautioned that there is no crime scene exception to the requirements for a search warrant. If the death is indoors the area may not be searched for evidence without a warrant.

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Officers may clear the area for suspects, or persons that may pose a danger to them, but may not search for evidence.

b. Notify the Medical Examiner's Investigator

The Medical Examiner's Office provides a monthly call schedule of investigators and medical examiners to the Department and to the Communication Center. Officers may contact the investigator directly or request that the Communication Center contact the appropriate investigator. Do not contact the Medical Examiner directly, only the investigator. The Medical Examiner's investigator will respond in all instances of violent deaths, or deaths under suspicious circumstances.

c. Notify Unit Leader

Deaths from other than natural causes require that the assigned officer notify their unit leader. The patrol unit leader will determine what other Department resources are necessary for the investigation and notify them to respond. Under most circumstances the patrol unit leader will respond to the scene and assume responsibility.

d. Dead Human Body Report (DHB)

Officers must complete a DEAD HUMAN BODY report and other appropriate reports detailing the scene. An INVESTIGATION REPORT is required. The white copy is sent to the Violent Crimes Unit (VCU) with a copy of the dictation envelope. This report must be completed by the end of the officer's shift. The yellow and pink copies of the DHB accompany the body.

331.5 OTHER CONSIDERATIONS

Minnesota Statutes 390.32, Subd. 7, grants law enforcement officers the authority to take charge of the body and the death scene to prevent interference by any person. This power should be used with discretion and sensitivity to the circumstances.

In some situations next of kin are not readily identified. The Medical Examiner's office may continue efforts to identify them. If successful they will notify the Department to notify the next of kin. Death notifications are the responsibility of the Department, not the Medical Examiner's office.

Death scenes can be an important learning environment for officers. Officers may not enter the scene except with approval, and direction from CSI. Officers not required at the scene must also be cognizant of family members present and not enter a scene if it may be upsetting to the family.

331.6 ADDITIONAL INFORMATION

See the Department's procedural standard of practice guidelines for more information.

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Critical Incidents

332.1 PURPOSE

It is the purpose of this policy to establish investigative and administrative procedures that ensure the safety and well-being of officers while promoting public safety, public confidence and timely documentation in Critical Incident situations.

332.2 POLICY

The Duluth Police Department and its employees understand that the performance of law enforcement duties is inherently demanding and that certain situations create a significant risk of physical and emotional harm to the officer. Therefore, it is important that the department develop standards and procedures for responding to Critical Incidents that ensure the safety and well-being of its employees and provide a means by which employees may seek assistance in dealing with the effects of critical and traumatic events. This policy shall be administered in a manner that is consistent with the department's desire to treat affected employees with dignity and respect under such circumstances and to provide information and assistance to them concerning their involvement in critical and traumatic events, their recovery, and their return to duty.

The department also recognizes that having established standards and procedures for responding to and documenting Critical Incidents is necessary to facilitate the prosecution of suspects, and to give the public a sense of safety and confidence in the department's response to Critical Incidents.

332.3 DEFINITIONS

Terms as used in this policy shall have the following definition:

GENERAL:

Critical Incident - An action which arises from any act or omission within the scope of employment in which: (a) serious injury or death occurs; or (b) the discharge of a weapon is involved.

INVESTIGATIVE:

Administrative Investigating Entity - The Duluth Police Administrative Lieutenant, unless otherwise designated by the Chief of Police or their designee. The Administrative Lieutenant is responsible for the administrative investigation of the Critical Incident which includes checking for adherence to policy, and identifying policy failures, tactical and training issues, and potential civil liability issues.

Criminal Investigating Entity - The Duluth Police Department Major Crimes Bureau, unless otherwise designated by the Chief of Police or their designee. The Criminal Investigating Entity is responsible for the criminal investigation of the Critical Incident. The Minnesota Bureau of Criminal Apprehension may also serve in this capacity, if requested by the Chief of Police or their designee.

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Investigators - All Investigators from the Major Crimes Bureau who are conducting an investigation of the Critical Incident, unless other Criminal Investigating Entities and Administrative Investigating Entities have been designated by the Chief of Police or their designee.

Lead Investigator - The Investigator in charge of the criminal investigation or their designee at the scene.

Headquarters-Investigative - The Duluth Police Department Violent Crimes Unit Office or such other location designated by the Lead Investigator. This location shall serve Witness Officers who gather immediately following a critical incident for purposes of meeting with legal counsel, Employee Assistance Program (EAP) personnel, Investigators, and surrendering firearms or other equipment as deemed necessary.

Headquarters-Involved Officer's Room - The location designated by the Lead Investigator, which serves the Involved Officers immediately following a critical incident for purposes of relaxing, meeting with legal counsel, a Police Chaplin, Employee Assistance Program personnel, Investigators, and surrendering firearms or other equipment as deemed necessary.

Mental Health Professional (MHP) - A psychiatrist, psychologist or Employee Assistance Program (EAP) professional who may be called upon to meet with officers involved in Critical Incidents.

OFFICER-RELATED:

Escort - An officer assigned by the Incident Commander at the scene to stay with an Involved Officer and any Witness Officers until relieved by Investigators or a Union Board Representive.

Incident Commander - The DPD Patrol Supervisor at the scene who has taken command and control of the scene.

Involved Officer - An officer who appears to have engaged in conduct resulting in a Critical Incident.

Witness Officer - An officer who witnesses a Critical Incident, but did not engage in any conduct resulting in a Critical Incident.

REPORTS AND STATEMENTS:

Incident Report - A report or statement that sets forth the officer's account of an incident and is entered into the Duluth Police Department's SHIELD record system.

Public Safety Statement - A mandatory statement from the Involved Officers which provides information necessary to ensure public safety. This may include, but is not limited to, questions about the direction in which the Involved Officer fired their firearm, injured people, location of dangerous weapons and/or information on any suspects still at large. See attached checklist.

Voluntary Statement - A statement given by Involved and Witness Officers to Investigators which is voluntary and outlines details associated with the Critical Incident.

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332.4 ON SCENE PROCEDURES

Notification of a Critical Incident - As soon as a Critical Incident occurs, a Witness or Involved Officer shall immediately notify their supervisor and the St. Louis County 911 Dispatch Center that a Critical Incident has occurred. 911 Dispatchers and the Incident Commander shall immediately follow protocol to notify the Watch Commander. See checklist for response protocol and considerations.

Public Safety Statements - The Incident Commander shall ask the Involved Officers a limited number of questions to ensure the safety of the general public. Please refer to attached checklist.

Note: Due to the immediate need to take action, the officer does not have the right to wait for representation before answering the limited Public Safety questions.

Scene Investigation - DPD Investigators shall assess the scene, unless other units or agencies are designated that duty by the Chief of Police. All police personnel who enter the crime scene shall complete a supplemental police report.

332.5 PROCEDURES FOR INVOLVED AND WITNESS OFFICERS

The following procedures shall apply to managing Witness and Involved Officers following a Critical Incident:

Involved Officers

At the scene:

- The DPD Incident Commander shall determine which officers are Involved Officers. The Incident Commander at the scene shall promptly assign an Escort to stay with each Involved Officer until relieved by an Investigator or Union Board representative or other designee. One Escort shall be assigned for each Involved Officer.
- Involved Officers shall not talk to anyone at the scene about the incident, except the Incident Commander, Lead Investigator, a Union representative and/or legal counsel. Involved Officers shall provide a Public Safety Statement to the Incident Commander to enable the primary responders and Investigators to secure the scene, facilitate the investigation, apprehend suspects, and allow for officer or civilian safety at the scene.
- The Involved Officers shall not be unreasonably denied access to a Union representative or legal counsel at the scene.
- As soon as practical, and with the permission of the Incident Commander, the Escorts shall take the Involved Officers from the scene to the Headquarters-Involved Officer's Room. Escorts shall keep the Involved Officers separate from other Involved and Witness Officers.
- Unless a supervisor has a reason to believe that the officer may pose a threat to themselves or to others, or unless directed by the Lead Investigator or their designee, the Involved Officers' firearm should not be taken at the scene.
- Involved Officers should not be placed in the back seat of a police vehicle.

At Headquarters

Involved Officer's Room:

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- Involved Officers shall not be unreasonably denied access to:
  - Food and drink
  - Restroom facilities
  - Telephone to contact loved ones
  - A representative from the Union Board or other legal counsel
  - A representative from the Employee Assistance Program
  - A Police Chaplain or other clergy
  - Family members (which includes significant others)
  - Other Officers
- Involved Officers shall make their firearms available for a firearms inspection, and shall surrender their firearm and any other requested equipment to the Lead VCU Investigator or Use of Force Coordinator. If an Investigator from the Crime Scene Investigation Unit is not available to take custody of the firearm, the Lead VCU Investigator or the Use of Force Coordinator will take custody of the firearm, package and label it as evidence and submit the firearm to Property and Evidence Intake. Involved Officers shall be provided with replacement firearms and equipment as soon as reasonably possible.
- After consultation with legal counsel, Involved Officers or their legal counsel will inform the Lead Investigator or designee of the Involved Officer's willingness to give a Voluntary Statement. Officers should be encouraged to make a voluntary statement only after a period of rest and preferably not prior to 48 hours after the incident. When feasible, officers should be allowed to walk through the scene of the incident before giving their statement.
- Before the involved officer returns to their home, voluntary blood and urine samples shall be requested. However, upon reasonable suspicion, the employer will order and require the employee to provide a blood and urine sample (Minn. Stat. § 181.951) The Involved Officer should be escorted to the emergency room by another officer or supervisor. Blood and urine samples shall be taken using official State of Minnesota blood and urine collection kits. After a health professional obtains the samples, they should be turned over to the police official at the hospital and brought back to the Duluth Police Department and immediately placed into evidence. For chain of custody and integrity reasons, neither the Involved Officer, nor their Union Representative should have access to the blood and urine kits or collected samples.

After Incident Care

Administrative Leave - Involved Officers shall be placed on a mandatory paid Administrative Leave for a minimum of three calendar days following the Critical Incident. At any time, the officer may request or the Chief of Police or their designee may order additional days of administrative leave.

Prior to returning to work, the Involved Officer shall speak with an Employee Assistance Program or mental health professional in person, or by phone, to ensure they are ready to return to duty. The Deputy Chief of the involved officer shall be responsible for making sure the mental health professional has cleared the employee to return to work.

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An officer shall not work a scheduled shift, over time shift or extra-duty position while on Administrative Leave. An officer may work an approved non-uniform, non law-enforcement off-duty position while on Administrative Leave, at the sole discretion of the Chief or their designee.

Peer Debriefing - All Involved Officers may take part in a group peer debriefing facilitated by the Employee Assistance Program or other mental health professional, and after care as necessary.

Witness Officers

At the scene:

- The Incident Commander shall determine which officers are Witness Officers. As soon as possible, the Incident Commander shall assign an Escort to each Witness Officer. If possible, one Escort shall be assigned to each Witness Officer. Witness Officers shall be separated from each other and other witnesses and shall not talk to anyone at the scene about the incident other than the Incident Commander, Lead Investigator, a Union Board representative and/or legal counsel and to provide details to enable the primary responders and Investigators to secure the scene, facilitate the investigation, apprehend suspects, and allow for officer or civilian safety at the scene.
- The Witness Officers shall be allowed a reasonable opportunity to consult with a Union Board representative or legal counsel at the scene. To ensure that all evidence and witnesses are located and preserved, Witness Officers should voluntarily meet at the scene with the Lead Investigator to give them a brief overview of the incident, identify evidence and provide other information deemed necessary to ensure the continuity of the investigation. The Lead Investigator will prioritize the order and urgency of Witness Officer Interviews, and will communicate the priorities to the Incident Commander and any Union representative who is present or accessible.
- As soon as practical, Witness Officers will be released from the scene by the Lead Investigator and advised to proceed to Investigative Headquarters. The Lead Investigator will inform the Incident Commander of any officers released from the scene. Witness Officers shall be advised that they are to wait at Investigative Headquarters for an opportunity to meet with legal counsel, a Police Chaplin or Employee Assistance Program Personnel.

Investigative Headquarters:

Witness Officers shall be afforded an opportunity to meet with the Police Chaplin, the responding Employee Assistance Program representative and to consult with legal counsel and/or Union Board representatives prior to providing a statement.

After such consultations, statements from Witness Officers are to be taken by Investigators prior to the officers being released from duty unless otherwise directed by the Lead Investigator or their designee.

If requested by Investigators, Witness Officers shall make their weapons available for a firearms inspection and shall surrender their firearm and any other requested equipment to the Lead Investigator or Use of Force Coordinator or designee. The Lead Investigator or use of Force Coordinator or designee shall collect the Witness Officer's firearm, package and label it, and put

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it in the evidence locker if Crime Scene personnel are unavailable to take immediate custody of the weapon.

Witness Officers shall be provided with replacement firearms and equipment as soon as reasonably possible.

After Incident Care

Administrative Leave - A Witness Officer may request to be placed on paid administrative leave or may be placed on administrative leave by the administration for up to three calendar days following the Critical Incident. The decision to grant the request shall be made at the sole discretion of the Chief or his/her designee. The decision on whether to grant paid administrative leave shall be promptly communicated to the Witness Officer by their Commander or the Commander's designee. If a witness Officer is placed on administrative leave, prior to returning to work, the Officer shall speak with an Employee Assistance Program or other Mental Health Professional either in person, or by phone, to ensure they are ready to return to duty.

If an officer is granted a paid leave, he/she shall not work a uniformed off-duty job or over time while on Administrative Leave. An officer may work an approved non-uniform, non law-enforcement off-duty job while on administrative leave at the sole discretion of the Chief or his/her designee.

Peer Debriefing - All Witness Officers may take part in a group peer debriefing facilitated by the Department's EAP representative or other designated Mental Health Professional and shall take part in any after-care, if appropriate.

332.6 CONSULTATION WITH LEGAL COUNSEL

Involved and Witness Officers are entitled to consult with legal counsel during the pending Critical Incident investigation, up to and including any court proceedings. Such reasonable and necessary meeting or meetings may be considered on-duty time.

City Attorney - It is common for Critical Incidents to result in civil lawsuits being filed against the City of Duluth and Duluth Police Officers. Pursuant to the City's adopted defense and indemnity policy, the Duluth City Attorney's Office, as the legal counsel for the City of Duluth, defends the City and its employees in such suits. Therefore, it is very important, in order to properly defend against any potential lawsuit following a Critical Incident, that the City Attorney's Office be able to fully investigate the Critical Incident as soon as possible. For this reason, both Witness Officers and Involved Officers will be required to meet with and otherwise cooperate with the Civil Division of the City Attorney's Office when appropriate to aid in the defense of any case that may arise from a Critical Incident.

332.7 INTERNAL INVESTIGATION

The Administrative Lieutenant or their designee shall be responsible for conducting an Administrative Investigation of all Critical Incidents. It is generally advisable to conduct and complete a Criminal Investigation prior to beginning an Administrative Investigation.

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Please refer to Duluth Police Department Policy 1004 - Internal Investigations; for the procedures to be followed by the Administrative Lieutenant in the Administrative Investigation process.

332.8 CRITICAL INCIDENT REVIEW

All Critical Incidents will be reviewed in Labor/Management meetings in order to follow-up on the well-being of the Officers involved, and to update the Critical Incidents policy as needed.

332.9 APPENDICES

332.9.1 CRITICAL INCIDENT CHECKLIST
COMMAND CRITICAL INCIDENT CHECKLIST

I. Scene Responsibilities, Assignments and Preliminary Investigation

- Determine or assign Incident Commander and notify watch commander, dispatch and responding officers.
- Secure scene and establish a perimeter. Once safe, assign an officer to maintain crime scene access log.
- Identify and address all immediate threats to officers and the public.
- Identify and secure all suspects; make the scene safe.
- Facilitate for medical care of injured.
- Maintain regular updates to 911.
- Make or delegate call(s) to brief a Deputy Chief as soon as practical. (DC or designee will make additional contacts (see contact list).
- Assign officer(s) to protect scene evidence from elements and/or destruction (consider weather forecast) and collect photographs immediately to record scene prior to the scene being altered or destroyed by weather or First Responders entering scene. If applicable, also consider collection of all video and preservation of gun shot residue (GSR) evidence on suspect and/or officer(s).
- If officer(s) is/are injured or killed, assign an officer to remain with the officer(s) at all times or until relieved of duty. Prepare plan to notify family/significant other/next of kin of the incident as soon as practical. If officer is killed, notification will be done in person and consider clergy, partner officer(s), supervisor and member of command staff to be present.
- If victim(s) is/are injured or killed, assign an officer to remain with victim(s) at all times or until relieved of duty
- If suspect(s) is/are injured or killed, assign an officer to remain with suspect(s) at all times or until relieved of duty.
- Identify/secure all non-officer witnesses and obtain statements.
- Identify all involved and witness officers and keep separate.
- Take public safety statement from involved officer(s).

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- Involved officer(s) and witness officer(s) will be assigned an escort officer(s) and transported from scene to involved officer's rooms and separated. If applicable, once inside the involved officer's room, arrangements should be made for any involved firearms to be secured by Use of Force Coordinator/Supervisor/Investigator.
- If involved officer(s) weapon is removed, a replacement firearm will be provided to the involved officer(s).
- Witness officer(s) will remain at the scene to brief incident command, watch commander or investigators,
- Facilitate for supervisor to obtain blood and urine tests from involved officer(s).
- Officers should be encouraged to make a voluntary statement only after a period of rest and preferably not prior to 48 hours after the incident.
- Involved Officer(s) will be placed on Administrative Leave for a minimum of three days (more time may be approved if requested or required to complete an investigation).
- Assign officer to complete incident report; all officers responding to incident complete supplemental reports.

II. Contacts/Resources

- Contact Patrol Division Deputy Chief of Police
- Contact Investigative Division Deputy Chief of Police
- DPD, VCU, CSI and other investigative resources as needed
- Contact the Police Chief (typically done by a Deputy Chief)
- Consider outside agency to investigate (BCA, MSP, SLCSO if applicable)
- City Attorney
- CountyAttorney
- Public Information Officer
- Duluth Police Union Representative

III. Officer(s) and family support systems

- Duluth Police Union
- Peer Support Team
- Legal Defense Fund (LDF) or private attorney
- City Attorney
- Family contacted
- Significant others contacted
- Employee Assistance Program
- Clergy if requested

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- Identify an officer(s) to become a liaison between the Department and the family (24/7 responsibility)
- If applicable, identify coordinating officer in charge of funeral arrangements for fallen officer's family. (Consider LEMA)

IV. Notifications

- Notification of family members/significant others of victims
- Notification of all department members if victim officer involved
- Consider if notification is suitable for e-mail, Amerilert, or phone calls (if phone call is needed, consider unit leader calling assigned work units)
- Facilitate for press releases or press conferences

V. After-Action

- Critical Incident Stress Debrief scheduling
- If officer injured First Report of Injury, fax to RTW
- If applicable, prepare plan with fallen officer family and/or coordinator officer for funeral arrangements
- Officer meets with Employee Assistance Program provider or other mental health professional or physician and receives a recommendation for continued leave or return to duty
- If applicable, Use of Force review
- Review process with Labor Management Committee

332.9.2 PUBLIC SAFETY STATEMENT QUESTIONS
Public Safety Statement Questions

, you are ordered to provide a public safety statement related to your actions and observations at this critical incident. You are ordered to answer the following questions to the best of your ability and recollection.

1. Did you fire a weapon?

2. Approximate number of shots and estimated trajectories

3. Any other use of force deployed?

4. Location of weapon(s) used?

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5. Are there any suspects outstanding?

6. Suspect physical description?

7. Suspect vehicle description?

8. Direction of suspect flight?

9. Any known suspect weapons?

10. What are ingress and egress paths of officer and suspects?

11. Are there any other victims?

12. Location of wounded?

13. Is there a need for medical aid, paramedics, or ambulance?

14. What should scene parameters be?

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Identity Theft

333.1 PURPOSE AND SCOPE

Identity theft frequently involves related crimes in multiple jurisdictions. This policy will provide guidelines for the reporting and investigation of such crimes.

333.1.1 DEFINITION

Identity Theft: The fraudulent use of another person's identifying information, such as a credit card, social security number, or driver's license number, with the intent to facilitate other criminal activities or to obtain credit, goods, or services without the victim's consent. No financial loss is necessary.

333.2 REPORTING

(a) To assist the public with initiating an investigation, officers presented with the crime of identity theft shall complete a report for crimes occurring in Duluth or for victims who reside in Duluth irrespective of where the crime occurred (Minn. Stat. § 609.527 Subd. 5).

1. For any crime not occurring in Duluth, with a victim who does not reside within Duluth, the officer shall encourage the victim to promptly report the identity theft to the law enforcement agency where he/she resides.

(b) While the crime of identity theft should be reported to the law enforcement agency where the victim resides, officers of this department should investigate and report crimes occurring in Duluth that have resulted from the original identity theft (e.g., the identity theft occurred elsewhere but the credit card fraud occurred and is reported in Duluth).

(c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application).

(d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and the Department of Public Safety's Driver and Vehicle Services Division) with all known report numbers.

(e) Following supervisory review and Department processing, the initial report should be forwarded to the appropriate investigator for follow-up investigation, coordination with other agencies and prosecution as circumstances dictate.

333.2.1 VICTIM ASSISTANCE

(a) The initial responding officer shall hand out to the victim an identity theft victim advisory sheet which will provide information regarding the credit reporting agencies and placing a fraud alert on their credit reports; provide a list of websites to further report fraudulent activities or obtain useful information; an ICR number; and information regarding follow-up investigation.

(b) Follow-up investigators may provide the victim with the Consent to Create an FBI Identity Theft Form and Notice about Providing Your Social Security Number.

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333.3 IDENTITY THEFT OF A DECEASED PERSON

Information on deceased persons may be entered into the case file if it is deemed by a law enforcement officer that the victim's information has been stolen. No consent form is required with the entry of a deceased person's information.

333.4 ADDITIONAL INFORMATION

See the Department's procedural standard of practice guidelines for more information.

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Controlled Substance Overdose Investigations

334.1 PURPOSE AND SCOPE

The Duluth Police Department investigates overdose incidents when the suspected use of any controlled substance is cause for an overdose. If evidence supports probable cause for possession or sale of a controlled substance, the Department will investigate and pursue charges. The surviving patient may be charged with a controlled substance crime. If the patient dies, the death investigation may focus on a 3rd degree homicide investigation for the subject who sold, provided or aided the use of a controlled substance by the victim.

334.2 RESPONSIBILITIES

Officers responding to the scene of an overdose incident shall:

- Provide first aid as needed to the patient
- Contact a supervisor
- Supervisor will assess the need for further investigative resources
- Interview and gather names of all persons present at the scene; attempt to determine the controlled substance use by patient, history of use and source of supply
- Interview patient if possible
- Collect any paraphernalia and controlled substances in plain view or given to officers with consent; prepare to document facts supporting probable cause a controlled substance crime was committed to potentially assist the affiant on a search warrant
- Photograph scene
- Document investigation, interviews, and scene in a report.
- If the patient lives, refer to SIU for review of possible charges. If there is a death, determine the need for a

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Private Persons Arrests

335.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Minn. Stat. § 629.30 Subd. 2 (4).

335.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

All officers shall advise civilians of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all situations, officers should use sound discretion in determining whether to advise an individual of the arrest process.

(a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest, as listed below.

(b) Private individuals should be discouraged from using force to effect a private person's arrest. Absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

(c) Private individuals shall be informed of the requirement to take the arrested person before a judge or to a peace officer without unnecessary delay (Minn. Stat. § 629.39).

335.3 ARRESTS BY PRIVATE PERSONS

A private person may arrest another under the following circumstances (Minn. Stat. § 629.37):

(a) For a public offense committed or attempted in his/her presence.

(b) When the person arrested has committed a felony, although not in his/her presence.

(c) When a felony has been committed and he/she has reasonable cause for believing the person to be arrested committed the felony.

(d) When directed by a judge or a peace officer to arrest another person (Minn. Stat. § 629.403).

335.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person wishing to make an arrest must determine whether there is reasonable cause to believe that such an arrest would be lawful.

(a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.

    1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual. The officer must include the basis of such a determination in a related report.

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2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.

(b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:

1. Take the individual into physical custody for booking.
2. Release the individual upon a misdemeanor citation or pending formal charges.

335.5 REPORTING REQUIREMENTS

In most circumstances in which a private person is claiming to have made an arrest, the individual will complete and sign a Department Arrest Form. The responding officer must review the Arrest Form for completeness. If the person fails or refuses to do so the arrest subject shall be released unless the officer has an independent reason to take the person into custody.

In addition to the Arrest Form (and any other related documents, such as citations and booking forms), officers shall complete a narrative report regarding the circumstances and disposition of the incident. The officer shall obtain either a Mirandized statement , or a non-custodial statement from the suspect.

335.5.1 JUVENILES

Parents must be notified prior to the juveniles' statement if the juvenile does not understand the Miranda Warning or has requested their parents be present.

In cases involving juveniles officers are to notify the parent or guardian and release the juvenile to them if detention is not warranted.

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Limited English Proficiency Services

336.1 PURPOSE AND SCOPE

Language barriers can sometimes inhibit or even prohibit individuals with limited English proficiency (LEP) from gaining meaningful access to, or an understanding of important rights, obligations and services. It is the policy of this department to take all reasonable steps to ensure timely and equal access to all individuals, regardless of national origin or primary language (Title VI of the Civil Rights Act of 1964, § 601, 42 USC § 2000 d).

336.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized Interpreter - Any Duluth Police Department employee who is bilingual and has successfully completed department-prescribed interpreter training and is authorized to act as an interpreter or translator.

Bilingual - The ability to communicate in two languages fluently, including the ability to communicate technical and law enforcement terminology. Bilingual includes a variety of skill levels. Some bilingual individuals may be fluent enough to engage in direct communications in a non-English language but insufficiently fluent to interpret or translate from one language into another. A bilingual individual, depending on skill level, could be utilized to communicate fluently in a non-English language but not to interpret between two languages if he/she does not possess the specialized skills necessary to interpret between two languages effectively. To be utilized to interpret or translate from one language into another, an individual must possess the skill, training and demonstrated competence to do so. For purposes of this policy, employees, in order to be identified as bilingual, must initially and periodically demonstrate, through a procedure to be established by the Department, their level of skill and competence such that the Department is able to determine the purposes for which an employee's language skills may be used.

Interpretation - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

Limited English Proficient (LEP) - Designates individuals whose primary language is not English and who have a limited ability to read, write, speak or understand English. LEP individuals may be competent in certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific: An individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

Person Disabled in Communication - A person who cannot fully understand legal proceedings or charges involving him/her because of (Minn. Stat. § 611.31):

(a) A hearing, speech or other communication disorder.

(b) Difficulty in speaking or comprehending the English language.

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Translation - The replacement of written text from one language (source language) into an equivalent written text (target language).

336.2 FOUR FACTOR ANALYSIS

Since there are potentially hundreds of languages Department personnel could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice LEP *Guidance to Federal Financial Assistance Recipients* available at the USDOJ website, http://www.usdoj.gov, in determining which measures will provide reasonable and meaningful access to various rights, obligations, services and programs to everyone. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis must remain flexible and requires an ongoing balance of the following four factors:

(a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by Department personnel or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.

(b) The frequency with which LEP individuals are likely to come in contact with Department personnel, programs or services.

(c) The nature and importance of the contact, program, information or service provided.

(d) The cost of providing LEP assistance and the resources available.

As indicated above, the intent of this analysis is to provide a balance that reasonably ensures meaningful access by LEP individuals to critical services, while not imposing undue burdens on the Department or its personnel.

While this department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right, the above analysis will be utilized to determine the availability and level of assistance provided to any LEP individual or group.

336.2.1 IDENTIFICATION OF LEP INDIVIDUAL'S LANGUAGE

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language in an effort to avoid misidentifying that language.

336.3 TYPES OF LEP ASSISTANCE AVAILABLE

Depending on the balance of the four factors listed above, this department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services, where reasonably available. LEP individuals may elect to accept interpreter services offered by the Department at no cost or choose to provide their own interpreter services at their own expense. Department personnel should document in any related report whether the LEP individual elected to use interpreter services provided by the Department or some other source. Department-provided interpreter services may include, but are not limited to, the assistance methods described in this section.

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336.3.1 BILINGUAL PERSONNEL

Personnel utilized for LEP services need not be certified as interpreters but must have demonstrated, through established Department procedures, a level of competence to ascertain whether his/her language skills are best suited to monolingual communications, interpretation, translation or all or none of these functions.

All personnel used for communication with LEP individuals must demonstrate knowledge of the functions of an interpreter and the ethical issues involved when functioning as a language conduit. In addition, employees who serve as interpreters and/or translators must have demonstrated competence in both English and the non-English language. When bilingual personnel from this department are not available, personnel from other City departments who have the requisite training may be used to the extent available.

Department personnel or any other individual utilized for interpretation must be a qualified interpreter as defined by Minnesota law in order to provide communications services when a person disabled in communications may be subject to arrest, interrogation or property seizure (Minn. Stat. § 611.32 Subd. 2).

336.3.2 TELEPHONE INTERPRETER SERVICES

The Watch Commander and the Communications Supervisor will maintain a list of qualified interpreter services. These services shall be available, with the approval of a supervisor, to assist Department personnel in communicating with LEP individuals via official cellular telephones.

336.3.3 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF INTERPRETATION

Where competent bilingual Department personnel or other City-certified staff are unavailable to assist, responsible members of the community who have demonstrated competence in either monolingual (direct) communication and/or in interpretation and translation (as noted above) may be called upon to assist in communication efforts. Sources for these individuals may include neighboring law enforcement agencies, university languages and linguistics departments, local businesses, banks, churches, neighborhood leaders and school officials. Department personnel should ensure that community members are able to provide unbiased assistance. The nature of the contact and relationship between the LEP individual and the individual offering services must be carefully considered (e.g., victim/suspect).

Except for exigent or very informal and non-confrontational circumstances, the use of an LEP individual's bilingual friends or family members, particularly children, are generally not recommended. Department personnel shall make case-by-case determinations on the appropriateness of using such individuals (for further guidance see Section V(3) of the USDOJ Final Guidance available at the USDOJ website, http://www/usdoj.gov).

336.4 LEP CONTACT SITUATIONS AND REPORTING

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize language services so that these services may be

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targeted where they are most needed. A supervisor should be informed of any service requests other than those provided by the Department.

Whenever any member of this department is required to complete a report or when other documentation and interpretation or translation services are provided to any involved LEP individual, such services should be noted in the related report.

336.4.1 FIELD ENFORCEMENT AND INVESTIGATIONS

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Department personnel must assess each situation to determine the need and availability for translation services to all involved LEP individuals and utilize the methods outlined above to provide appropriate language assistance.

Although not every situation can be addressed in this policy, it is important that Department personnel are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action taken with an LEP individual. For example, it would be meaningless to request consent to search if the person requesting is unable to effectively communicate with an LEP individual.

336.4.2 INVESTIGATIVE INTERVIEWS

In any situation where the translation of an interview may contain information that might be used in a criminal trial, it is important to take certain steps to improve the chances of admissibility. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

Any person selected as an interpreter and/or translator must have demonstrated competence in both English and the non-English language involved and knowledge of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the case. The person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation to the court.

336.4.3 CUSTODIAL INTERROGATIONS AND BOOKINGS

To protect the rights of LEP individuals during arrest and custodial interrogation, this department places a high priority on providing competent interpretation during such situations. It is further recognized that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution. As such, Department personnel providing interpretation services or translated forms in these situations will have demonstrated competence in interpretation/translation and make every reasonable effort to accurately interpret/translate all communications with LEP individuals.

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To ensure that translations during criminal investigations are documented accurately and are admissible as evidence, audio recordings of interrogations, victim interviews and witness interviews should be used whenever reasonably possible.

Employees providing interpretation or translation services shall also be aware of the inherent communication impediments to gathering information from the LEP individual throughout the booking process or any other situation in which an LEP individual is under the control of Department personnel. Medical screening questions are commonly used to elicit information on an individual's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, symptoms of withdrawal from certain medications or the need to segregate the arrestee from other prisoners. Therefore it is important for members of this department to make every reasonable effort to provide effective language services in these situations.

336.4.4 INTERPRETER REQUIRED IN ARRESTS

Following an arrest of a person disabled in communication, the arresting officer shall immediately make arrangements to provide a qualified interpreter at the earliest possible time and at the place of detention. The officer shall, with the assistance of the interpreter, explain all charges filed and all procedures relating to the person's detainment and release (Minn. Stat. § 611.32 Subd. 2). The officer shall inform his/her supervisor of the arrest and the need for a qualified interpreter.

Prior to an interrogation or taking a statement, the arresting officer shall make available a qualified interpreter to assist throughout the interrogation or taking of a statement. The interpreter shall assist with all other communications, including those relating to needed medical attention.

336.4.5 QUALIFIED INTERPRETER REQUIRED FOR PROPERTY SEIZURE

If the property of a person is seized incident to a lawful arrest or search, the seizing officer shall, upon request, make available to the person at the earliest possible time a qualified interpreter to assist the person in understanding the possible consequences of the seizure and the person's right to judicial review (Minn. Stat. § 611.32 Subd. 2).

336.4.6 COMPLAINTS

The Department shall ensure access to LEP persons who wish to file a complaint regarding the discharge of Department duties. The Department may do so by providing interpretation assistance or translated forms to such individuals. If the Department responds to complaints filed by LEP individuals, the Department shall attempt to communicate its response in an accessible manner.

336.5 TRAINING

In an effort to ensure that all personnel in public contact positions or who have contact with those in custody are properly trained, the Department will provide periodic training to personnel about LEP policies and procedures, including how to access Department-authorized, telephonic and in-person interpreters and other available resources.

The Personnel, Training, and Licensing Lieutenant shall be responsible for ensuring all new personnel receive LEP training and that all personnel receive refresher training at least once every two years thereafter. The Personnel, Training, and Licensing Lieutenant shall maintain records of

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all LEP training provided, with a copy in each member's training file, in accordance with established records retention schedules.

336.6 SUPPLEMENTAL MATERIALS PROVIDED TO DEPARTMENT EMPLOYEES

The following materials will be made available to employees to assist in providing access and service to LEP individuals:

(a) A list of Department bilingual employees, languages spoken and contact and shift information

(b) A list of Department-certified interpretation services, bilingual interpreters, languages spoken and contact and availability information

(c) The telephone number and access code of telephonic interpretation services

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Hearing Impaired/Disabled Communications

337.1 PURPOSE AND SCOPE

Individuals who suffer from deafness, hearing impairment, blindness, impaired vision, mental or other disabilities may encounter difficulties in gaining meaningful access to, or an understanding of important rights, obligations and services. In accordance with the Americans with Disabilities Act (ADA), 42 USC § 12101 et seq., it is therefore the policy of this department to take all reasonable steps to accommodate such individuals in any law enforcement contact.

337.1.1 DEFINITIONS

Person Disabled in Communication - A person who cannot fully understand legal proceedings or charges involving him/her because of (Minn. Stat. § 611.31):

(a) A hearing, speech or other communication disorder.

(b) A difficulty in speaking or comprehending the English language.

Qualified Interpreter - An individual able to communicate, repeat and translate legal proceedings to another individual who qualifies as a person disabled in communication pursuant to Minn. Stat. § 611.31. The qualified interpreter shall meet the qualifications, take the required oath and respect communications as privileged under Minn. Stat. § 611.33.

337.2 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, employees of this department should consider all information reasonably available to them when determining how to communicate with an individual suffering from any disability. These factors may include, but are not limited to:

(a) The extent to which a disability is obvious or otherwise made known to the involved employee. Impaired or disabled individuals may be reluctant to acknowledge their condition and may even feign a complete understanding of a communication despite actual confusion.

(b) The nature of the disability (e.g., total deafness or blindness versus impairment).

(c) The nature of the law enforcement contact (e.g., emergency versus non-emergency, custodial versus consensual contact).

(d) Availability of resources to aid in communication.

When considering these and other available information, the involved employee(s) should carefully balance all factors in an effort to reasonably ensure meaningful access by individuals suffering from apparent disabilities to critical services while not imposing undue burdens on the Department or its officers.

337.2.1 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, Department employees should remain alert to the possibility of

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communication problems. They should exercise special care in the use of all gestures, and with verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual(s) with known or suspected disabilities or communication impairments.

337.3 TYPES OF ASSISTANCE AVAILABLE

Depending on the balance of the factors available for consideration at the time, this department will make every reasonable effort to provide meaningful and timely assistance to disabled individuals through a variety of services, where available. Disabled individuals may elect to accept such assistance at no cost, choose to provide their own communication services at their own expense or any combination thereof. In any situation, the individual's expressed choice of communication method shall be given primary consideration and shall be honored unless the employee can adequately demonstrate that another effective method of communication exists under the circumstances.

Officers should document the type of communication utilized in any related report and whether a disabled or impaired individual elected to use services provided by the Department or some other identified source. Department-provided services may include, but are not limited to the following:

337.3.1 TELEPHONE INTERPRETER SERVICES

The Watch Commander and Communications Supervisor will maintain a list of qualified interpreter services, to be contacted at Department expense and upon approval of a supervisor, to assist deaf or hearing-impaired individuals. When utilized, notification to such interpreters shall be made at the earliest reasonable opportunity. The interpreter should be available to respond within a reasonable time, generally not to exceed three hours.

337.4 CONTACT SITUATIONS AND REPORTING

While all contacts, services and individual rights are important, this department will carefully consider reasonably available information in an effort to prioritize services to disabled and impaired individuals so that such services and resources may be targeted where they are most needed because of the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is otherwise required to complete a report or other documentation, and communication assistance is provided to any involved disabled or impaired individual(s), such services should be noted in the related report.

337.4.1 QUALIFIED INTERPRETER REQUIRED IN ARRESTS

An officer who arrests a person who, due to deafness or a physical speaking impairment, cannot readily understand or communicate in the English language or cannot understand the proceedings, and before an interrogation or the taking of a statement, shall inform his/her supervisor of the arrest and ensure a qualified interpreter as specified by law is available at public expense to the arrestee (Minn. Stat. 611.32 Subd. 2).

The arresting officer shall immediately make arrangements to provide a qualified interpreter at the earliest possible time and at the place of detention. The officer shall, with the assistance of the

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interpreter, explain all charges filed and all procedures relating to the person's detainment and release (Minn. Stat. § 611.32 Subd. 2).

Prior to an interrogation or taking a statement, the arresting officer shall make available a qualified interpreter to assist throughout the interrogation or taking of a statement. The interpreter shall assist with all other communications, including those relating to needed medical attention.

337.4.2 CUSTODIAL INTERROGATIONS AND BOOKINGS

To ensure the rights of all disabled and impaired individuals are protected during arrest and custodial interrogation, this department places a high priority on providing reasonable communication assistance during such situations. It is further recognized that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution. As such, Department personnel providing communication assistance in these situations will make every reasonable effort to accurately and effectively communicate with disabled or impaired individuals.

Employees providing such assistance shall also be aware of the inherent communication impediments to gathering information from disabled or impaired individuals throughout the booking process or any other situation in which a disabled or impaired individual is under the control of Department personnel. Medical screening questions are commonly used to elicit information on individual's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, symptoms of withdrawal from certain medications or the need to segregate the arrestee from other prisoners, Therefore it is important for this department to make every reasonable effort to provide effective communication assistance in these situations.

(a) Individuals who require communication aids (e.g., hearing aids) should be permitted to retain such devices while in custody.

(b) While it may present officer safety or other logistical problems to allow a physically disabled individual to retain devices, such as a wheel chair or crutches during a custodial situation, the removal of such items will require that other reasonable accommodations be made to assist such individuals with access to all necessary services.

(c) Whenever a deaf or hearing-impaired individual is detained or arrested and placed in handcuffs, officers should consider, safety permitting, placing the handcuffs in front of the body to allow the individual to sign or write notes.

337.4.3 QUALIFIED INTERPRETER REQUIRED FOR PROPERTY

If the property of a person is seized incident to a lawful arrest or search, the seizing officer shall, upon request, make available to the person at the earliest possible time a qualified interpreter to assist the person in understanding the possible consequences of the seizure and the person's right to judicial review (Minn. Stat. § 611.32 Subd. 2).

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337.4.4 FIELD ENFORCEMENT AND INVESTIGATIONS

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts which may involve disabled or impaired individuals. The scope and nature of these activities and contacts will inevitably vary. Therefore the Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every officer in the field. Each officer and/or supervisor must assess each situation to determine the need and availability for communication assistance to any and all involved disabled or impaired individuals.

Although not every situation can be addressed within this policy, it is important that employees are able to effectively communicate the reason for a contact with a disabled or impaired individual, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with a deaf individual.

337.5 TRAINING

In an effort to ensure that all employees in public contact positions or who have contact with those in custody are properly trained, this department will provide periodic training in the following areas:

(a) Employee awareness of related policies, procedures, forms and available resources.

(b) Employees having contact with the public or those who are in our custody are trained to work effectively with in-person and telephone interpreters and related equipment.

(c) Training for management staff, even if they may not interact regularly with disabled individuals, so that they remain fully aware of and understand this policy, can reinforce its importance, and ensure its implementation by staff.

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Child and Dependent Adult Safety

338.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department.

This policy does not address the actions to be taken during the course of a child abuse or vulnerable adult investigation. These are covered in the Child Abuse and Abuse of Vulnerable Adults policies.

338.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when a parent or caregiver is arrested. The Duluth Police Department will endeavor to create a strong cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected.

338.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken:

(a) Inquire about and confirm the location of any children or dependent adults.

(b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.

(c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be nonproductive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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338.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

(a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.

    1. Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.

    2. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.

(b) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.

(c) Notify the county social services agency, if appropriate.

(d) Notify the field supervisor or Watch Commander of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

338.3.2 DURING THE BOOKING PROCESS

During the booking process, the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law.

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

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338.3.3 REPORTING

(a) For all arrests where children are present or living in the household, the reporting employee will document the following information:

1. Name
2. Sex
3. Age
4. How, where and with whom or which agency the child was placed

(b) For all arrests where dependent adults are present or living in the household, the reporting employee should document the following information about the dependent adult:

1. Name
2. Sex
3. Age
4. Whether he/she reasonably appears able to care for him/herself
5. Disposition or placement information if he/she is unable to care for him/herself

338.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

338.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should consider contacting the appropriate welfare service or other department-approved social service entity to determine whether protective custody is appropriate (Minn. Stat. § 260C.007; Minn. Stat. § 260C.175).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car or taken into formal protective custody.

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

338.5 TRAINING

The Personnel, Training, and Licensing Lieutenant is responsible to ensure that all personnel of this department who may be involved in arrests affecting children or dependent adults receive approved training on effective safety measures when a parent, guardian or caregiver is arrested.

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Service Animals

339.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Duluth Police Department recognizes this need and is committed to making reasonable modifications to its policies, practices and procedures in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA) to permit the use of service animals that are individually trained to assist a person with a disability.

339.2 SERVICE ANIMALS

The ADA defines a service animal as any dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the owner's disability (28 CFR 35.104).

339.2.1 USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar. Service animals are not pets and may be trained by an individual or organization to assist people with disabilities.

Examples of the ways service animals may be used to provide assistance include:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

339.3 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the Duluth Police Department affords to all members of the public (see generally Minn. Stat. § 256C.02; Minn. Stat. § 363A.19).

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If an animal exhibits vicious behavior, poses a direct threat to the health of others or unreasonably disrupts or interferes with normal business operations, an officer may direct the owner to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the animal. Each incident must be considered individually. Past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services as are reasonably available to an individual with the disability.

If it is apparent or if an officer is aware the animal is a service animal, the owner should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the officer should ask the individual only the following questions:

- Is the animal required because of a disability?
- What task or service has the animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal, and no further question as to the animal's status should be asked. The person should not be questioned about his/her disabilities nor should the person be asked to provide any license, certification or identification card for the service animal.

Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their owner into all areas that other customers or members of the public are allowed.

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice or the Minnesota Department of Human Rights.

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Volunteer Program

340.1 PURPOSE AND SCOPE

It is the policy of this department to use qualified volunteers for specified tasks and duties in order to create efficiencies for the Department and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, licensed officers and civilian personnel. Volunteers can be an important part of any organization and have proven to be a valuable asset to law enforcement agencies. Volunteers help to increase department responsiveness, delivery of services and information input, and provide new program opportunities. In addition, volunteers bring new skills and expertise to the Department and prompt new enthusiasm.

340.1.1 DEFINITION OF VOLUNTEER

An individual who performs a service for the Department without promise, expectation or receipt of compensation for services rendered. This may include unpaid chaplains, unpaid reserve officers, interns, persons providing administrative support and youth involved in a law enforcement Explorer Post, among others.

340.1.2 VOLUNTEER ELIGIBILITY

Requirements for participation as an Duluth Police Department volunteer include:

(a) At least 18 years of age for all positions other than Explorer.

(b) At least 14 years of age for Explorer.

(c) A valid driver's license if the position requires vehicle operation.

(d) Liability insurance for any personally owned equipment, vehicles or horses utilized during volunteer work.

(e) No conviction of a felony, any crime of a sexual nature, any crime related to assault, any crime related to dishonesty, or any crime related to impersonating a law enforcement officer.

(f) No conviction of a misdemeanor or gross misdemeanor crime within the past 10 years, excluding petty misdemeanor traffic offenses.

(g) The applicant must not have any mental illness or chemical dependency condition that may adversely affects the person's ability to serve in the position.

(h) Physical requirements reasonably appropriate to the assignment.

(i) A personal background history and character suitable for a person representing the Department, as validated by a background investigation.

The Chief of Police may apply exceptions for eligibility based on organizational needs and the qualification of the individual.

340.2 VOLUNTEER MANAGEMENT

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340.2.1 VOLUNTEER COORDINATOR

The function of the Volunteer Coordinator is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist staff and volunteer efforts to jointly provide more productive services. The Volunteer Coordinator or designee shall be responsible for the following:

(a) Recruiting, selecting and training qualified volunteers for various positions.

(b) Maintaining records for each volunteer.

(c) Tracking and evaluating the contribution of volunteers.

(d) Maintaining the volunteer handbook and outlining expectations, policies and responsibilities for all volunteers.

(e) Maintaining a record of volunteer schedules and work hours.

(f) Completion and dissemination as appropriate of all necessary paperwork and information.

(g) Planning periodic recognition events.

(h) Maintaining liaison with other volunteer-utilizing programs in the community and assisting in community-wide efforts to recognize and promote volunteering.

340.2.2 RECRUITMENT

Volunteers should be recruited on a continuous and ongoing basis in accordance with department policy on equal opportunity nondiscriminatory employment. A primary qualification for participation in the application process should be an interest in, and an ability to assist the Department in serving the public.

Requests for volunteers should be submitted in writing by interested staff to the Volunteer Coordinator through the requester's immediate supervisor. A complete position description and a requested time frame should be included in the request. All parties should understand that the recruitment of volunteers is enhanced by creative and interesting assignments. The Volunteer Coordinator may withhold assignment of any volunteer until such time as the requesting unit is prepared to make effective use of volunteer resources.

340.2.3 SCREENING

All prospective volunteers should complete the volunteer application form. The Volunteer Coordinator or designee should conduct a face-to-face interview with the applicant.

A documented background investigation shall be completed on each volunteer applicant and shall include, but not necessarily be limited to, the following:

(a) Traffic and criminal background check

(b) Employment

(c) References

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A volunteer whose assignment requires the use of, access to or places him/her in the vicinity of criminal histories, investigative files or information portals, shall require submission of prints and clearance through the Bureau of Criminal Apprehension (BCA).

340.2.4 SELECTION AND PLACEMENT

Service as a volunteer shall begin with an official notice of acceptance or appointment to a volunteer position. Notice may only be given by an authorized representative of the Department, who will normally be the Volunteer Program Manager. No volunteer should begin performance of any position until he/she has been officially accepted for that position and completed all necessary screening and paperwork. At the time of final acceptance, each volunteer should complete all necessary enrollment paperwork and will receive a copy of the job description and agreement of service with the Department. All volunteers shall receive a copy of the volunteer handbook and shall be required to sign a volunteer agreement.

Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department.

340.2.5 TRAINING

Volunteers will be provided with an orientation program to acquaint them with the department, personnel, policies and procedures that have a direct impact on their work assignment.

Volunteers should receive position-specific training to ensure they have adequate knowledge and skills to complete tasks required by the position and should receive periodic ongoing training as deemed appropriate by their supervisor or the Volunteer Coordinator.

It is highly recommended that volunteers attend the Citizen Police Academy.

Depending on the assignment, Training may include:

(a) Role of the volunteer.

(b) Department policies.

(c) Training specific to the procedure manual for the volunteer position.

(d) Discrimination and harassment training.

(e) CPR/first aid.

(f) CERT/Citizens Emergency Response Training.

(g) Search and rescue techniques.

(h) Scenario-based searching methods.

(i) Evidence preservation.

(j) Basic traffic direction and control.

(k) Roadway incursion safety.

(l) Self-defense techniques.

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(m) Vehicle operations, including specialized vehicles.

Pursuant to Minn. Stat. § 626.8466, the Department may establish training, licensing and continuing education requirements for its reserve officers.

Training should reinforce to volunteers that they should not intentionally represent themselves as, or by omission infer that they are licensed officers or other full-time members of the Department. They shall always represent themselves as volunteers.

All volunteers shall comply with the rules of conduct and with all orders and directives, either oral or written, issued by the Department. Whenever a rule, regulation or guideline in this manual refers to a licensed officer, it shall also apply to a volunteer unless by its nature it is inapplicable.

340.2.6 FITNESS FOR DUTY

No volunteer shall report to work or be on-duty when his/her judgment or physical condition has been impaired by alcohol, medication, other substances, illness or injury.

Volunteers shall report to their supervisor any changes in status that may affect their ability to fulfill their duties. This includes, but is not limited to, the following:

(a) Driver's license

(b) Medical condition

(c) Arrests

(d) Criminal investigations

(e) All law enforcement contacts

All volunteers shall adhere to the guidelines set forth by this department regarding drug and alcohol use.

340.2.7 DRESS CODE

As representatives of the Department, volunteers are responsible for presenting a professional image to the community. Volunteers shall dress appropriately for the conditions and performance of their duties.

Volunteers shall conform to approved dress consistent with their duty assignment. Uniforms authorized for volunteers should be readily distinguishable from those worn by licensed officers. No volunteer shall wear his/her uniform or identifiable parts of that uniform while off-duty.

Volunteers shall be required to return any issued uniform or department property at the termination of service.

340.3 SUPERVISION OF VOLUNTEERS

Each volunteer who is accepted to a position with the Department must have a clearly identified supervisor who is responsible for direct management of that volunteer. This supervisor will be responsible for day-to-day management and guidance of the work of the volunteer and should be available to the volunteer for consultation and assistance.

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A volunteer may be assigned as, and act as a supervisor of other volunteers provided that the supervising volunteer is under the direct supervision of a paid staff member.

Functional supervision of volunteers is the responsibility of the supervisor in charge of the unit where the volunteer is assigned. Following are some considerations to keep in mind while supervising volunteers:

(a) Take the time to introduce volunteers to employees on all levels.

(b) Ensure volunteers have work space and necessary office supplies.

(c) Make sure the work is challenging. Do not hesitate to give them an assignment or task that will tap these valuable resources.

340.4 DATA PRACTICES

With appropriate security clearance, volunteers may have access to private and confidential information, such as criminal histories or investigative files. Unless otherwise directed by a supervisor, the duties of the position or department policy, all information shall be considered confidential. Only that information specifically identified and approved by authorized personnel shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by department policy and supervisory personnel.

Each volunteer will receive training in data practices and be required to sign a nondisclosure agreement before being given an assignment with the Department. Subsequent unauthorized disclosure of any private or confidential information, verbally, in writing or by any other means, by the volunteer is grounds for immediate dismissal and possible criminal prosecution.

Volunteers shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to a newspaper or other periodical, release or divulge any information concerning the activities of the Department, or maintain that they represent the Department in such matters without permission from the proper department personnel.

340.5 PROPERTY AND EQUIPMENT

Volunteers will be issued an identification card that must be worn at all times while on-duty. Any fixed and portable equipment issued by the Department shall be for official and authorized use only. Any property or equipment issued to a volunteer shall remain the property of the Department and shall be returned at the termination of service.

340.5.1 VEHICLE USE

Volunteers assigned to duties such as vacation house checks or other assignments that require the use of a vehicle must first complete the following:

(a) A driving safety briefing.

(b) Verification that the volunteer possesses a valid driver's license.

(c) Verification that the volunteer carries current vehicle insurance.

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The Volunteer Coordinator should ensure that all volunteers receive safety briefing updates and license and insurance verification at least once a year.

When operating a Department vehicle, volunteers shall obey all rules of the road, including seat belt requirements.

Volunteers should not operate a marked patrol car unless there is a prominently placed sign indicating that it is out of service and is being operated for maintenance purposes only; that it is operated during a POST-approved skills course; that it is being used to transports prisoners or equipment; or is being used to provide supplementary assistance under the direction of an on-duty licensed officer (Minn. Stat. 169.98 Subd. 1 b. Volunteers are not authorized to operate a Department vehicle under emergency conditions (lights and siren).

340.5.2 RADIO AND MDC USAGE

Volunteers shall successfully complete state and federal database access training and radio procedures training prior to using the law enforcement radio or MDT and shall comply with all related provisions. The Volunteer Coordinator should ensure that radio and database access training is provided for volunteers whenever necessary.

340.6 DISCIPLINARY PROCEDURES/TERMINATION

A volunteer may be removed from the volunteer program at the discretion of the Chief of Police or the Volunteer Coordinator. Volunteers shall have no property interests in their continued appointment.

Volunteers may resign from volunteer service with this department at any time. It is requested that volunteers who intend to resign provide advance notice of their departure and a reason for their decision.

340.6.1 EXIT INTERVIEWS

Exit interviews, where possible, should be conducted with volunteers who are leaving their positions. The interview should ascertain why the volunteer is leaving the position and solicit the volunteer's suggestions on improving the position. When appropriate, the interview should also include a discussion on the possibility of involvement in some other capacity with the Department.

340.7 EVALUATION

An evaluation of the overall volunteer program will be conducted on an annual basis by the Volunteer Coordinator. Regular evaluations should be conducted with volunteers to ensure the best use of human resources available, to ensure personnel problems can be identified and dealt with promptly and fairly and to ensure optimum job satisfaction on the part of volunteers.

340.8 EMERGENCY CALL-OUT FOR VOLUNTEER PERSONNEL

The Volunteer Coordinator shall develop a plan outlining an emergency call-out procedure for volunteer personnel.

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Off-Duty Law Enforcement Actions

341.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place an officer as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for officers of the Duluth Police Department with respect taking law enforcement action while off-duty.

341.2 POLICY

Officers generally should not initiate law enforcement action while off-duty. Officers should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

When the safety of the public or the prevention of major property damage requires immediate action, officers should first consider reporting and monitoring the activity and only take direct action as a last resort.

Officers are not expected to place themselves in unreasonable peril. However, any licensed member of this department who becomes aware of an incident or circumstance that he/she reasonably believes poses an imminent threat of serious bodily injury or death or significant property damage may take reasonable action to minimize the threat.

341.3 FIREARMS

Officers of this department may carry firearms while off-duty in accordance with federal regulations, state law and department policy. All firearms and ammunition must meet guidelines as described in the Firearms and Qualification Policy. When carrying firearms while off-duty, officers shall also carry their department-issued badge and identification.

Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the officer's senses or judgment.

341.4 DECISION TO INTERVENE

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable and should take into consideration:

(a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.

(b) The inability to communicate with responding units.

(c) The lack of equipment, such as handcuffs, Oleoresin Capsicum (OC) spray or a baton.

(d) The lack of cover.

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(e) The potential for increased risk to bystanders if the off-duty officer were to intervene.

(f) Unfamiliarity with the surroundings.

(g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive and gather as much accurate intelligence as possible instead of immediately intervening.

341.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary, the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The operator should be informed that an off-duty officer is on-scene and should be provided a description of the officer if reasonably possible.

Whenever reasonably practicable, the officer should loudly and repeatedly identify him/herself as an Duluth Police Department officer until acknowledged. Official identification should also be displayed.

341.4.2 INCIDENTS OF PERSONAL INTEREST

Officers should refrain from handling incidents of personal interest (e.g., family or neighbor disputes) and should remain neutral. In such circumstances, officers should call the responsible agency to handle the matter.

341.4.3 CIVILIAN RESPONSIBILITIES

Civilian personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and reasonably practicable.

341.4.4 OTHER CONSIDERATIONS

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she needs to maintain an undercover capability.

341.5 REPORTING

If possible any officer, prior to taking any off-duty law enforcement action, shall notify and receive approval of an Duluth Police Department supervisor (or other applicable enforcement authority if acting outside the jurisdiction of the Duluth Police Department). The Watch Commander shall determine whether a report should be filed by the employee.

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

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Crime Free Multi-Housing

342.1 PURPOSE

The Department recognizes a responsibility to ensure the quiet enjoyment of the normal activities of life for occupants of rental properties and for the neighborhoods in which such rental properties are located. This Policy defines violations of the Crime Free Multi-Housing Ordinance (C.O. 29A-37, Article IV) and outlines the procedure whereby the Department may abate the occurrence of frequent criminal and nuisance activities within a rental unit.

342.2 SCOPE AND CONTROL

The Department finds that all residential rental units in the city shall be decent, safe, sanitary and operated and maintained in a manner that avoids the creation of a nuisance to the neighborhood, an influence that fosters blight and deterioration, or creates a disincentive to neighborhood reinvestment. In addition, property owners and managers are responsible for taking such reasonable steps as are necessary to ensure that the citizens of the city who occupy rental units may pursue the quiet enjoyment of the normal activities of life in surroundings that are safe, secure, sanitary, and free from criminal activity and nuisances.

The Department is responsible for identification of properties not in compliance with the regulations contained in the Crime Free Multi-Housing Ordinance, and the subsequent enforcement of violations of this Ordinance. The Department will collaborate with the City of Duluth Office of Building Safety to effect the most efficient and lasting resolve to identified violations of the CFMH Ordinance.

342.3 RENTAL LICENSES AND CFMH LANGUAGE REQUIRED

An owned dwelling that is classified by the Office of Building Safety as rental property shall be subject to rental licensing requirements set forth in City Ordinance 29A-28. The Office of Building Safety shall track the issuance and renewal of such licenses, and provide the police department with database access to vital information related to licensed rental property owners and rental property managers. In addition, Crime Free-Drug Free language shall be included in all rental property lease agreements after January 1, 2009.

342.4 DISORDERLY OR NUISANCE PROPERTIES

The Crime Free Multi Housing Ordinance (CFMH) has at its core a system of notifications that are made by the police to property owners/license holders, should the property in question be deemed a disorderly or nuisance property by the police department. The notification system shall be tied to repeat police calls to the same address over a period of time that include, but are not limited to, nuisance events listed in City Ordinance 40-10. The notification system is designed to give property owners/managers ample notice of their property being in violation of the CFMH Ordinance.

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The notification system allows for two written police notices to each property owner/manager without action against the rental license for that property. The third notification shall cause the rental license to be reviewed by the Building Safety Director, who will make a decision regarding suspension or revocation of the rental license for that address.

342.5 STATUS AS A NUISANCE PROPERTY-BASIS FOR ABATEMENT NOTICE

A rental property shall be recognized as being in violation of the CFMH Ordinance by the following procedure(s):

- The rental address appears on the weekly DPD Repeat Calls for Service Report.
- The rental address appears on the weekly DPD Rental Property Repeat Calls for Service Report.
- The address is recognized by a Community Police Officer and their Supervisor as a nuisance property, based on recent call for service activity at the address.
- The address is the subject of more than one citizen complaint within a reasonable time frame.

A determination that the rental unit has been the location of disorderly behavior shall be made by a preponderance of the evidence to support such a determination. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly behavior.

342.6 ABATEMENT NOTIFICATIONS-PROCEDURE

The Police Department shall respond as follows to a violation of the provisions of this Article:

- FIRST NOTICE Upon occurrence of the first instance of a determination by the Department that a rental unit was the location of an incident of disorderly behavior, a Community Policing Officer upon approval by their Community Policing Sergeant, shall assign a case number (ICR number) to the case, and cause notice to be made to the licensee, a property manager whose identity and address is on file in the office of the code official, and the tenant of the rental unit. The notice shall direct the licensee to take steps to prevent further violations. This notice is advisory-only. A copy of the letter shall be placed into Police Records under the ICR number.
- SECOND NOTICE Upon the second instance of the occurrence of disorderly behavior at the rental unit within twelve (12) months of the first notice provided in clause (a) above, the Community Policing Officer upon approval of their Community Policing Sergeant shall cause notice to be made to the licensee, a property manager whose identity and address is on file in the office of the code official, and the tenant of the rental unit. The notice shall direct the licensee to submit, within ten (10) days of the date of the notice, a written abatement report of all actions taken by the licensee since the first notice and actions the licensee intends to take to prevent further disorderly behavior. The response shall be sent to the Community Police Officer that issued the notice. A copy of the notice and response shall be entered into Police Records under the ICR number.

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- THIRD NOTICE Upon the occurrence of the third instance of disorderly behavior at the rental unit within twelve (12) months after the first of two previous notices, the Community Policing Officer and the Community Policing Sergeant, upon approval of the Area Patrol Commander, and shall cause notice to be made to the licensee, a property manager whose identity and address is on file in the office of the code official, and the tenant of the rental unit. The Area Patrol Commander shall forward a copy of the third notice of abatement to the Office of Building Safety, along with communication stating that the notice is the third such notice sent regarding that particular address. A copy of the notice shall be entered into Police Records under the ICR number.

NOTE: Nothing in this Order prohibits the concurrent use of City Ordinance 40 Article III (Excessive Consumption of Police Services) as an additional remedy for abating behavior at a problem property.

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Chapter 4 - Patrol Operations

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Patrol Function

400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the functions of the patrol unit of the Department to ensure intra-organization cooperation and information sharing.

400.2 PATROL DIVISION RESPONSIBILITIES

With this Directive, the Department defines Patrol Division structure, area responsibilities, district assignments and squad numbers; establishes area and crew staffing levels, describes Military Leave, details holiday scheduling, time management and vacation and day-off selection and establishes parameters for overtime use.

400.3 POLICING AREAS DEFINED

The Patrol Division is divided into two policing areas, West and East. Each area consists of three Patrol Districts.

- West Policing Area: Districts 24, 25 and 29
- East Policing Area: Districts 26, 27 and 28

400.4 PATROL DIVISION DEPUTY CHIEF

The Department allocates one deputy chief to the Patrol Division. The Patrol Division deputy chief reports directly to the chief of police and is responsible and accountable for all personnel and police services in the Patrol Division. The Patrol Division deputy chief is charged with monitoring the efficiency and effectiveness of police services, problem solving and overseeing Compstat.

400.5 PATROL AREA COMMANDER

The Department allocates one lieutenant (area commander) to the West Policing Area and one lieutenant (area commander) to the East Policing Area. Area commanders will report directly to the Patrol Division deputy chief. Area Commanders are responsible for all assigned personnel and police services in the Policing Areas as well as overseeing the Community Policing efforts.

400.6 PATROL SHIFT LIEUTENANT

Four shift lieutenants (Station/Watch Commanders) will be assigned to four Patrol shifts (A, B, C, & D). The four shift lieutenants have a geographical assignment for supervisory purposes (West or East Areas), and are responsible for all personnel and police services on the assigned shift. Two of the shift lieutenants are assigned to the West Area commander and two shift lieutenants are assigned to the East Area commander. The West Area shift lieutenants are assigned to shifts A and B. The East Area shift lieutenants are assigned to shifts C and D.

400.6.1 COMMAND STAFF NOTIFICATIONS

The Shift Lieutenant or their designee is responsible for producing a Command Staff Notifications.

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The nature of some incidents, due to being high profile, or exposing the city to liability, requires that on-scene patrol officers notify a patrol unit leader of the incident. Once notified, the unit leader must determine whether to assume command of the incident or delegate command to the officers already at the scene.

Incidents a patrol unit leader must be notified of, or acknowledge, are:

- Arson
- Armed robbery
- Violent death or death under unusual circumstances
- Civil disturbances
- Felony assault
- Felony level Incidents involving weapons
- Injury accidents involving on-duty police vehicles
- Kidnapping
- Officer use of deadly force
- On-duty officer injury
- Vehicle pursuit
- Labor disputes
- Sexual assault
- Unusual occurrences
- Subjects injured due to police action
- Injuries on City property
- Fatal traffic accidents
- Incidents involving significant property damage or loss
- Threats to schools or staff
- Significant incidents arising from extra-duty or non-duty employment
- Any significant off-duty behavior, incident, or injury involving a Department employee and investigated by the Duluth Police Department

Unit leaders notified of such incidents must use their own judgment on notifying command staff. Command Staff need to learn of incidents through police department channels, not when the media or City administration asks for information on the incident.

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400.7 PATROL SHIFT SERGEANTS

Eight sergeants are assigned to the Patrol Division. Four shift sergeants are assigned to the West Policing Area and four shift sergeants are assigned to the East Policing Area. Shift sergeants report directly to a shift lieutenant. One of the shift sergeants on the shift will be a senior sergeant, squad 20 and one of the Shift Sergeants on the shift will be a junior Sergeant, squad 21. The senior Shift Sergeant is the Station Commander in the absence of higher ranking personnel on-duty. In instances when only one Shift Sergeant is working, the on-duty Shift Sergeant is the supervisor responsible for all personnel and police services on the shift.

400.8 COMMUNITY POLICING SERGEANT

Two Community Police sergeants are assigned to the patrol division and report directly to the Area commanders. The Community Policing sergeant is responsible for all problem solving and community policing operations in the respective Policing Areas (West and East). The Community Policing sergeant directly supervises Community police officers and other personnel assigned to that Area.

400.9 PATROL OFFICER

Twenty-six police officers are allocated to the West Area and thirty-two officers to the East Area.

- Fourteen officers are assigned to each patrol shift (A, B, C & D)
- Seven police officers are assigned to each of the four west patrol shifts (A, B, C, & D)
- Eight police officers are assigned to each of the four east patrol shifts (A, B, C, & D).

Four power shift officers will be deployed to augment patrol staffing during what has been shown to be predominately higher levels of calls for service through crime analysis. During the initial phase of the deployment two teams of two officers will each be assigned and will be geographically responsible for either the East or the West Areas. They will work a rotation of four days on and four days off. Their shifts will be split between the rotations of the other four patrol shifts. In other words they will work two days with the rotating shift crews and two days with the permanent shift crews. The power shift will work the same rotation of shift hours as the K-9's, January through March ten hour shifts followed by twelve hours shifts April through September. Returning to ten hour shifts for the months of October through December.

The power shift officers will be assigned to the Area Commanders and will be supervised by the appropriate Community Policing Sergeant. For operational approval needs the power shift officer will work with the on duty patrol supervisors. Power shift officers shall assist the patrol crews with 911 responses during peak times and take an active role in problem solving in their assigned areas.

Additional officers assigned to the Patrol Division:

- Three K-9 officers assigned to Shift A night commander

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- One Housing and Rehabilitation Agency officer assigned to all HRA properties within the City assigned to East Area commander
- One Life Safety officer assigned to East Area commander
- One Traffic Officer assigned to West Area commander

400.9.1 PATROL FUNCTION AND EXPECTATIONS

Officers will generally patrol in clearly marked vehicles, patrol assigned jurisdictional areas of Duluth, respond to calls for assistance, act as a deterrent to crime, enforce state, local and, when authorized or empowered by agreement or statute, federal laws and respond to emergencies 24 hours per day, seven days per week.

(a) Patrol that is directed at the prevention of criminal acts, traffic violations and collisions, the maintenance of public order and the discovery of hazardous situations or conditions.

(b) Crime prevention activities, such as residential inspections, business inspections and community presentations.

(c) Calls for service, both routine and emergency.

(d) Investigation of both criminal and non-criminal acts.

(e) The apprehension of criminal offenders.

(f) Community Oriented Policing and problem-solving activities, such as citizen assists and individual citizen contacts of a positive nature.

(g) The sharing of information between the Patrol and other division within the Department, as well other government agencies.

(h) The application of resources to specific problems or situations within the community that may be improved or resolved by Community Oriented Policing and problem-solving strategies.

(i) Traffic direction and control.

(j) Review and implement COMP STAT and other information to identify crime and quality of life problems, patterns and trends to prevent crimes and reduce calls for service.

(k) Respond to calls.

(l) The Duluth Police Department will be assisting the Bureau of Justice Assistance and the Minnesota Joint Analysis Center (MNJAC) by participating in the nationwide "SAR" initiative.

    1. The "SAR" is a partnership of agencies of all levels that provides law enforcement with another tool to combat crime and terrorism. This nationwide initiative has established a national capacity for gathering, documenting, processing, analyzing, and sharing of SARs.

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2. A SAR is used to document any reported or observed activity or any criminal act or attempted criminal act that an officer believes may reveal a nexus to foreign or domestic terrorism.

400.10 COMMUNITY POLICE OFFICER

Community Policing Officers are engaged in problem solving and community policing services and are assigned specific beats. Community Police Officers are responsible for call reduction and community policing activities. They report to their perspective Community Police Sergeant for their assignments.

400.11 CANINE OFFICERS

Officers assigned as members of the Canine Unit are assigned to the West Policing Area Group A shift lieutenant. Canine officers will work shifts as assigned.

FLSA rules will apply to daily animal maintenance and care, and are counted as part of the Canine Officer's regular work hours.

400.12 ASSIGNMENTS AND STAFFING

400.12.1 AREA ASSIGNMENTS

Patrol District assignments are the responsibility of each of the shift lieutenants. Seniority and Department need are factors in making District assignments.

Patrol Area assignments will be re-bid every two years by seniority. Re-bidding will occur as part of the Employee Development Assessment in October of the odd-numbered years. The four shift lieutenants will be responsible for overseeing this procedure. Police management reserves the right to assign personnel where appropriate.

400.12.2 AREA SHIFT STAFFING

Area staffing levels are the responsibility of the Area commander. Staffing levels should take into consideration such variables as weather, time of year, special events, recruit officers, etc.

Recruit police officers are not factored into minimum staffing while training in the Police Field Training Officer Program. During emergencies, a recruit officer may factor into minimum staffing consideration by reviewing the recruits status and ability. A decision will be made on a case by case basis.

Unpredictable circumstances such as illness or injury may cause a staffing shortage. The police administration authorizes shift lieutenants to hire on an overtime basis to meet staffing levels. Unpredictable circumstances may constitute an emergency. Emergencies allow the shift lieutenants to hold over any/all personnel from the previous shift.

Overtime cards should include the replacement officer's name, the Policing Area and shift, and should list staffing shortages as the reason for the overtime.

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400.12.3 AREA INTEGRITY

Officers are strategically assigned to six Patrol Districts throughout the City. Assignments are made to evenly distribute police resources throughout the City, encourage responsibility for problem solving within a geographical area and allow for efficient and effective police response.

Shift lieutenants and shift sergeants are responsible for maintaining Area and District integrity and directing officer activities in the area of assignment or as assigned to address community needs or identified policing problems.

Shift lieutenants are responsible for monitoring the numbers of officers assigned to a call. Call management has an impact on public perception regarding the number of officers in one area. This includes breaks and calls for service.

400.12.4 MILITARY LEAVE

Officers belonging to a State National Guard Unit or a Federal Military Reserve Unit drill two days monthly and train two weeks annually, totaling a minimum of 38 days of military obligation.

Annually by December 1, officers with a military obligation must provide their shift lieutenant with the dates for their weekend drills and annual two week training for the following year. These dates must be entered into the Police Scheduler before vacation selection. If any officer's drill or training dates are changed by their National Guard or Reserve Unit, the officer must provide copies of those orders to their shift lieutenant as soon as possible.

Minnesota law requires employers provide an employee belonging to the National Guard or Federal Military Reserves with 15 days of paid Military Leave. Officers must use their own time off for any additional days.

Officers subject to military activation and/or deployment must notify their Patrol shift lieutenant as soon as possible. Military activation and deployment constitutes a predictable staffing shortage.

400.12.5 TIME MANAGEMENT/HOLIDAYS

For time and budget management purposes, all holidays except Memorial Day, Independence Day and Labor Day require maximum staffing on a shift (12 officers, including Canine Officers and Power Shift). Any deviation in holiday staffing needs approval from the Patrol deputy chief.

Shift lieutenants are responsible for time management of all personnel assigned to them.

400.12.6 VACATION AND DAY OFF SELECTION

For the purpose of this directive, the Work Unit is a group of police officers assigned to an Area shift. For example, West Area, Shift A.

Power Shift Officers will make time off selections with their work partner, minimum staffing will be one of the two officers working as scheduled.

Because of scheduling, holiday compensation time, and personal leave time, officers accumulate additional days off. Annually by January 1, each divisional work group must make vacation and day off selections based on seniority.

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Vacation:

- 2 weeks for 1st pick
- 3rd week (if eligible) for 2nd pick
- 4th week (if eligible) for 3rd pick

Extra Days Off:

Shift A and D will need to take off 18 days, with officers selecting 9 days off each rotation. Shifts B & C must take off 16 days, with officers selecting 8 days off each rotation. Officers have the discretion to select 1 to 4 days off during any open or available days in a four day rotation.

Shift Lieutenant Responsibilities

The shift lieutenant is responsible for managing the day off time of the assigned shift sergeants and Patrol officers and will audit officers' time quarterly to ensure accrued hours are nearest 500 per quarter.

- Time off in the months of January, February and March is required.
- No employee shall use vacation time except at such time or times as the chief may approve.
- No employee shall use any vacation, personal leave or day off time that they have not accrued.

400.12.7 PATROL DIVISION SHIFTS
Shift sergeants will begin shifts at 0500 on day shifts and 1700 on night shifts.

Police officers assigned to the Patrol Division work 8, 9, 10, and 12 hour shifts, depending upon their assignment.

A work period is defined by a 24 day work period.

400.13 PROBLEM SOLVING AND QUALITY OF LIFE IMPROVEMENTS

All department resources will be used as needed in response to the weekly analysis of COMPSTAT. It is expected area commanders and shift commanders will direct activities for problem solving. Patrol District and Area staffing may be adjusted by the area commander or shift lieutenant in response to COMPSTAT. Minimum staffing levels will not be affected. All ranks in the Patrol Division will participate in problem solving activities.

Some problem solving activities that maybe deployed:

SIMPLE: is defined as a managed police event which has specific boundaries, defined time lines and measured outcomes.

- Simples represent a shared effort among police personnel to concentrate efforts and provide a consistent response to a designated problem or to determine if a problem is occurring.

SIFA: is defined as a Self Initiated Field Activity.

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Officers are responsible for problem solving and being aware of SIMPLES and SIFA's in their assigned districts. Officers will identify their efforts by using the codes SIFA/SIMPLE. Officers are expected to perform SIFA's during their unassigned times to develop community contacts, deter crime and provide active policing.

400.14 ADDITIONAL INFORMATION AND SQUAD NUMBERS

See the Procedural Standard of Practice Guideline for additional information and a detail listing of all squad numbers.

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Racial/Bias Based Profiling

401.1 PURPOSE AND SCOPE

This policy provides guidance to department members and establishes appropriate controls to ensure that employees of the Duluth Police Department do not engage in racial- or bias-based profiling or violate any related laws while serving the community.

401.1.1 DEFINITIONS

Definitions related to this policy include:

Racial- or bias-based profiling - An inappropriate reliance on factors such as race, ethnicity, national origin, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group as a factor in deciding whether to take law enforcement action or to provide service.

This includes use of racial or ethnic stereotypes as factors in selecting whom to stop and search. It does not include law enforcement's use of race or ethnicity to determine whether a person matches a specific description of a particular subject (Minn. Stat. § 626.8471).

401.2 POLICY

The Duluth Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly and without discrimination toward any individual or group.

Race, ethnicity or nationality, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be used as the basis for providing differing levels of law enforcement service or the enforcement of the law (Minn. Stat. § 626.8471, Subd. 3).

401.3 RACIAL- OR BIAS-BASED PROFILING PROHIBITED

Racial- or bias-based profiling is strictly prohibited. However, nothing in this policy is intended to prohibit an officer from considering factors such as race or ethnicity in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

Officers may take into account factors including the race, ethnicity, national origin, gender, sexual orientation and religion of a specific suspect based on information that links specific, suspected, unlawful or suspicious activity to a particular individual or group of individuals. This information may be used in the same manner officers use specific information regarding age, height or weight about specific suspects.

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401.4 MEMBER RESPONSIBILITY

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any known instances of racial- or bias-based profiling to a supervisor.

401.4.1 REASON FOR DETENTION

Officers detaining a person shall be prepared to articulate sufficient reasonable suspicion to justify a detention, independent of the individual's membership in a protected class.

To the extent that written documentation would otherwise be completed (e.g., arrest report, Field Interview (FI) card), the involved officer should include those facts giving rise to the officer's reasonable suspicion or probable cause for the detention, as applicable.

Nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

401.4.2 INFORMATION TO BE PROVIDED

Officers shall (Minn. Stat. § 626.8471, Subd. 3):

(a) Introduce or identify themselves and state the reason for a contact as soon as practicable unless providing the information could compromise officer or public safety.

(b) Attempt to answer questions the person may have regarding the contact, including relevant referrals to other agencies when appropriate.

(c) Explain the reason for the contact if it is determined the reasonable suspicion was unfounded.

(d) When requested, officers have a duty to give their name, badge number and identify this department during routine stops.

(e) When requested, officers should inform a member of the public of the process to file a misconduct complaint for racial- or bias-based profiling against a member of the Department, and that racial- or bias-based profiling complaints may be made by calling the Attorney General's office (Minn. Stat. § 626.9514).

401.5 SUPERVISOR RESPONSIBILITY

Supervisors shall monitor those individuals under their command for any behavior that may conflict with the purpose of this policy and shall handle any alleged or observed violation of this policy in accordance with the Conduct Policy.

(a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.

(b) Supervisors should periodically review MAV recordings, MDC data and any other available resource used to document contact between officers and the public to ensure compliance with this policy.

    1. Supervisors should document these periodic reviews.

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2. Recordings that capture a potential instance of racial- or bias-based profiling should be appropriately retained for administrative investigation purposes.

(c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.

(d) Supervisors should ensure that no retaliatory action is taken against any member of this department who discloses information concerning racial- or bias-based profiling.

401.6 ADMINISTRATION

Each year, the Patrol Deputy Chief shall review the efforts of the Department to prevent racial- or bias-based profiling and submit an overview, including public concerns and complaints, to the Chief of Police. This report should not contain any identifying information regarding any specific complaint, citizen or officers. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service.

Supervisors shall review the annual report and discuss the results with those they are assigned to supervise.

401.7 TRAINING

Training on racial- or bias-based profiling and review of this policy should be conducted as directed by the Personnel, Training, and Licensing Unit.

The Chief of Police and supervisors should receive and review training materials prepared by the Board of Peace Officer Standards and Training (POST) (Minn. Stat. § 626.8471, Subd. 7).

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Major Crime Scene Responsibilities

402.1 PURPOSE AND SCOPE

Cautious and careful handling and protection of any crime scene is imperative for effective evidence collection. This is particularly important at major crime scenes where a large crime scene may exist, or where evidence is fragile or difficult to identify. This policy sets general guidelines for handling of major crime scenes.

402.2 FIRST OFFICERS AT THE SCENE

The first officers at the scene largely determine the success or failure of an investigation. Evidence which is destroyed through thoughtlessness or carelessness can never be recovered, and the task of reconstruction may become impossible.

The least number of personnel, including police officers, should be permitted into the crime scene.

(a) Priorities

1. Officers should assess any emergency medical needs, administer and summon needed aid. Except for activities related to medical aid or to preserve perishable evidence, the scene should be evacuated and controlled until a proper search is organized.
2. Photographs must be taken by the initial responding officers as soon as possible. In addition, POCSI officers should be immediately summoned in order for the photographs to be of the highest quality possible. Should anything have to be moved, take photographs prior to moving if at all possible. The items moved and their effect upon the scene must be thoroughly documented in the officer's report

(b) Control and Protection of the Scene

1. Due to the very technical nature of evidence collection the ranking CSI officer determines the boundaries and extent of the crime scene, and assumes command of the actual scene. The Department relies upon the expertise of CSI personnel who are responsible for determining what techniques will and will not be used at a scene. Investigators, or officers, needing access to the scene must coordinate their interests with the CSI lead investigator or unit leader.
2. The scene must be preserved as much as possible. Officers are stationed at the scene to secure it and to document all persons entering and leaving the scene on the crime scene log. The number of persons entering the scene must be limited as much as possible. The log of persons entering and leaving the scene becomes a part of the case file.

(c) The following information is noted in the officer's reports on the incident:

1. How the call was received (radio, telephone, citizen).

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2. Time call was received and time of arrival at the scene.
3. Weather conditions.
4. Persons present at the scene.
5. Observations.
6. All actions taken by the responding officer.

402.3 OFFICER IN CHARGE

Generally the division or unit responsible for the follow-up investigation of an incident assumes command of the investigation upon arrival at the scene, after being briefed. A higher ranking officer of any Division may assume command, after being briefed. The on-scene commander must be informed that the higher ranking officer is assuming command and on-scene personnel notified, if applicable. (Policy 201)

All personnel at the scene are supervised by the officer in charge. CSI personnel control the physical crime scene. (Section 2, b of this policy)

Necessary additional personnel that are needed at the scene are requested through the Station Commander.

Crime scene investigators are supervised by the officer in charge, or through their unit leader if present at the scene. NO ONE enters the crime scene without approval of CSI personnel. The entry is noted on the crime scene log.

402.4 GENERAL CONSIDERATIONS

ALL PERSONNEL entering the crime scene must prepare a written report detailing why they were at the scene, what they did and what they observed.

All police personnel should refrain from discussing anything pertaining to the crime with unauthorized persons. The officer in charge of the scene determines what information is disseminated.

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Tactical Response Team (TRT)

403.1 PURPOSE AND SCOPE

The Department will maintain a Tactical Response Team (TRT) to deal with exceptional situations. The team's objective is a peaceful resolution of potentially violent situations. In all instances the team will adhere to State and Federal laws, and to all department policies. Units intending to execute a search or arrest warrant must complete the Risk Assessment Matrix (see Procedural Standard of Practice Guideline) and comply with the requirement to consult with, or use TRT.

The TRT will be used when deemed necessary to serve hazardous search/arrest warrants, resolve barricaded subjects, hostage situations, dignitary protection, violent offender apprehension, and other tasks beyond the scope of patrol officers.

403.2 TEAM STRUCTURE

A lieutenant is designated as the Team Commander. The Team Commander is responsible for team selection, training, and activation. The team commander determines the team members able to function as the Team Commander in his absence.

An activated team usually has three components, the command post, crisis negotiators if appropriate, and team members. The on-scene team commander designates team leaders, as necessary, for that particular operation.

403.2.1 TEAM SELECTION

In case of openings for this assignment, interested licensed personnel who are off probation shall submit a request to their immediate supervisor, a copy of which will be forwarded to the TRT Commander and other TRT supervisors. Those qualifying applicants will then be invited to participate in the testing process. The order of the tests will be given at the discretion of the TRT Commander. The testing process will consist of an oral board, physical agility test, firearms proficiency test, and a team evaluation.

(a) Oral board: The oral board will consist of personnel selected by the TRT Commander.

(b) Physical agility: The physical agility test is designed to determine the physical capabilities of the applicant as it relates to performance of TRT-related duties. The test and scoring procedure will be established by the TRT Commander. A minimum qualifying score shall be attained by the applicant to be considered for the position.

(c) Firearms proficiency testing: Both handgun and rifle.

(d) Team evaluation: Current team members will evaluate each candidate on field tactical skills, teamwork, ability to work under stress, communication skills, judgment and any special skills that could benefit the team.

(e) A list of successful applicants shall be submitted to the Command Staff by the TRT Commander for final selection.

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403.3 TRAINING

The TRT commander shall conduct an annual TRT training needs assessment to ensure that training is conducted within team capabilities and department policy.

403.3.1 INITIAL TRAINING

TRT team operators and TRT supervisors/team leaders should not be deployed until successful completion of an approved Basic SWAT Course or its equivalent.

(a) To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content or topics meet or exceed requirements determined by the Department.

403.3.2 UPDATED TRAINING

Appropriate team training for the specialized TRT functions and other supporting resources should be completed prior to full deployment of the team.

403.3.3 SUPERVISION AND MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the TRT function at the organizational level. This is to ensure personnel who provide active oversight at the scene of TRT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend a SWAT or Critical Incident Commander course or its equivalent. TRT command personnel should attend a department-approved SWAT commander or tactical commander course or its equivalent.

403.3.4 TRT ONGOING TRAINING

Training shall be coordinated by the TRT commander. The TRT commander may conduct monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training shall consist of the following:

(a) Each TRT member shall perform a physical fitness test twice each year. A minimum qualifying score must be attained by each team member.

(b) Any TRT team member failing to attain the minimum physical fitness qualification score will be notified of the requirement to retest. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.

(c) Those members who are on vacation, ill or are on limited duty status with a medical provider's note of approval on the test date shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member who fails to arrange for and perform the physical fitness test within the 30-day period, shall be considered as having failed to attain a qualifying score for that test period.

(d) Quarterly each TRT team member shall perform the mandatory TRT handgun and rifle qualification course. Failure to qualify will require the officer to seek remedial training from

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a Use of Force Coordinator approved by the TRT commander. Team members who fail to qualify will not be used in TRT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.

(e) Quarterly each TRT team member shall perform a mandatory TRT qualification course for any specialty weapon issued to or used by the officer during TRT operations. Failure to qualify will require the officer to seek remedial training from a Use of Force Coordinator approved by the TRT commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on TRT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

403.3.5 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Tactical Team Commander. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file shall be maintained with documentation and records of all team training.

403.4 UNIFORMS, EQUIPMENT AND FIREARMS

Uniforms

- TRT teams from this department should wear uniforms that clearly identify team members as law enforcement officers. It is recognized that certain tactical conditions may require covert movement. Attire may be selected appropriate to the specific mission.

Equipment

- TRT teams from this department should be adequately equipped to meet the specific mission(s) identified by the Department.

Firearms

- Weapons and equipment used by TRT, the specialized units and the supporting resources should be Department-issued or approved, including any modifications, additions or attachments.

403.5 TEAM ACTIVATION

A watch commander requiring the use of a TRT team notifies the Team Commander. The Team Commander determines the appropriateness of activating a team, designates a Team Commander if he is not going to respond, and directs what personnel should be notified. An Amerilert page is issued by 911 or the team commander (or someone under his/her direction) to designated personnel. Personnel respond to Headquarters unless directed otherwise.

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If the watch commander is a sergeant the on-call lieutenant should be notified as soon as is practical.

403.5.1 PROCEDURE

If appropriate, the watch commander requesting a team establishes an inner perimeter. If additional non-TRT personnel are required the watch commander is responsible for acquiring additional help through the call-out of off-duty personnel, and/ or the activation of mutual aid.

Prior to transferring command of the inner perimeter to the TRT Commander, the Watch Commander should advise the TRT Commander with as much of the following information as is available at the time:

(a) The number of suspects, known weapons and resources

(b) If the suspect is in control of hostages

(c) If the suspect is barricaded

(d) The type of crime involved

(e) If the suspect has threatened or attempted suicide

(f) The location and safe approach to the command post

(g) The extent of any perimeter and the number of officers involved

(h) Any other important facts critical to the immediate situation, and whether the suspect has refused an order to surrender.

As TRT personnel are briefed, and assigned they assume responsibility of the inner perimeter. After being briefed, the on-scene TRT Commander is responsible for the inner perimeter and everything within. The Watch Commander and TRT Commander must be very clear in communicating when this transfer of command has occurred. The circumstances may require non-TRT personnel being utilized on the inner perimeter. They are briefed as to their responsibilities and remain under the direction of the TRT commander. Patrol officers released from the inner perimeter report to the command post for re-assignment.

The watch commander is responsible for everything outside the inner perimeter. The Team Commander and watch commander must remain in close communication. A command post and staging area(s) may need to be created. Medical personnel may need to be on scene.

The team commander determines contingency planning including entry teams, arrest teams, chemical munitions etc. Investigators assigned to assist in gathering information necessary for tactical planning are under the command of the TRT Commander. It is advisable to designate a single investigator to contact the command post to reduce congestion in the command post.

Hostage situations require the notification of at least two crisis negotiators as soon as possible. The Department has a relationship with a psychologist who may be utilized as a crisis negotiator and as a liaison with mental health professionals. Contact with the subject(s) is at the direction of the on-scene team commander.

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Entry of the target location may only be undertaken under the direction of the team commander or in an extreme emergency when officers are confronted with circumstances justifying the use of deadly force to protect themselves or another.

403.6 INCIDENT RESOLUTION

As the incident is resolved the team commander and watch commander determine when the team commander will return to Headquarters and the watch commander will resume command of all police activities. This transfer of command must be clearly communicated. These continued activities will include investigation of the incident in preparation of a prosecution.

TRT personnel return to Headquarters to store equipment and to participate in a debriefing. The TRT Commander designates which officers must leave reports on the incident.

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Ride-Along Policy

404.1 PURPOSE AND SCOPE

The Ride-Along Program provides an opportunity for persons to experience the law enforcement function first hand. This policy provides the requirements and approval process for the Ride-Along Program.

404.1.1 ELIGIBILITY

The Duluth Police Department Ride-Along Program is offered to residents, students and those employed within the City. Every reasonable attempt will be made to accommodate interested persons. Any applicant may be disqualified with or without cause from participating in the program.

The following factors may be considered in disqualifying an applicant and are not limited to:

- Being under 18 years of age.
- Prior criminal history.
- Pending criminal action.
- Pending lawsuit against the Department.
- Denial by any supervisor.

404.1.2 AVAILABILITY

The Ride-Along Program is available on most days of the week, and are scheduled at the convenience an discretion of the Duluth Police Department. The on-duty Watch Commander has total authority to deny or terminate a ride-along at any time.

404.2 PROCEDURE TO REQUEST A RIDE-ALONG

Generally, ride-along requests will be scheduled by the Licensing Officer. The participant will complete and sign a ride-along application and waiver form.

The Licensing Officer will schedule a date based on availability.

If the ride-along is denied after the request has been made, a licensing officer will contact the applicant and advise him/her of the denial.

404.2.1 PROGRAM REQUIREMENTS

Once approved, civilian ride-alongs will be allowed to ride no more than once each year. An exception would apply to the following: chaplains, non-sworn department employees, law enforcement or criminal justice students, police explorers, police reserves, police officer's spouse or relative, and all others with approval of the Watch Commander. See Procedural Standard of Practice Guideline for this policy regarding specific length and frequency of ride-alongs.

An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given time period. Normally, no more than one ride-along will be allowed in the officer's vehicle at a given time.

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404.2.2 SUITABLE ATTIRE

Any person approved to ride-along is required to be suitably dressed. Sandals, T-shirts, tank tops, shorts and ripped or torn blue jeans are not permitted. Hats and ball caps will not be worn in the police vehicle. The Watch Commander or field supervisor may refuse a ride-along to anyone not properly dressed.

404.2.3 RIDE-ALONG CRIMINAL HISTORY CHECK

All ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and Minnesota Court Information System check prior to approval (provided that the ride-along is not an employee of the Duluth Police Department).

404.3 OFFICER'S RESPONSIBILITIES

The officer shall advise the dispatcher that a ride-along is present in the vehicle before going into service. Officers shall consider the safety of the ride-along at all times.

Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation and as soon as practicable have another police unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

Conduct by a person participating in a ride-along that results in termination of the ride or is otherwise inappropriate should be immediately reported to the Watch Commander.

The Licensing Officer is responsible for maintaining and scheduling ride-alongs.

404.4 CONTROL OF RIDE-ALONG

The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit participation. These instructions should include:

(a) The ride-along will follow the directions of the officer.

(b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects or handling any police equipment.

(c) The ride-along may terminate the ride at any time and the officer may return the observer to his/her home or to the station if the ride-along interferes with the performance of the officer's duties.

(d) The officer may terminate the ride-along and return the observer to their home or to the station if the ride-along interferes with the performance of any officer's duties.

(e) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety.

(f) Officers will not allow any ride-alongs to be present in any residence or situation that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other person.

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404.5 ADDITIONAL INFORMATION

See the Procedural Standard of Practice Guideline for additional information.

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Hazardous Material Response

405.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees as a result of their exposure. To comply with Minnesota law, the following represents the policy of this department.

405.1.1 HAZARDOUS MATERIAL DEFINED

Hazardous material - Any refuse, sludge or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid or contained gaseous form, which, because of its quantity, concentration, or chemical, physical or infectious characteristics may (Minn. Stat. § 116.06 Subd. 11):

(a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.

(b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

405.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic collision, chemical spill or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and other persons.

The fire department is the agency trained and equipped to properly respond and mitigate most hazardous materials and bio-hazards.

Responders should not perform tasks or use equipment absent proper training. A responder entering the area may require decontamination before he/she is allowed to depart the scene and should be evaluated by appropriate technicians and medical professionals for signs of exposure.

The following steps should be considered at any scene involving suspected hazardous materials:

(a) Attempt to identify the type of hazardous material. Identification can be determined by placard, driver's manifest or statements from the person transporting the material

(b) Notify the appropriate fire department.

(c) Provide first aid to injured parties if it can be done safely and without contamination.

(d) Begin evacuation of the immediate and surrounding areas dependent on the material. Voluntary evacuation should be considered. Depending on the material, mandatory evacuation may be necessary.

(e) Contact the Minnesota Duty Officer (800-422-0798).

(f) Responders should remain uphill and upwind of the hazard until a zone of entry and a decontamination area are established.

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(g) An assessment should be made to determine if assistance is needed from outside agencies (Policy 352 Mutual Aid and Outside Agency Assistance).

405.3 REPORTING EXPOSURE(S)

Department personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee's supervisor in a City Incident Report.

Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness, in addition to a crime report or incident report.

405.3.1 SUPERVISOR RESPONSIBILITIES

When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

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Hostages and Barricaded Subjects

406.1 PURPOSE AND SCOPE

It is the policy of the Duluth Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

406.1.1 DEFINITIONS

Definitions related to this policy include:

Hostage situation - An incident where it is reasonable to believe a person is unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.

Barricade situation - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

406.2 FIRST RESPONDER CONSIDERATION

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

406.3 SUPERVISOR RESPONSIBILITY

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting a Tactical Response Team TRT response if appropriate and apprising the TRT Commander of the circumstances. In addition, the following options, listed here in no particular order, should be considered:

(a) Ensure injured persons are evacuated and treated by medical personnel.

(b) Ensure the completion of necessary first responder responsibilities or assignments.

(c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.

(d) Establish a command post location as resources and circumstances permit.

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(e) Designate assistants who can help with intelligence information and documentation of the incident.

(f) If it is practicable to do so, arrange for video documentation of the operation.

(g) Consider contacting utility and communication providers when restricting such services (e.g., restricting electric power, gas, telephone service).

(h) Ensure adequate law enforcement coverage for the remainder of the City during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or the Communications Center.

(i) Identify a media staging area outside the outer perimeter and have the department Public Information Officer or a designated temporary media representative provide media access in accordance with the News Media Relations Policy.

(j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.

(k) Debrief personnel and review documentation as appropriate.

406.3.1 EMERGENCY COMMUNICATION

A supervisor with probable cause to believe that a person is being unlawfully confined may order a telephone company to cut, reroute, or divert telephone lines for the purpose of establishing and controlling communications with a suspect (Minn. Stat. § 609.774).

406.4 REPORTING

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for completion and/or coordination of incident reports.

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Response to Bomb Calls

407.1 PURPOSE AND SCOPE

These guidelines have been prepared to assist officers with the initial response to incidents involving explosives, explosive devices, suspected explosive devices, suspicious packages or explosion/bombing incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety shall always be the primary consideration.

407.2 FOUND EXPLOSIVES/SUSPECT DEVICES

When an officer responds to a call of a suspected explosive device, the following guidelines shall be followed:

(a) The Watch Commander and Fire Department shall be notified.

(b) Any suspect device should not be touched or transported to any other location.

(c) The Explosive Detection Canine team should be contacted.

(d) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging. The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.

(e) A perimeter should be secured for a minimum of 300 feet around the location, or an otherwise safe distance depending on the surrounding physical environment and allowing for an entrance for support personnel.

(f) Officers should not transmit on any equipment that produces radio frequency energy within 300 feet.

(g) Consideration should be given to the possibility of evacuation if a device is located within a building.

(h) An additional perimeter should be secured around any suspected device.

(i) Officers should give consideration for the ingress/egress of additional support personnel, such as paramedics and fire department personnel.

(j) A search of the area should be conducted for secondary devices or other objects that are either hazardous or foreign to the area.

(k) Explosive or military ordnance of any type should be handled only by bomb squad technicians. When in doubt, call for assistance from the bomb squad.

(l) As much initial information as possible should be relayed to the Watch Commander, including:

1. Details of the device; exact location and description
2. Time threat/call was received

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3. Who received the threat/call
4. Phone number/extension bomb threat call was received on
5. Details of the conversation/stated threat
6. Caller details; excited or calm, male or female, approximate age of the caller, accent or speech issues, and background noises

407.3 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multiple considerations that may confront an officer. As in other catastrophic incidents, a rapid response will help to minimize such things as further injury to victims, contamination of the scene by gathering crowds, additional damage from resulting fires or unstable structures.

Whether the explosion was the result of an accident or a criminal act, the following concerns may confront the officer:

- Injury to victims
- First aid
- Evacuation of victims

407.3.1 NOTIFICATIONS

When an explosion has occurred, the following people shall be notified as soon as practicable if their assistance is needed:

(a) Fire department and/or state fire marshal

(b) Bomb squad

(c) Additional officers

(d) Field supervisor

(e) Watch Commander

(f) Investigators

(g) Forensic science services

(h) Bureau of Criminal Apprehension (BCA)

(i) State Duty Officer.

407.3.2 CROWD CONTROL

Scene access should be restricted to those with a legitimate public safety purpose.

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407.3.3 SCENE OF INCIDENT
As in any other crime scene, steps should immediately be taken to preserve the scene. The scene could extend over a wide area. Evidence may be imbedded in nearby structures or hanging in trees and bushes.

407.4 BOMB THREATS AT POLICE FACILITY
This procedure shall be followed should a bomb threat be received at a police facility and a search made for a destructive device.

407.4.1 BOMB THREATS RECEIVED BY TELEPHONE
The following questions shall be asked if a call of a bomb threat is received at a Police facility:

- When is the bomb going to explode?
- When did you place the bomb?
- What would cause the bomb to explode?
- Where is the bomb?
- What kind of bomb is it?
- What does it look like?
- Why did you place the bomb?
- Who are you? To avoid possible termination of the call, this should be asked after the preceding questions.

Attempt to keep the caller on the line as long as possible and obtain expanded answers to these prior eight questions. Additionally, during this time, document the following:

- Time of the call
- Exact words of the person as accurately as possible
- Estimated age and gender of the caller
- Speech patterns and/or accents
- Background noises

If the threat is received on a recorded line, steps should be taken to ensure that the recording is preserved.

407.4.2 RESPONSIBILITIES
As soon as a bomb threat has been received, the Watch Commander will be advised and fully informed of the details. The Watch Commander will then direct and assign officers as required for coordinating a general building search or evacuation as deemed appropriate. The Watch Commander shall determine if it is necessary to notify the Minnesota State Duty Officer (800) 433-0798

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407.5 BOMB THREATS AT PUBLIC OR PRIVATE FACILITY

This procedure shall be followed should a bomb threat occur at a private facility or another public facility and the Department is informed of the threat.

407.5.1 BOMB THREAT RESPONSE OPTIONS

Officers responding to bomb threats will advise the person in control of the building that the responsibility for the search and evacuation decisions lies with them. Searches are more effectively conducted by persons familiar with the area. Searchers should be cautioned not to touch any suspicious package or device located and immediately notify the person in charge. Areas accessible to the public should be checked first. Officers may be assigned by the on-scene commander to assist with the search.

The person in charge will generally have the following options pertaining to evacuation:

(a) No search and no evacuation

(b) Search without evacuation

(c) Evacuation without search

(d) Evacuation and search

407.5.2 REQUEST FOR ASSISTANCE

Should the person in charge of the facility request assistance, the Watch Commander shall be notified and will make the decision whether the Department renders assistance and to what level. Should the information and circumstances indicate a reasonably apparent imminent threat to safety, a more active approach, including law enforcement control over the facility, may be considered.

407.5.3 EVACUATION OR SEARCH ASSISTANCE

Should the Watch Commander determine that the Department will assist or control a bomb threat incident, the Watch Commander will determine:

(a) The level of assistance

(b) The plan for assistance

(c) Whether to evacuate and/or search

(d) The appropriate support necessary

Considerations regarding the involvement of the facility staff in searching and evacuating is important. A search or evacuation can be difficult without a working familiarity of the facility. The person in charge of the facility should be made aware of the possibility of damage to the facility as a product of a search. The safety of all participants is the paramount concern.

Support consideration should include notification and response, or standby notice, for fire, medical and ambulance.

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Emergency Admission to a Treatment Facility

408.1 PURPOSE AND SCOPE

This procedure describes an officer's duties when a person qualifies under the Minnesota Commitment and Treatment Act for taking the person into custody for admission to a treatment facility pursuant to Minn. Stat. § 253B.05. The detention of a person under Minn. Stat. § 253B.05 does not constitute an arrest. If an officer believes that a person falls within the provisions of Minn. Stat. § 253B.05 and requires admission to a treatment facility, he/she shall transport or arrange transportation for that person to the nearest suitable treatment facility for evaluation.

408.2 AUTHORITY OF AN OFFICER

When any person, because of mental illness, chemical dependency or public intoxication, is likely to harm him/herself or others if allowed his/her liberty, an officer may, upon probable cause, take or cause to be taken, the person to a treatment facility for 72-hour evaluation by facility staff (Minn. Stat. § 253B.05 Subd. 2(b)).

408.3 OFFICER CONSIDERATIONS AND RESPONSIBILITIES

Any officer responding to or handling a call involving a suspected mentally ill, chemically dependent, or intoxicated individual or an involuntary mental illness hold should consider utilizing available resources, as time and circumstances reasonably permit. These include:

(a) Any information that might assist in determining the cause and nature of the mental illness, chemical dependency, or intoxication.

(b) Conflict resolution and de-escalation techniques.

(c) Language that is appropriate for interacting with a mentally ill, chemically dependent, or intoxicated person.

(d) If circumstances reasonably permit, alternatives to deadly force.

(e) Any community resources that can assist in dealing with a mentally ill, chemically dependent, or intoxicated individual.

408.3.1 TRANSPORTATION

When transporting any individual on a Minn. Stat. 253B.05 admission, the handling officer should have the Communications Center notify the receiving facility of the estimated time of arrival, the level of cooperation of the patient and whether any special medical care is needed.

Violent patients or those who are medically unstable may be restrained and transported by ambulance and ambulance personnel. An officer should accompany a violent patient when transported by ambulance. Additionally, transporting violent patients in a patrol unit equipped with a barrier or cage is generally safer with two officers in the vehicle.

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The officer will escort the patient into the facility and place that person in a designated treatment room, as directed by a staff member. As soon as a security staff member becomes available, he/she should relieve the officer and physically remain in the treatment room with the patient.

408.3.2 RESTRAINTS

If the officer reasonably believes the patient is violent or potentially violent or that restraints are otherwise appropriate, the officer may apply appropriate restraints to the person. If reasonably practicable, the officer should communicate with facility staff as to whether specific restraints, if available, should be used. If a patient is to be transferred from one facility to another and specific restraints are desired, the officer should permit their application by staff and may assist in physical control of the patient, if needed (Minn. Stat. § 253B.03 Subd. 1 (a)).

408.3.3 WRITTEN DOCUMENTATION

The officer will complete an application for admission and provide it to the staff member assigned to that patient. The officer will retain a copy of the application for the emergency admission form for inclusion in the case report.

Officers shall provide an application for admission in writing, including the circumstances under which the person's condition was called to the attention of the officer, the circumstances under which the person was taken into custody, and describing probable cause to believe that the person, because of mental illness, chemical dependency or intoxication, is likely to harm him/herself or others if allowed his/her liberty. If the probable cause is based on the statement of a person other than the officer, or other individual authorized by statute, such person may be informed that he/she may be liable in a criminal and/or civil action for intentionally giving a statement which he/she knew to be false.

If danger to specific individuals is a basis for the emergency hold, the statement must include identifying information of those individuals to the extent practicable.

A copy of the statement shall be made available to the person taken into custody (Minn. Stat. § 253B.05 Subd. 2 (a)).

The officer shall also provide a verbal summary to a receiving facility staff member regarding the circumstances leading to the involuntary detention.

408.3.4 SECURING OF WEAPONS

If a receiving facility prohibits weapons or if an extraordinary event occurs in the treatment facility and officers determine a need to secure their firearms, the firearm shall be secured in the appropriate gun locker at the facility or in the police unit.

408.4 MENTALLY ILL PERSON CHARGED WITH A CRIME

When reasonably practicable, any person charged with a crime who also appears to be mentally ill shall be transported to the authorized facility for evaluation. Arrangements should be made to take the person into custody upon release from the facility. In some cases it may be necessary to post an officer to guard the individual and to ensure that he/she is taken into custody. If the

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person has injuries or some other medical condition, he/she may be taken directly to the hospital with the approval of a supervisor.

408.5 SAFEKEEPING OF FIREARMS AND OTHER WEAPONS

Whenever a person has been detained or taken into custody pursuant to Minn. Stat. § 253B.05 and is found to own, have in his/her possession or under his/her control any firearm whatsoever or any other deadly weapon, the firearm or other deadly weapon shall be taken for safekeeping if so requested by the subject or other person occupying the premises. The firearm or other deadly weapon shall be booked into property. When reasonably practical, officers should find a responsible person to take custody of weapons.

Officers are cautioned that a search warrant may be needed before entering a residence to search unless lawful, warrantless entry has already been made (e.g., exigent circumstances, valid consent).

The handling officer shall further advise the person of the procedure for the return of any firearm or other deadly weapon that has been confiscated.

408.5.1 RETURN OF FIREARMS AND WEAPONS

(a) Whenever the handling officer has cause to believe that the future return of any weapon(s) taken into custody might endanger the person or others, the officer shall detail those facts and circumstances in a report.

(b) Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and satisfactory evidence of ownership, or authorization by the owner is established.

(c) A firearm may not be released until it has been verified that the person receiving the weapon, who may or may not be its owner, is not prohibited from receiving or possessing the weapon by 18 USC § 922 (d) or Minn. Stat. § 624.713 Subd. 1.

(d) In no case in which a firearm or other deadly weapon is not retained as evidence shall the Department be required to retain such firearm or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal pursuant to Minn. Stat. 345.15.

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Cite and Release Policy

409.1 PURPOSE AND SCOPE

Minn. R. Crim. P. 6.01 Subd. 1 directs law enforcement agencies to use citation release procedures in lieu of arrest for misdemeanor offenses with certain exceptions.

409.2 STATUTORY REQUIREMENTS

Citation releases are authorized by Minn. R. Crim. P. 6.01 Subd. 1. Release by citation for misdemeanor offenses can be accomplished by issuing a notice to appear from a citation book or an electronic device.

409.2.1 DISCRETION TO ARREST

While this department recognizes the statutory power of peace officers to make arrests throughout the state, officers are encouraged to use sound discretion in the enforcement of the law. On-duty arrests will not generally be made outside the jurisdiction of this department, except in cases of hot or fresh pursuit, while following up on crimes committed within the City, when acting under a joint powers agreement or mutual aid agreement, or while assisting another agency. On-duty officers who discover criminal activity outside the jurisdiction of the City should, when circumstances reasonably permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

Off-duty officers observing criminal activity should generally take enforcement action only when it reasonably appears that imminent risk to life or property exists and the reasonable opportunity does not exist to contact the law enforcement agency with primary jurisdiction. In such situations, the involved officer shall clearly identify him/herself as a police officer.

Officers are authorized to use verbal or written warnings in lieu of arrest or citation to resolve minor traffic and criminal violations when appropriate.

409.3 DEPARTMENT PROCEDURE

The following procedure will be followed to comply with the law.

409.3.1 FIELD CITATIONS

In most misdemeanor cases an arrestee 18 years or older may be released on citation provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present (Minn. R. Crim. P. 6.01 Subd. 1 (1) (a)).

Officers may also release subjects who were taken into custody on a private person's arrest for a misdemeanor offense whenever appropriate.

409.3.2 DISQUALIFYING CIRCUMSTANCES

A person arrested for a misdemeanor shall be released on a notice to appear unless one of the following situations is present (Minn. R. Crim. P. 6.01 Subd. 1):

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(a) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.

(b) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically stated.

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking sheet and a supervisor shall be advised of the arrest.

409.3.3 OTHER REASONS FOR NON-RELEASE

If the person arrested is not released for one or more of the reasons specified in this policy, the arresting officer shall state specifically on the booking sheet the reason for non-release. Such reasons for non-release may include:

(a) Previous failure to appear is on record.

(b) The person lacks ties to the area, such as a residence, job or family.

(c) Unusual circumstances lead the officer responsible for the release of prisoners to conclude that the suspect should be held for further investigation.

409.4 CHILD CITATIONS

Completion of citations for juveniles is generally only appropriate for misdemeanor traffic violations and local misdemeanor ordinance violations.

All misdemeanor violations for juveniles shall be documented with a case number. Cases not closed by citation should be referred to the Juvenile Services Unit if necessary for further investigation and diversion or forwarded to the prosecutor.

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Rapid Response And Deployment Policy

410.1 PURPOSE AND SCOPE

Violence in schools, workplaces and other locations by any individual or group of individuals presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist officers' rapid response and deployment to such situations.

410.2 POLICY

The policy of this department in dealing with a crisis situation shall be:

(a) To obtain and maintain complete operative control of the incident.

(b) To explore every reasonably available source of intelligence regarding the circumstances, location and suspect(s) in the incident.

(c) To attempt, by every means available, to attain any tactical advantage over the responsible individual(s).

(d) To attempt, whenever feasible, a negotiated surrender of the suspect(s) and release any hostages through the expertise of the members of this department and others.

Nothing in this policy shall preclude the use of necessary force, deadly or otherwise, by members of this department in protecting themselves or others from death or injury.

410.3 PROCEDURE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding officers should consider reasonable options to immediately eliminate the threat. Officers must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

When deciding on a course of action officers should consider the following:

(a) Whether sufficient personnel are available on-scene to advance on the suspect. Any advance on a suspect should be made using teams of two or more officers whenever reasonably possible.

(b) Whether individuals who are under imminent threat can be moved out of danger with reasonable safety.

(c) Whether the officers have the ability to effectively communicate with others in the field.

(d) Whether planned tactics can be effectively deployed.

(e) The availability of rifles, shotguns, shields, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

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(f) In a case of a barricaded suspect with no hostages and no immediate threat to others, officers should consider summoning and waiting for additional assistance (special tactics and/or negotiation team response).

(g) If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, the officer should take immediate action, if reasonably possible, to stop the threat presented by the suspect while calling for additional assistance.

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Reporting Law Enforcement Activity Outside of Jurisdiction

411.1 PURPOSE AND SCOPE

This policy provides general guidelines for reporting law enforcement activity, while on- or off-duty, that is occurring outside the jurisdiction of the Duluth Police Department.

411.1.1 ASSISTANCE TO AGENCIES OUTSIDE THE CITY

When an officer is on-duty and is requested by an outside agency to participate in law enforcement activity in another jurisdiction, he/she shall obtain prior approval from the immediate supervisor or the Watch Commander. If the request is of an emergency nature, the officer shall notify the Communications Center before responding and thereafter notify a supervisor as soon as practicable.

411.1.2 LAW ENFORCEMENT ACTIVITY OUTSIDE THE CITY

Any on-duty officer who engages in law enforcement activities of any type outside the immediate jurisdiction of the Duluth shall notify his/her supervisor or the Watch Commander at the earliest possible opportunity. Any off-duty officer who engages in any law enforcement activities, regardless of jurisdiction shall notify the Watch Commander as soon as reasonably practicable.

The supervisor shall determine if a case report or other documentation of the officer's activity is required. The report or other documentation shall be forwarded to the officer's Deputy Chief.

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Immigration Violations

412.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Duluth Police Department for investigating and enforcing immigration laws.

412.2 POLICY

It is the policy of the Duluth Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their immigration status.

412.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to race, color or national origin in any way that would violate the United States or Minnesota Constitutions.

412.4 ENFORCEMENT

An officer may detain an individual when there are facts supporting a reasonable suspicion that the individual entered into the United States in violation of a federal criminal law. Federal authorities shall be notified as soon as possible and the detained individual shall be immediately released if the federal authorities do not want the person held. An officer should not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant.

412.4.1 CIVIL VS. CRIMINAL FEDERAL OFFENSES

An individual who enters into the United States illegally has committed a misdemeanor (8 USC § 1325(a)). Generally, an alien who initially made a legal entry into the United States but has remained beyond what is a legal period of time has committed a federal civil offense.

Reasonable suspicion that a criminal immigration violation has occurred shall not be based on race, color, national origin or any other generalization that would cast suspicion on or stigmatize any person, except to the extent permitted by the United States or Minnesota Constitutions. Instead, the totality of circumstances shall be used to determine reasonable suspicion, and shall include factors weighing for and against reasonable suspicion.

Factors that may be considered in determining reasonable suspicion that a criminal immigration violation has occurred may include, but are not limited to:

(a) An admission that the person entered the United States illegally.

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(b) Reason to suspect that the person possesses immigration documentation that is forged, altered or otherwise indicative that the person is not legally present in the United States.

(c) While a lack of English proficiency may be considered, it should not be the sole factor in establishing reasonable suspicion. When practicable, reasonable effort should be made to accommodate persons with limited English proficiency.

(d) Other factors based upon training and experience.

412.4.2 IMMIGRATION CHECKS

Immigration status may be determined through any of the following sources:

(a) A law enforcement officer who is authorized by the federal government under 8 USC § 1357 to verify or ascertain an alien's immigration status (sometimes referred to as a 287(g) certified officer)

(b) Immigration and Customs Enforcement (ICE)

(c) U.S. Customs and Border Protection (CBP)

An officer shall verify from a 287(g) certified officer, ICE or CBP whether a person's presence in the United States relates to a federal civil violation or a criminal violation.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has committed a criminal immigration offense, he/she may continue the detention and may request ICE or CBP to respond to the location to take custody of the detained person. In addition, the officer should notify a supervisor as soon as practicable. No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

An officer is encouraged to forgo detentions made solely on the basis of a misdemeanor offense when time limitations, availability of personnel, issues of officer safety, communication capabilities or the potential to obstruct a separate investigation outweigh the need for the detention.

412.4.3 SUPERVISOR RESPONSIBILITIES

When notified that an officer has detained a person and established probable cause to believe the person has violated a criminal immigration offense, the supervisor should:

(a) Confirm that the detained person's immigration status was properly verified.

(b) Ensure that the detained person is taken into custody when appropriate. Take any additional steps necessary that may include, but are not limited to:

1. Transfer to federal authorities.
2. Lawful arrest for a criminal offense or warrant.

412.5 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT

Generally, an officer will not need to notify ICE when booking arrestees at the county jail. Immigration officials routinely interview suspected undocumented aliens who are booked into the county jail on criminal charges. Notification will be handled according to jail operation procedures.

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No individual who is otherwise ready to be released should continue to be detained solely for the purpose of notification.

412.6 ICE REQUEST FOR ASSISTANCE

Requests by ICE, or any other federal agency, for assistance from this department should be directed to a supervisor. The Department may provide available support services, such as traffic control or peacekeeping efforts, to ICE or other federal agencies.

412.7 INFORMATION SHARING

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373):

(a) Sending information to, or requesting or receiving such information from ICE

(b) Maintaining such information in department records

(c) Exchanging such information with any other federal, state or local government entity

412.7.1 IMMIGRATION HOLDS

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 unless the person has been charged with a federal crime or the detainer is accompanied by a warrant, affidavit of probable cause, or removal order. Notification to the federal authority issuing the detainer should be made prior to the release.

412.8 U VISA AND T VISA NON-IMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)). A law enforcement certification for a U visa may be completed by an officer in order for a U visa to be issued.

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)). A law enforcement declaration for a T visa may be completed by an officer in order for a T visa to be issued.

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Major Crimes Unit supervisor assigned to oversee the handling of any related case. The Major Crimes Unit supervisor should:

(a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.

(b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.

(c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.

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1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.

(d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

412.9 TRAINING

The Personnel, Training, and Licensing Lieutenant shall ensure that all appropriate members receive immigration training.

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Patrol Rifles

413.1 PURPOSE AND SCOPE

To more effectively and accurately address the increasing level of firepower and body armor utilized by criminal suspects, the Duluth Police Department will make patrol rifles available to qualified officers as an additional and more immediate tactical resource.

413.2 PATROL RIFLE

413.2.1 DEFINITION

Patrol Rifle - An authorized weapon which is owned by the Department and which is made available to properly trained and qualified officers as a supplemental resource to their duty handgun or shotgun. Personally owned rifles may be carried for patrol duty provided they are pre-approved by the Use of Force Coordinator.

413.3 SPECIFICATIONS

Only weapons and ammunition that meet agency authorized specifications, approved by the Chief of Police and issued by the Department, may be used by officers in their law enforcement responsibilities. The authorized patrol rifle issued by the Department is the .223/5.56 AR-15 style rifle.

413.4 RIFLE MAINTENANCE

(a) Primary responsibility for maintenance of Department owned patrol rifles shall fall on the Use of Force Coordinator or armorer, who shall inspect and service each patrol rifle on a yearly basis.

(b) Each patrol officer assigned a patrol rifle is required to field strip and clean their assigned patrol rifle as needed.

(c) Each patrol officer shall be responsible for promptly reporting any damage or malfunction of an assigned patrol rifle to a supervisor, the Use of Force Coordinator or armorer.

(d) Any patrol rifle found to be unserviceable shall also be clearly identified as non-serviceable, including details regarding the unserviceable condition.

(e) Each patrol rifle shall be subject to inspection by a supervisor, the Use of Force Coordinator or armorer at any time.

(f) No modification shall be made to any patrol rifle whether department or personally owned without prior written authorization from the Use of Force Coordinator or armorer. Such modifications are to be recorded in the Department firearms database.

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413.5 TRAINING

Officers shall not carry or utilize the patrol rifle unless they have successfully completed Department training. This training shall consist of an initial eighteen-hour patrol rifle user's course and qualification score with a certified patrol rifle instructor. Officers shall thereafter be required to successfully complete Department firearms training and firearms proficiency qualification conducted by the Departments firearms instructor.

Any officer who fails to qualify or who fails to successfully complete two or more Department-sanctioned training/qualification sessions within a calendar year will no longer be authorized to carry the patrol rifle without successfully completing remedial training and re-qualifying according to the initial patrol rifle operators course qualification.

413.6 DEPLOYMENT OF THE PATROL RIFLE

Officers may deploy the patrol rifle in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

(a) Situations where the officer reasonably anticipates an armed encounter.

(b) When an officer is faced with a situation that may require the delivery of accurate and effective fire at long range.

(c) Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower.

(d) When an officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage.

(e) When an officer reasonably believes that a suspect may be wearing body armor.

(f) When authorized or requested by a supervisor.

(g) When appropriate to aid in the dispatch of an animal.

413.7 DISCHARGE OF THE PATROL RIFLE

The discharge of the patrol rifle shall be governed by Policy 300, Use of Force.

413.8 PATROL READY

Any qualified officer carrying a patrol rifle in the field shall maintain the weapon in a patrol ready condition until deployed. A rifle is considered in a patrol ready condition when it has been inspected by the assigned officer, the fire selector switch is in the safe position, the chamber is empty and a fully loaded magazine is inserted into the magazine well.

413.9 RIFLE STORAGE

(a) When not in use, patrol rifles will be stored in the officer's locked Department locker or at their residence in a locked locker.

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(b) In-service patrol rifles should be secured in the vehicle gun rack or cased and locked in a squad trunk.

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Aircraft Crashes

414.1 PURPOSE AND SCOPE

This policy describes situations involving aircraft incidents including responsibilities of personnel, making proper notification and documentation.

414.2 RESPONSIBILITIES

In the event of an aircraft crash, the employee responsibilities are as follows:

414.2.1 OFFICER_DEPUTY RESPONSIBILITY

Officers should treat an aircraft crash site as a crime scene until it is determined that such is not the case. If a military aircraft is involved, additional dangers, such as live ordnance or hazardous materials, may be present. The scene may require additional security due to the potential presence of confidential equipment or information.

The duties of the field officer at the scene of an aircraft crash include the following:

(a) Determine the nature and extent of the crash.

(b) Request additional personnel and other resources to respond as needed.

(c) Provide assistance for the injured parties until the arrival of fire department personnel and/or other emergency personnel.

(d) Cordon off and contain the area to exclude unauthorized individuals as soon as practicable.

(e) Provide crowd control and other assistance until directed otherwise by a supervisor.

(f) Ensure the appropriate Medical Examiner's Office is notified if a death occurs.

Entering an aircraft or tampering with parts or debris is only permissible for the purpose of removing injured or trapped occupants, protecting the wreckage from further damage or protecting the public from danger. If reasonably possible, the investigating authority should first be consulted before entering or moving any aircraft or any crash debris. Photographs or sketches of the original positions should be made whenever feasible.

The fire department will be responsible for control of the crash scene until the injured parties are cared for and the crash scene has been rendered safe for containment. Thereafter, police personnel will be responsible for preserving the scene until relieved by the investigating authority.

Once the scene is relinquished to the investigating authority, personnel from this agency may assist in containment of the scene until the investigation is completed or assistance is no longer needed.

An airport service worker or the airport manager may respond to the scene to assist the on-scene commander with technical expertise, should it be needed during the operation.

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414.2.2 NATIONAL TRANSPORTATION SAFETY BOARD

The National Transportation Safety Board (NTSB) has the primary responsibility for investigating crashes involving civil aircraft. In the case of a military aircraft incident, the appropriate branch of the military will be involved in the investigation. The NTSB is concerned with several aspects of a crash as described in this section.

Every effort should be made to preserve the scene to the extent reasonably possible in the condition in which it was found until such time as NTSB or other authorized personnel arrive to take charge of the scene.

Military personnel will respond to take charge of any military aircraft involved, regardless of any injury or death.

If the crash did not result in a death or injury and the NTSB elects not to respond, the pilot or owner may assume control of the aircraft.

Removal of the wreckage shall be done under the guidance of the NTSB or military authorities or, if the NTSB is not responding for an on-site investigation, at the discretion of the pilot or the owner.

414.2.3 THE COMMUNICATIONS CENTER RESPONSIBILITIES

Dispatchers are responsible to make notifications as directed once an in-flight aircraft incident has been reported. The notifications will vary depending on the type of incident, extent of injuries or damage and the type of aircraft involved. Generally, the dispatcher will need to notify the following agencies or individuals when an aircraft incident has occurred.

(a) Fire department.

(b) The affected airport tower

(c) Duluth Police Department

(d) Closest military base if a military aircraft is involved.

(e) Ambulances or other assistance as required.

When an aircraft incident is reported to the Police Department by the airport tower personnel, the dispatcher receiving such information should verify that the tower personnel will contact the Minnesota Department of Transportation Aeronautics and Aviation Section, the Federal Aviation Administration (FAA) Flight Standards District Office and NTSB. If airport tower personnel are not involved, the Communications Center should, instead, make these contacts.

414.2.4 RECORDSHEAD RESPONSIBILITIES

The Records Supervisor is responsible for the following:

(a) Forward and maintain an approved copy of the crash report to the Minnesota Department of Transportation Aeronautics and Aviation Section.

(b) Forward a copy of the report to the Patrol Deputy Chief and the manager of the affected airport.

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414.2.5 PRESSINFORMATIONOFFICER RESPONSIBILITIES
The Police Department Public Information Officer is responsible for the following:

(a) Obtain information for a press release from the on-scene commander or designee.

(b) When practicable, the Department Public Information Officer should coordinate with the FAA Press Information Officer to prepare a press release for distribution to the media.

Information released to the press regarding any aircraft crash should be handled by the Department Public Information Officer or in accordance with existing policy.

414.3 DOCUMENTATION

Any aircraft crash within the City, regardless of whether injuries or deaths occur, shall be documented.

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Field Training Officer Program

415.1 PURPOSE AND SCOPE

The Field Training Officer Program is intended to provide a standardized program to facilitate the officer's transition from the academic setting to the actual performance of general law enforcement duties of the Duluth Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training Officer Program that is designed to prepare the new officer to perform in a patrol assignment and to acquire all of the skills needed to operate in a safe, productive and professional manner.

415.2 FIELD TRAINING OFFICER - SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training and evaluating entry-level and lateral police officers in the application of their previously acquired knowledge and skills.

415.2.1 SELECTION PROCESS

FTOs will be selected based on the following requirements:

(a) Desire to be an FTO.

(b) Minimum of two years of patrol experience.

(c) Demonstrated ability as a positive role model.

(d) Participate and pass an internal oral interview selection process.

(e) Recommended by a supervisor.

415.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The Field Training Officer Coordinator will be selected by the Patrol Deputy Chief or designee.

The responsibilities of the FTO Coordinator include the following:

(a) Assignment of trainees to FTOs.

(b) Conduct FTO meetings.

(c) Maintain and ensure FTO/trainee performance evaluations are completed.

(d) Maintain, update and issue the Field Training Manual to each trainee.

(e) Monitor individual FTO performance.

(f) Monitor overall FTO Program.

(g) Maintain liaison with FTO coordinators of other agencies.

(h) Maintain liaison with academy staff on recruit performance during the academy.

(i) Develop ongoing training for FTOs.

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(j) Update the Chief and Deputy Chief's on all FTO progress of new recruits every two weeks.

415.4 TRAINEE DEFINED

Trainee - Any entry level or lateral police officer newly appointed to the Duluth Police Department who possesses a Minnesota POST license or is eligible to be licensed.

415.5 REQUIRED TRAINING

Entry level officers shall be required to successfully complete the Field Training Program.

The training period for lateral officers may be modified depending on the trainee's demonstrated performance and level of experience, but shall consist of a minimum of sixteen weeks, unless the recruit has been accelerated in any one phase.

415.5.1 FIELD TRAINING MANUAL

Each new officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and skills necessary to properly function as an officer with the Duluth Police Department. The officer shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.

415.6 EVALUATIONS

Evaluations are an important component of the training process and shall be completed as outlined below.

415.6.1 FIELD TRAINING OFFICER

The FTO will be responsible for the following:

(a) Completing and submitting a written evaluation on the performance of the assigned trainee to the trainee's immediate supervisor on a daily basis.

(b) Reviewing the Daily Trainee Performance Evaluations with the trainee each day.

(c) Completing a detailed end-of-phase performance evaluation on the assigned trainee at the end of each phase of training.

(d) Signing off all completed competencies contained in the Field Training Manual, noting the method of learning and evaluating the performance of the assigned trainee.

415.6.2 IMMEDIATE SUPERVISOR

The patrol sergeant shall review and approve the Daily Trainee Performance Evaluations and forward them to the Field Training Coordinator.

415.6.3 FIELD TRAINING ADMINISTRATOR

The Field Training Coordinator will review and approve the Daily Trainee Performance Evaluations submitted by the FTO through his/her immediate patrol sergeant.

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The Field Training Coordinator will hold periodic meetings with all FTOs to ensure understanding and compliance with the requirements of the Field Training Program. At least annually, the Field Training Coordinator will hold a process review meeting with all FTOs to discuss changes needed in the FTO Program. A summary of this meeting, with any recommendations or changes made, will be documented and forward to the Chief of Police for review and approval.

415.6.4 TRAINEE

At the completion of the Field Training Program, the trainee shall submit a critique of the Field Training Program.

415.7 DOCUMENTATION

All documentation of the Field Training Program will be retained in the officer's training files and will consist of the following:

(a) Daily Trainee Performance Evaluations.

(b) End of phase evaluations.

(c) A Certificate of Completion, certifying that the trainee has successfully completed the required number of hours of field training and has been certified for solo patrol. This certificate will be signed by the patrol sergeants and lieutenant.

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Detentions And Photographing Detainees

416.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for conducting field interviews (FI) and pat-down searches, and the taking and retention of photographs of persons detained in the field but not arrested. Due to a variety of situations confronting the officer, the decision to FI or photograph a field detainee shall be left to the discretion of the involved officer based on the totality of the circumstances available to his/her at the time of the detention.

416.2 DEFINITIONS

Detention - Occurs when an officer intentionally, through words, actions or physical force causes an individual to reasonably believe he/she is being required to restrict his/her movement. Detentions also occur when an officer actually restrains a person's freedom of movement.

Consensual Encounter - Occurs when an officer contacts an individual but does not create a detention through words, actions or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

Field Interview (FI) - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the officer's suspicions.

Field Photographs - Posed photographs taken of a person during a contact, detention or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Video Recorder (MVR) system when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-Down Search - This type of search is used by officers in the field to check an individual for weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee or others.

Reasonable Suspicion - Occurs when, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

416.3 FIELD INTERVIEWS

Officers may stop individuals for the purpose of conducting an FI where reasonable suspicion is present. In justifying the stop, the officer should be able to point to specific facts which, when taken together with rational inferences, reasonably warrant the stop. Such facts include, but are not limited to, the following:

(a) The appearance or demeanor of an individual suggests that he/she is engaged in or is about to engage a criminal act.

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(b) The actions of the suspect suggest that he/she is engaged or is about to engage in a criminal activity.

(c) The hour of day or night is inappropriate for the suspect's presence in the area.

(d) The suspect's presence in the particular area is suspicious.

(e) The suspect is carrying a suspicious object.

(f) The suspect's clothing bulges in a manner that suggests he/she is carrying a weapon.

(g) The suspect is located in proximate time and place to an alleged crime.

(h) The officer has knowledge of the suspect's prior criminal record or involvement in criminal activity.

416.3.1 INITIATING A FIELD INTERVIEW

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person when there is articulable, reasonable suspicion to do so. A person, however, should not be detained longer than is reasonably necessary to resolve the officer's suspicions.

Nothing in this policy is intended to discourage consensual contacts. Frequent and random casual contacts with consenting individuals are encouraged by the Duluth Police Department to strengthen our community involvement, community awareness and problem identification.

416.3.2 DURATION OF DETENTION

A subject may be detained to conduct an FI only for the period reasonably necessary to determine the individual's identity and resolve the officer's suspicions. The interview should not extend beyond the immediate vicinity of the place where the detention was first effected unless the detainee is arrested.

416.3.3 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may be lost or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available personnel for the following:

(a) Identifying all persons present at the scene and in the immediate area.

1. When reasonably feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.

2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.

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(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by department personnel.

1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a department vehicle. When the witness is a minor, consent should be obtained from the parent or guardian, if reasonably available, prior to transport.

416.4 PAT-DOWN SEARCHES

A pat-down search of a detained subject may be conducted whenever an officer reasonably believes that the person may possess an object that can be utilized as an offensive weapon or whenever the officer has a reasonable fear for his/her own safety or the safety of others and that the person may be armed. Circumstances that may establish justification for performing a pat-down search include, but are not limited to, the following:

(a) The type of crime suspected, particularly in crimes of violence where the use or threat of weapons is involved.

(b) Where more than one suspect must be handled by a single officer.

(c) The hour of the day and the location or area where the stop takes place.

(d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.

(e) The appearance and demeanor of the suspect.

(f) Visual indications that suggest the suspect is carrying a firearm or other weapon.

(g) The age and gender of the suspect.

When reasonably possible, pat-down searches should be performed by officers of the same gender as the suspect.

416.5 FIELD PHOTOGRAPHS

Before photographing any field detainee, the officer shall carefully consider, among other things, the factors listed below.

416.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject of the photograph knowingly and voluntarily gives consent.

416.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct.

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If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

416.6 SUPERVISOR RESPONSIBILITIES

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before taking each photograph. Field photographs shall be classified as law enforcement data under Minn. Stat. 13.82, and shall be collected, maintained and disseminated consistent with the Minnesota Government Data Practices Act.

416.7 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the assigned patrol supervisor with either an associated FI card or other memorandum explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

416.7.1 PURGING THE FIELD PHOTO FILE

The Records Manager will be responsible for ensuring that photographs maintained by the Records Bureau that are more than one year old and no longer serve a law enforcement purpose are periodically purged and destroyed unless a longer period of retention is required by the Department records retention schedule. No record may be destroyed unless done in compliance with such a schedule unless ordered by a court or pursuant to other applicable statute. Photographs that continue to serve a law enforcement purpose may be retained longer than one year provided that a notation of that fact is added to the file for each additional year that they are retained. Access to the FI photo file shall be governed by the Minnesota Government Data Practices Act.

416.8 PHOTO REVIEW POLICY

Any person who has been the subject of a field photograph or an FI by this department during any contact other than an arrest and requests to view non-confidential data shall be shown the data immediately if possible, or within 10 days of the date of the oral or written request, excluding Saturdays, Sundays and legal holidays. No charge may be assessed for display of the data, and if desired the person shall be informed of the content and meaning of that data (Minn. Stat. 13.04 Subd. 3). The request to view the photograph/FI data shall be directed to the office of the Chief of Police, who will ensure that the status of the photograph or FI is properly reviewed according to this policy as described below.

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416.8.1 REVIEW PROCESS

Upon receipt of such a written request, the Chief of Police or designee will permit the individual to appear in person. Any minor under the age of 10 must be accompanied by a parent or legal guardian for a review of the status of the photograph/FI.

Such a meeting will be scheduled during regular business hours no longer than 10 days of the receipt of the request.

A meeting for the review of the status of any non-arrest photograph/FI is simply an informal opportunity for the individual to meet to review the data.

416.9 PHOTOGRAPHS OF JUVENILES

All photographs of juveniles shall be obtained and managed as allowed under M.S.S. 260B.171 Subd. 5.

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Criminal Gangs

417.1 PURPOSE AND SCOPE

It is the policy of this department to establish a procedure for identifying criminal gangs, participants of criminal gangs, gang members, and patterns of criminal gang activity.

The intent of this policy is to provide for the collection and management of criminal gang information so as to enhance officer safety and the criminal prosecution of criminal gang participants.

417.2 DEFINITIONS

Definitions related to this policy include:

Criminal gang - An ongoing organization, association or group of three or more persons, whether formal or informal (Minn. Stat. § 609.229; Minn. Stat. § 617.91, Subd. 3), that:

(a) Has, as one of its primary activities, the commission, or makes an attempt to commit, one or more of the following offenses for which mandatory minimum sentences shall be served listed in Minn. Stat. § 609.11, Subd. 9.

(b) Has a common name or common identifying sign or symbol.

(c) Includes members who individually or collectively engage in or have engaged in a pattern of criminal activity.

Gang activity - The commission of one or more of the offenses listed above, criminal damage to property, trespass or disorderly conduct, or unlawful possession of a firearm by a minor pursuant to Minn. Stat. § 617.91.

417.3 IDENTIFICATION OF CRIMINAL GANGS / PARTICIPANTS

The Organized Crime Unit shall be authorized to collect information on individuals and groups who are suspected of participating in criminal gang activities.

(a) A group of three or more individuals shall be designated a criminal gang when:

1. They have a common name or common identifying sign or symbol.
2. There is evidence, substantiated by crime and informational reports that one or more members individually or collectively have engaged in a pattern of criminal gang activity listed in Minn. Stat. § 609.11 Subd. 9 or criminal damage to property, trespass or disorderly conduct, or unlawful possession of a firearm by a minor pursuant to Minn. Stat. § 617.91.
3. A representative of the prosecutor's Office reviews the available evidence and concurs with a Department finding that the group meets the criteria for being a criminal gang.

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417.3.1 CRIMINAL GANG IDENTIFICATION CRITERIA

The gang affiliation of an individual is assessed based on involvement in criminal activity and documentation of any of these nine indicators. A single fact may not be used to satisfy multiple criteria. A "gang member" is an individual who is 14 years of age or older and meets at least three of the nine criteria listed below. A "confirmed gang member" is a gang member who has been adjudicated or convicted of a crime of violence as defined in Minnesota Statutes § 624.712, subdivision 5.

1. Admits Gang Membership

- Admission must be documented with date of admission and name of officer or investigator who heard the admission in a police report, corrections report, field contact memo, or recorded statement.
- A vague admission about membership, for example, "I hang with the ** (gang name) **," should be clarified, and the precise admission documented.

2. Arrested with a Gang Member

- Individual is arrested with a gang member for an offense consistent with gang-related criminal activity.
- Arrests must be documented in a police report, corrections report or field contact memo and include the date, time, and location of the arrest.

3. Displays a Gang Tattoo or Brand

- Tattoos and brands must be photographed or described in detail, using factual, non-subjective language. For example: "6 Pointed Star obtained 6 months ago" is a good description; "** (gang name) ** Star" is not.
- To be considered a "gang tattoo" or "gang brand," the gang-related nature of the tattoo or brand must be confirmed by an officer or investigator with adequate training and experience.

4. Wears Clothing or Symbols Intended to Identify with a Gang

- Suspected gang symbols and clothing worn or possessed must be evaluated in the context of how they are worn or the location they are recovered.
- Clothing, jewelry or items with suspected gang symbols or gang-related monikers should be photographed and, if possible, property inventoried.
- When items cannot be photographed or inventoried, the gang-related items should be described in detail using factual, non-subjective language.
- Many symbols have multiple meanings and may not be a gang symbol to everyone. The gang-related nature of the clothing or symbols must be confirmed by an officer or investigator with adequate training and experience.

5. Appears in a Photograph or Image with a Gang Member Engaging in Gang-Related Activity or Displaying Gang Signs or Symbols

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- Photographs or images should depict evidence of gang-related criminal activity, such as a person holding a gun and wearing or displaying gang-related signs, symbols, clothing or graffiti.
- A single photograph or image with a gang member, absent any depiction of criminal gang-related activity or displaying gang-related signs, symbols, clothing or graffiti, may count only as one of three documented occasions of association in the previous 12-month period under criterion #8.
- Photographs or images recovered from or depicting gang members obtained by consent or during a lawful search should be inventoried or otherwise preserved and the chain of custody maintained.
- Images from social networking sites or other on-line sources should be downloaded and identified with the name of the person who posted it (if known), the date of posting (if known) and the URL of the site.
- The gang-related nature of the clothing or symbols must be confirmed by an officer or investigator with adequate training and experience.

6. Name Appears On a Gang Roster

- Gang rosters on any media, including on clothing or in graffiti, should be photographed, properly preserved, and, if possible, property inventoried.
- There must be sufficient documented information matching the name with a specific individual before this can be counted as a criterion.
- Graffiti containing threats against an individual should be photographed or described in detail.
- A list of suspected gang members generated by a law enforcement agency is NOT a gang roster.

7. Identified as a Gang Member by a Reliable Source

- Is identified as a gang member by a person with sufficient knowledge of gang activity to qualify him/her as a reliable source.
- Reliable sources must have a demonstrable basis for their knowledge; rumor and speculation are insufficient.
- Reliable sources may include persons of authority or those with a personal connection to the individual. Examples include Police Officers, Corrections Officers, Teachers, Family Members, Other Gang Members, and Informants.
- Reliable source information must be documented in a police report, corrections report or field contact memo. A reliable source may be called upon to testify about his/her knowledge of an individual's gang involvement.

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8. Regularly Observed or Communicates with a Gang Member in Furtherance or Support of Gang-Related Activity

- Family interactions are not considered to be gang related unless there is criminal activity involved.
- Interactions must be voluntary and related to gang activity. For example, a person associating with a gang member because both work at the same location, absent gang-related activity between the two, does not meet this criterion.
- Observations must be documented in a police report, corrections report or field contact memo and include the date, time, and location of the interactions.
- A minimum of three documented observations of gang-related interaction in the previous 12-month period is needed to meet the "regularly observed with" portion of this criterion.
- Correspondence or other communication between gang members, especially to and from prisoners, frequently contains references to other gang members and criminal and gang-related activity. They should be documented and, if possible, property inventoried.
- Messages and/or on-line conversations about criminal or gang-related activity on social networking sites should be downloaded or otherwise electronically preserved.

9. Produces Gang-Specific Writing or Graffiti in Furtherance or Support of Gang-Related Activity

- Graffiti should be described in detail using factual, non-subjective language. Example: "132 SGC painted on wall" is a good description; "** (gang name) ** graffiti painted on wall" is not.
- Graffiti and gang-specific writings found on walls, notebooks or other items should be photographed or described in detail in a police report, corrections report or other documentation and, if possible, should be property inventoried.
- The gang-related nature of the writings or graffiti must be confirmed by an officer or investigator with adequate training and experience.

An individual may be designated as a gang affiliate only when the individual is known to affiliate with active criminal gang members and an officer has established that there is reasonable suspicion that the individual is involved in criminal activity. An officer's belief must be premised upon reasoning and logic coupled with sound judgment based upon law enforcement experience, rather than a mere hunch or whim.

417.4 CRIMINAL GANG FILE

The Organized Crime Bureau Lieutenant may maintain a temporary file of reports and FIs that is separate from any criminal gang intelligence database when an individual or group has been identified as a suspected street gang participant or a suspected street gang but does not meet the criteria necessary for entry into a criminal gang intelligence database.

Inclusion in a temporary file may be done only if there is a reasonable likelihood that, within one year of the contact, the individual or group will meet the criteria for entry into a Department-

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approved criminal gang intelligence database. Reports and FIs will only be included in a temporary gang file with the written authorization of the Organized Crime Bureau Lieutenant. A temporary file of street gang participants shall include:

(a) Names, aliases, monikers, addresses and other relevant identifying information.

(b) Gang name.

(c) Justification used to identify an individual as a criminal gang participant.

(d) Vehicle(s) known to be used.

(e) Cross references to other identified gangs or gang members.

417.4.1 REVIEW AND PURGING OF TEMPORARY CRIMINAL GANG FILE

Temporary files shall not be retained longer than one year. At the end of one year, temporary files must be purged if the information does not qualify for entry into a Department-approved criminal gang intelligence database.

The Organized Crime Bureau Lieutenant shall periodically review temporary files to verify that the information was properly obtained and meets the criteria for retention. Validation and purging of temporary criminal gang files is the responsibility of the Organized Crime Bureau Lieutenant. Retention and purging shall correspond to the organization's records retention schedule requirements.

417.4.2 CRIMINAL GANG INTELLIGENCE DATABASES

While this policy does not establish a criminal gang intelligence database, the Chief of Police may approve one or more criminal gang intelligence databases for use by members of the Gang Unit. Any such database must be compliant with 28 CFR. § 23.20 regulating criminal intelligence systems. Employees must obtain the requisite training before accessing any such database.

It is the Organized Crime Bureau Lieutenant's responsibility to determine whether a report or FI contains information that would meet the criteria for entry into a Department-approved intelligence database. After giving written approval for entry of the record, the Organized Crime Bureau Lieutenant should forward any such reports/FIs to the Records Bureau after appropriate database entries are made.

It is the responsibility of the Organized Crime Bureau Lieutenant to retain reports and FIs in compliance with the procedures of the Department-approved gang/intelligence file and 28 CFR. § 23.20.

Validation and purging of gang intelligence databases is the responsibility of the Organized Crime Bureau Lieutenant.

417.5 REPORTING CRITERIA AND ROUTING

Incidents that appear to be criminal gang related shall be documented on a report form and shall at minimum include the following:

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(a) Description of any document, statements, actions, dress or other information that would tend to support the officer's belief that the incident may be related to the activities of a street gang.

(b) Photographs taken and a brief description of what is depicted.

(c) Physical evidence observed, collected or booked.

(d) Specific request that a copy of the report be routed to the Organized Crime Bureau.

Any photographs taken or evidence collected shall be booked in accordance with current evidence booking procedures.

417.6 DISSEMINATIONS OF THE FILE INFORMATION

Information from the temporary criminal gang participant files may only be furnished to Department personnel and other public law enforcement agencies on a need-to-know basis. This means information that may be of use in the prevention of gang-related criminal activity or information concerning the investigation of gang-related crimes shall only be released to members of this department and other law enforcement agencies.

The release of information from any Department-approved gang intelligence file must comply with the rules established for that particular temporary file or database.

417.7 REPORTING CRITERIA AND ROUTING

Incidents that appear to be criminal gang related shall be documented on a report form and shall at minimum include the following:

(a) A description of any document, statements, actions, dress or other information that would tend to support the officer's belief that the incident may be related to the activities of a criminal gang.

(b) Whether any photographs were taken and a brief description of what they depict.

(c) What physical evidence, if any, was observed, collected or booked.

(d) A specific request that a copy of the report be routed to the Organized Crime Bureau.

417.8 INQUIRY BY PARENT OR GUARDIAN

When an inquiry is made by a parent or guardian as to whether a juvenile's name is in the street gang participant's file, such information shall be provided by the unit supervisor unless the release of such information can be clearly shown to jeopardize an ongoing criminal investigation. Employees must strictly comply with the procedures governing release of information from a Department-approved gang intelligence database.

417.8.1 RIGHT TO REQUEST REVIEW OF CRIMINAL INFORMATION

When the parent or guardian of a juvenile who is documented as a criminal gang member submits a written request challenging the accuracy of the information contained within that file, the Chief of Police or designee shall review the information contained within the file. If, after conducting

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a review of the information it is determined the information is not accurate, all records shall be destroyed.

417.8.2 NOTIFICATION OF PARENT/GUARDIAN OF A JUVENILE
The Organized Crime Bureau Lieutenant shall notify the parent or guardian of any juvenile who is suspected of participating in criminal gang activities.

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Watch Commanders

418.1 PURPOSE AND SCOPE

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with Department policies, procedures, practices, functions and objectives. To accomplish this goal, a Lieutenant heads each watch.

418.2 DESIGNATION AS ACTING WATCH COMMANDER

When a Lieutenant is unavailable for duty as Watch Commander, in most instances the senior qualified sergeant shall be designated as acting Watch Commander. This policy does not preclude designating a less senior sergeant as an acting Watch Commander when operational needs require or training permits.

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Mobile Video Recorder Policy

419.1 PURPOSE AND SCOPE

The Duluth Police Department has equipped marked patrol cars and law enforcement operators with Mobile Video Recording (MVR) systems. The purpose of this policy is to provide law enforcement operators with guidelines for the use, management, access, storage, retrieval and retention of audio-visual media recorded by MVR systems.

419.1.1 DEFINITIONS

Definitions related to this policy include:

Activate - Any process that causes the MVR system to transmit or store audio-visual signals

Audio Recording - any media that captures and records audio signals

Mobile Video Recorder (MVR) - Any system that captures audio-visual signals that is capable of installation in a vehicle or worn by an LEO and that includes at minimum, a camera, microphone and recorder.

Law Enforcement Operator (LEO) - Primarily a licensed peace officer but on occasion may be a non-licensed representative of the Duluth Police Department who is authorized and assigned to operate MVR equipment.

MGDPA - The Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13.

PODPA – The Peace Officer Discipline Procedures Act, Minnesota Statutes Section 626.89.

Property and Evidence Technician - Personnel certified or trained in receiving and storing evidence and property, maintaining property inventory reports with proper "chain of custody" notations and any and all actions associated with the property or evidence.

MVR Administrator – Typically a Sergeant or a designee, who assigns, tracks and maintains MVR equipment, oversees needed repairs or replacement equipment through the vendor, controls user rights and access, and acts as a liaison with the vendor.

MVR Technician - Personnel certified or trained in the operational use and repair of MVRs, duplicating methods, storage and retrieval methods and procedures, and who possess a working knowledge of video forensics and evidentiary procedures.

Recorded media – Audio-visual signals that are recorded or stored.

Smart Device - A smart device is a device that is digital, active, computer networked, is user reconfigurable and that can operate to some extent autonomously. Devices that fall into this category are smartphones, and tablets.

419.2 POLICY

It is the goal of the Duluth Police Department to use mobile video recording (MVR) technology to more effectively fulfill the department's mission and to ensure these systems are used securely,

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efficiently and in compliance with the law. The MVR is not intended to be used for the purpose of surveillance of officers or initiating disciplinary action against an officer.

419.3 MVR OPERATIONAL OBJECTIVES

The Duluth Police Department has adopted the use of Mobile Video Recorders to accomplish the following objectives:

A. To enhance LEO safety.

B. To document statements and events during the course of an incident.

C. To enhance the LEO's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation/presentation.

D. To preserve visual and audio information for use in current and future investigations.

E. To provide a tool for self-critique and field evaluation during LEO training.

F. To enhance the public trust by preserving factual representations of LEO-citizen interactions in the form of recorded media.

G. To assist with the defense of civil actions against LEO's and the City of Duluth.

H. To assist with the training and evaluation fo officers.

419.4 LEO RESPONSIBILITIES

LEO safety shall be the primary consideration for the use and activation of the MVR system. LEOs that are issued a body-worn MVR will wear the MVR as part of their uniform. Inspection and general maintenance of MVR equipment shall be the responsibility of the LEO to whom the MVR is assigned. LEOs should periodically test the MVR system operation in accordance with manufacturer specifications and department operating procedures and training, as determined at the discretion of the Duluth Police Department. If a vehicle mounted MVR system is malfunctioning, the LEO shall as soon as reasonably possible, notify a supervisor who will determine whether the vehicle will remain in service. If the body worn MVR is malfunctioning the LEO shall as soon as reasonably possible notify a supervisor. If any MVR system is damaged or stolen, the LEO shall, as soon as reasonably possible, notify a supervisor.

At the end of each shift, the LEO will follow the established policies and procedures for documenting and retaining any recorded media.

The use of body-worn MVRs is optional while engaged in extra-duty employment. A LEO who chooses to wear an MVR while engaged in extra-duty employment is not required to activate the MVR for every contact made. However, such officer shall be expected to activate the MVR if a situation or incident occurs which would otherwise require activation, when safe to do so. The body-worn MVR shall not be worn while LEOs are engaged in outside agency employment or non-duty employment.

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419.5 MVR OPERATING PROCEDURES

The MVR may be activated either automatically in the case of vehicle mounted MVR's or manually by the LEO.

419.5.1 REQUIRED ACTIVATION OF THE MVR

This policy is not intended to describe every possible situation in which the MVR system may be used, although there are many situations where its use is appropriate. A LEO may activate the system at any dispatched call, on view or contact in which its use is appropriate.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, even when the incident may be outside of the video range, the LEO is encouraged to activate the MVR to capture the audio portion of the incident.

An officer shall activate the MVR system, if practical and without compromising the safety of the officer or the public, in the following circumstances:

- traffic stops (to include, but not limited to traffic violations, stranded motorist assistance and all crime interdiction stops);
- priority responses;
- vehicle pursuits;
- arrests;
- vehicle searches;
- physical or verbal confrontations;
- use of force;
- prisoner transports;
- crimes in progress;
- taking a statement or information from a suspect or witness;
- when ordered by a supervisor for proper purposes; or
- any situation or incident that the officer, through training and experience, believes should be audibly and/or visually preserved.

Portable MVR equipment shall be activated in these circumstances even if the in-squad system is activated, pro

419.5.2 CESSATION OF RECORDING

Once activated, the MVR system should remain on until the incident has concluded unless:

(a) the incident or event is of such duration that the MVR is deactivated to conserve power or storage capacity;

(b) the officer does not reasonably believe that deactivation will result in the loss of critical evidence;

(c) deactivation is reasonable and necessary to protect the safety of the officer or others; or

(d) deactivation is approved or ordered by a supervisor.

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(e) deactivation is necessary to protect the identity of persons or other data entitled to protection under the M

For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and witnesses and victims have been interviewed. Recording may be temporarily paused to exchange information with other LEOs. The intention to pause and resume the recording will be noted by the LEO either verbally on the MVR or in a written notation. Recording may cease during non-enforcement activities such as waiting for a tow truck or a family member to arrive, protecting accident scenes or in other non-enforcement situations.

419.5.3 PROHIBITED RECORDING

An MVR shall not be activated with regard to interactions solely among other employees.

The MVR shall not be used to record non-work related activity.

The LEO shall not use any external device to record media that has been cpatured by the MVR, nor shall they a

The LEO will cease recording once they have entered the sally port at the St. Louis County Jail.

419.5.4 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if vehicles with non-functioning MVR systems should be placed into service. If these vehicles are placed into service, the appropriate documentation should be made. The MVR administrator is to be notified in writing of the suspected cause of equipment failure or recommendations for corrective action.

At reasonable intervals, supervisors should validate that:

(a) MVR policies and procedures are followed.

(b) Logs reflect the proper chain of custody, including:

1. The tracking number of the MVR system media.
2. The date it was issued.
3. The LEOor the vehicle to which it was issued.
4. The date it was submitted.
5. LEO submitting the media.
6. Holds for evidence indication and tagging as required.

(c) It is recommended that the operation of MVR systems by new employees is assessed and reviewed no less than biweekly or until the new employee demonstrates a working knowledge of the MVR system and the applicable policies and procedures.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, peace LEO-involved shootings, department-involved collisions), a supervisor should respond to the scene and ensure recorded media is secured in accordance with department policy. The media shall be processed and retained in accordance with current procedures for recorded media.

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419.6 REVIEW OF RECORDED MEDIA

All recorded media, recorded images and audio recordings are the property of the agency and is government data subject to the provisions of the MGDPA. Dissemination outside of the agency is strictly prohibited except to the extent permitted or required under the MGDPA, PODPA or other applicable law.

Access to MVR data will be determined in a manner consistent with the MGDPA, PODPA or other applicable law. When access to MVR data is authorized by applicable law, the Duluth Police Department will also provide to the person accessing the data a copy of the Department's Video and Audio Advisory (Appendix A). The Department's Video and Audio Advisory is not required to be given to partner agencies.

To prevent damage to, or alteration of, the original recorded media; it shall not be copied, viewed or otherwise inserted into any device not approved by the department MVR technician or forensic media staff. When reasonably possible a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

Recorded media may be reviewed in any of the following situations.

(a) For use when preparing reports or statements;

(b) By a supervisor investigating an official complaint;

(c) By a supervisor to assess LEO performance;

(d) To assess proper functioning of MVR systems;

(e) By department investigators assigned to a related criminal investigation, or after approval of a supervisor, for official investigations;

(f) By an LEO who is captured on or referenced in the video or audio data and reviews and uses the data for any purpose relating to his/her employment;

(g) By court personnel through proper process;

(h) Recorded mediamay be shown for staff or public safety training purposes. If an involved LEO objects to showing a recording, his/her objection will be submitted to the staff to determine if the training value outweighs the LEO's objection.

(i) An officer is entitled to access audio and video data: derived from MVR equipment issued to him/her; in which his/her voice or image appears; when reasonable and necessary for the officer to perform the essential functions of his/her job; or to defend against allegations of substandard performance or misconduct.

(j) An officer shall not make a copy of any audio or video data without the prior approval of a supervisor.

(k) Supervisors shall not access or review audio or video data involving an employee under their supervision for the purpose of surveillance of the employee or initiating disciplinary action against the employee. However, data collected by the MVR may be used as evidence relating to a complaint of misconduct made against an officer.

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(l) The Department shall restrict by password protection access to all audio and video data and shall maintain an electronic record of the date, time and person with regard to each access to data.

Employees desiring to view any previously uploaded or archived MVR data should submit a request in writing to the Watch Commander. Approved requests should be forwarded to the MVR technician for processing.

In no event shall any MVR data be used or shown for the purpose of ridiculing or embarrassing any employee.

See Attachment: Attachment A.pdf

419.7 DOCUMENTING MVR USE

If any incident is captured with the video or audio system, the existence of that recorded media shall be documented in the LEO's report. If a citation is issued, the LEO shall make a notation on the records copy of the citation indicating that the incident was recorded.

419.8 RECORDED MEDIA STORAGE AND RETENTION

Once submitted for storage all recorded media will be labeled and stored in a designated secure area. All recorded media that is not booked in as evidence will be retained in compliance with the established records retention schedule or as required by the rules of evidence, unless a specific request is made to store them for a longer period

Current retention periods for recorded media are:

(a) Department Until Manually Deleted

(b) Uncategorized 60 Days

(c) Arrest, citation and charge
90 Days after sentencing or relevant statute of limitations if no charge

(d) Interview If determined to have evidentiary value, then same as item 3.

(e) Pending Review Until Manually Deleted

Recorded media that is relevant to a criminal proceeding shall be retained until its proper disposition in accordance with Evidence Retention Policy 801.5:

801.5 Disposition

Evidence and Property Technicians are responsible for clearing of evidence items.

Evidence may be cleared when:

- *Prosecution is complete and the applicable appeal time has lapsed*
- *The statute of limitations has expired*
- *The complainant has provided a written request to close their case*

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When an investigator is assigned to the case, the investigator should be notified prior to final disposition of the evidence.

The LEO, MVR Technician or MVR Administrator may prevent automated deletion by changing the category of the media at any time prior to deletion or within one week after the deletion date.

Any media related to an internal investigation of a LEO or from an incident in which a signed complaint is made regarding a LEO, shall be retained for a minimum of six years

Destruction of data in accordance with this policy does not alter the duty to defend and indemnify set forth in Minnesota Statutes Section 466.07.

419.9 SYSTEM OPERATIONAL STANDARDS

(a) MVR system vehicle installations should be based on LEO safety requirements, Duluth Police Department discretion and vehicle and device manufacturer recommendations.

(b) The MVR system should be configured to minimally record no more than 30 seconds prior to an activation.

(c) The MVR system should not be configured to record audio data occurring prior to activation.

(d) LEOs using digital transmitters that are individually synchronized to their individual MVR should activate both audio and video recordings when responding in a support capacity in order to obtain additional perspectives of the incident scene.

(e) With the exception of law enforcement radios or other emergency equipment other electronic devices should not be used within the law enforcement vehicle in order to intentionally interfere with the capability of the MVR system to record audio data.

(f) LEOs shall not intentionally erase, alter, reuse, modify or tamper with MVR data. Only a supervisor, MVR administrator, MVR technician or other approved designee may erase and reissue previously recorded media in accordance with this policy.

419.10 PROPERTY AND EVIDENCE TECHNICIAN RESPONSIBILITIES

The Property and Evidence Technician is responsible for:

(a) Retrieving, storing, erasing and duplicating of all recorded media.

(b) Collecting all completed media for oversight. Once collected the Property and Evidence Technician:

1. Ensures it is stored in a secured location with authorized controlled access.

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2. Makes appropriate entries in the chain of custody log.

(c) Erasing of media:

1. Pursuant to a court order.
2. In accordance with established records retention policies.

(d) Ensuring that an adequate supply of recording media is available.

(e) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the records retention schedule.

419.11 TRAINING

Users of the MVR systems and supervisors shall successfully complete an approved course of instruction prior to being deployed with MVR systems in operational settings.

419.12 CLASSIFICATION OF MVR DATA

Nothing in this policy shall be interpreted as changing the underlying classification of data collected by the MVR systems. The classification of data collected by the MVR systems will need to be determined on a case by case basis. The factors that will determine the classification include the specific facts and circumstances surrounding the data, the application of the relevant policies and procedures as well as application and interpretation of the MGDPA and other laws.

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Mobile Digital Computer Use

420.1 PURPOSE AND SCOPE

The Mobile Digital Computer (MDC) accesses confidential records from the State of Minnesota, Bureau of Criminal Apprehension (BCA) databases. Employees using the MDC shall comply with all appropriate federal and state rules and regulations.

420.2 MDC USE

The MDC shall be used for official police communications only. Messages that are of a sexual, racist or offensive nature or are otherwise critical of any member of the Department are strictly forbidden. MDC use is also subject to the Department Technology Use Policy.

MDC messages are public data and are subject to subpoena.

Messages may be reviewed by supervisors at any time without prior notification. Employees generating or transmitting messages not in compliance with this policy are subject to discipline.

All calls dispatched to patrol units should be communicated by voice and MDC unless otherwise authorized by the Watch Commander.

420.2.1 USE WHILE DRIVING

Use of the MDC by the vehicle operator should generally be limited to times when the vehicle is stopped. When the vehicle is in motion, the operator should only attempt to read messages that are likely to contain information that is required for immediate enforcement, investigative or safety needs.

Short transmissions, such as a license plate check, are permitted if it reasonably appears that it can be done safely. In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

420.2.2 DOCUMENTATION OF ACTIVITY

MDC's and voice transmissions are used to record the officer's daily activity. To ensure the most accurate recording of these activities, the following are required:

(a) All contacts or activity shall be documented at the time of the contact.

(b) Whenever the activity or contact is initiated by voice, it shall be entered into the Computer Aided Dispatch (CAD) system by a dispatcher.

(c) Whenever the activity or contact is not initiated by voice, the officer shall record it on the MDC.

420.2.3 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted verbally over the police radio or through the MDC system.

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Officers responding to in-progress calls shall advise changes in status verbally over the radio to assist other officers responding to the same incident.

Other changes in status may be entered by depressing the appropriate keys on the MDC.

420.2.4 EMERGENCY ACTIVATION ON MDC

If the emergency button is depressed on the MDC, the dispatcher will call the officer and ask if the officer is Code 4. If there is no emergency, then theofficer should answer "Code 4" and all officers will resume normal activity. If there is no response or the officer answers in some other way, the dispatcher shall proceed as follows:

(a) If the unit is not on a call, send available officers to assist in locating the unit transmitting the emergency. Whenever a location is known, immediately dispatch the nearest available unit as an emergency call response.

(b) Notify the field sergeant and Watch Commander of the incident without delay.

Officers not responding to the emergency call shall refrain from transmitting on the radio until there is a Code 4, unless they are also handling an emergency.

420.3 MDC CONSIDERATIONS

420.3.1 NON-FUNCTIONING MDC

Whenever reasonably possible, officers will not use units with malfunctioning MDCs. Whenever officers must drive a unit in which the MDC is not working, they shall notify the Communications Center. It shall be responsibility of the Communications Center to record all information that will then be transmitted verbally over the police radio.

420.3.2 BOMB CALLS

When investigating reports of possible bombs, officers will turn off their MDCs. Operating the MDC may cause some devices to detonate.

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Portable Audio/Video Recorders

421.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to lawful surreptitious audio/video recording, interception of communications for authorized investigative purposes or to mobile audio/video recordings (see the Investigation and Prosecution and Mobile Video Recorders policies).

421.2 POLICY

The Duluth Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

421.3 PRIVACY

All recordings made by personnel acting in their official capacity as members of this department shall remain the property of the Department and should not be considered private, regardless of whether those recordings were made with department-issued or personally owned recorders.

421.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder, issued by the Department, and that the recorder is in good working order. Uniformed members should wear the recorder in a conspicuous manner.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful.

When using a recorder, the assigned member shall record his/her name, employee number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

421.5 ACTIVATION OF THE AUDIO RECORDERS

Members should activate the recorder during all enforcement stops and field interrogation situations and any other time the member reasonably believes that a recording of an on-duty contact may be useful. Once started, recordings should continue without interruption until the contact ends, if feasible.

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At no time is a member expected to jeopardize his/her safety in order to activate a recorder or change the recording media. However, the recorder should be activated in required situations as soon as practicable.

421.5.1 SURREPTITIOUS USE OF THE AUDIO RECORDER

Minnesota law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Minn. Stat. § 626A.02).

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation.

Members shall not surreptitiously record another department member without a court order or authorization of the Chief of Police, except for the purpose of conducting a legitimate law enforcement investigation and the other department member should reasonable know they are being recorded.

421.6 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Watch Commander. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment or ridicule.

Any member who may have questions regarding the application of this policy is encouraged to seek clarification from supervisory personnel.

421.7 RETENTION OF RECORDINGS

Any time a member records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the member shall record the related case number and upload the file using the Speechexec software program.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

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Members should, at a minimum, upload the file at the end of their shift and any time the storage capacity is nearing its limit.

421.7.1 RETENTION REQUIREMENTS
All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

421.8 RELEASE OF RECORDINGS

Recordings made using portable recording devices pursuant to this policy are department records and may only be released as provided in the Records Release and Security Policy or for other authorized legitimate department business purposes.

421.9 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource. However, members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct, reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

(a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.

(b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

(c) By media personnel with permission of the Chief of Police or the authorized designee.

(d) In compliance with the Minnesota Data Practices Act request, if permitted or required by the Act, and in accordance with the Records Release and Security Policy.

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Bicycle Patrol

422.1 PURPOSE AND SCOPE

The Duluth Police Department has established Bicycle Patrol for the purpose of enhancing patrol efforts in the community. Bicycle patrol has been shown to be an effective way to increase officer visibility in congested areas. A bicycle's quiet operation can provide a tactical approach to crimes in progress. The purpose of this policy is to provide guidelines for the safe and effective operation of the patrol bicycle.

422.2 POLICY

Patrol bicycles may be used for regular patrol duty, traffic enforcement, parking control or special events. The use of the patrol bicycle will emphasize its mobility and visibility to the community.

Bicycles may be deployed to any area at all hours of the day or night, according to Department needs.

Requests for specific deployment of bicycle patrol officers shall be coordinated through the Area Commander or the Watch Commander.

422.3 SELECTION OF PERSONNEL

Interested licensed personnel, who are off probation, shall submit a training request to their appropriate Lieutenant. A copy will be forwarded to the Bicycle Patrol Supervisor. Qualified applicants will then be invited to an oral interview. The oral board will consist of the Bicycle Patrol Supervisor and a second person to be selected by the Bicycle Patrol Supervisor. Interested personnel shall be evaluated by the following criteria:

(a) Recognized competence and ability as evidenced by performance.

(b) Special skills or training as it pertains to the assignment.

(c) Good physical condition.

(d) Willingness to perform duties using the bicycle as a mode of transportation.

422.3.1 BICYCLE PATROL UNIT SUPERVISOR

The Bicycle Patrol Training Officer(s) shall have responsibility for the following:

(a) Organizing bicycle patrol training.

(b) Inspecting and maintaining inventory of patrol bicycles and program equipment.

(c) Scheduling maintenance and repairs.

(d) Evaluating the performance of bicycle officers.

(e) Coordinating activities with the Patrol Division.

(f) Bicycle inspection and documentation in the spring of every year.

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(g) Other activities as required to maintain the efficient operation of the unit.

422.4 TRAINING

Participants in the program must complete an initial Department-approved bicycle-training course after acceptance into the program. The initial training shall minimally include the following:

- Bicycle patrol strategies
- Bicycle safety and accident prevention
- Operational tactics using bicycles

When possible bicycle patrol officers should qualify with their duty firearm while wearing bicycle safety equipment, including the helmet and riding gloves.

422.5 UNIFORMS AND EQUIPMENT

Officers shall wear the department-approved uniform and safety equipment while operating the department bicycle. Safety equipment includes department-approved helmet, riding gloves, protective eyewear and approved footwear.

The bicycle patrol uniform consists of the standard short-sleeve uniform shirt or other department-approved shirt with department badge and patches, and department-approved bicycle patrol pants or shorts.

Optional equipment includes a radio head set and microphone and jackets in colder weather. Turtleneck shirts are permitted when worn under the uniform shirt.

Bicycle patrol officers shall carry the same equipment on the bicycle patrol duty belt as they would on a regular patrol assignment.

Officers will be responsible for obtaining the necessary forms, citation books and other department equipment needed while on bicycle patrol.

422.6 CARE AND USE OF PATROL BICYCLES

Officers will be assigned a specially marked and equipped patrol bicycle, attached gear bag, two batteries and a charger.

Bicycles utilized for uniformed bicycle patrol shall be primarily black or white with a "Police" decal affixed to each side of the crossbar or the bike's saddlebag. Every such bicycle shall be equipped with front and rear reflectors, front and rear lamps and a siren/horn. Lamps and reflectors must meet legal requirements.

Bicycles utilized for uniformed bicycle patrol shall be equipped with a rear rack and/or saddle bag(s) sufficient to carry the necessary equipment for handling routine patrol calls, including report writing, vehicle storage and citations.

Each bicycle gear bag shall include a first aid kit, tire pump, repair tool, and tire tube. These items are to remain with/on the bicycle at all times.

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Each bicycle shall be equipped with a steady or flashing red warning light that is visible from the rear of the bicycle.

Bicycle officers shall conduct an inspection of the bicycle and equipment prior to use to ensure proper working order of the equipment. Officers are responsible for the routine care and maintenance of their assigned equipment (e.g., tire pressure, chain lubrication, overall cleaning).

If a needed repair is beyond the ability of the bicycle officer, a repair work order will be completed and forwarded to the program supervisor for repair by an approved technician.

At the end of a bicycle assignment, the bicycle shall be returned clean and ready for the next tour of duty.

Officers shall not modify the patrol bicycle, remove, modify or add components except with the express approval of the bicycle supervisor or in the event of an emergency.

Vehicle bicycle racks are available should the officer need to transport the patrol bicycle. Due to possible component damage, transportation of the patrol bicycle in a trunk or on a patrol car push-bumper is discouraged.

Bicycles shall be properly secured when not in the officer's immediate presence.

422.7 OFFICER RESPONSIBILITIES

Officers are exempt from operating the bicycle in compliance with Minnesota law while performing their duties (Minn. Stat. § 169.222 Subd. 11). Officers may operate the bicycle without lighting equipment during hours of darkness, when such operation reasonably appears necessary for officer safety and tactical considerations. Officers must use caution and care when operating the bicycle without lighting equipment.

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Foot Pursuits

423.1 PURPOSE AND SCOPE

Foot pursuits are inherently dangerous and require common sense, sound tactics and heightened officer safety awareness. This policy sets forth guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot by balancing the objective of apprehending the suspect with the risk of potential injury to the officer, the public or the suspect.

423.1.1 POLICY

It is the policy of this department when deciding to initiate or continue a foot pursuit that officers must continuously balance the objective of apprehending the suspect with the risk and potential for injury to Department personnel, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances. Absent exigent circumstances, the safety of Department personnel and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and Department personnel.

423.2 DECISION TO PURSUE

Officers may be justified in initiating a foot pursuit of any individual the officer reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. However, this decision must be continuously reevaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as the sole justification for engaging in an extended foot pursuit. The development of reasonable suspicion regarding the individual's involvement in criminal activity or the belief the person is a danger to themselves can justify a pursuit.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits potentially place Department personnel and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances reasonably permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to pursuit based upon the circumstances and resources available, such as the following:

(a) Containment of the area

(b) Canine search

(c) Saturation of the area with patrol personnel

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(d) Apprehension at another time, when the identity of the suspect is known or there is information available that would likely allow for later apprehension and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the pursuit.

423.3 GUIDELINES FOR FOOT PURSUIT

Unless the officer reasonably believes that exigent circumstances exist (e.g. a serious threat to the safety of personnel or members of the public), officers should consider alternatives to engaging in or continuing a foot pursuit under the following conditions:

(a) When directed by a supervisor to terminate the foot pursuit. Such an order shall be considered mandatory.

(b) When the officer is acting alone.

(c) When two or more officers become separated, lose visual contact with one another or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the suspect in sight from a safe distance and coordinate the containment effort.

(d) The officer is unsure of his/her location and direction of travel.

(e) When the pursuing officers do not reasonably believe that they would be able to control the suspect or suspects should a confrontation occur.

(f) When the physical condition of the officers renders them incapable of controlling the suspect if apprehended.

(g) When the officer loses radio contact with the Communications Center or with backup officers.

(h) When the suspect enters a building, structure, confined space or a wooded or otherwise isolated area and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the pursuit and coordinating containment pending the arrival of sufficient officers.

(i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.

(j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.

(k) The officer loses possession of his/her firearm or other essential equipment.

(l) The officer or a third party is injured during the pursuit, requiring immediate assistance and there are no other emergency personnel available to render assistance.

(m) The suspect's location is no longer definitely known.

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(n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to Department personnel or the public if the suspect is not immediately apprehended.

(o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other conditions.

423.4 RESPONSIBILITIES IN FOOT PURSUITS

423.4.1 INITIATING OFFICER RESPONSIBILITIES

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating officer should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient officers are present to safely apprehend the suspect.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should broadcast the following information as soon as it becomes practicable and available:

(a) Unit identifier

(b) Location and direction of travel

(c) Reason for the foot pursuit

(d) Number of suspects and description

(e) Whether the suspect is known or believed to be armed

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify the Communications Center of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary.

423.4.2 ASSISTING OFFICER RESPONSIBILITIES

Whenever any officer announces that he/she is engaged in a foot pursuit, all other officers should minimize nonessential radio traffic to permit the involved officers maximum access to the radio frequency.

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Any officer who is in a position to intercept a fleeing suspect or who can assist the primary officer with the apprehension of the suspect, shall act reasonably and in accordance with Department policy, based upon available information and his/her own observations.

423.4.3 SUPERVISOR RESPONSIBILITIES

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever reasonably possible. The supervisor does not, however, need to be physically present to exercise control over the pursuit. The supervisor should continuously assess the situation in order to ensure the foot pursuit is conducted within established Department guidelines.

The supervisor should terminate the foot pursuit when the danger to pursuing officers or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor should promptly proceed to the termination point to direct the post-pursuit activity.

423.4.4 THE COMMUNICATIONS CENTER RESPONSIBILITIES

Upon being notified or becoming aware that a foot pursuit is in progress, the Communications Center personnel shall, as soon as practicable, notify the field supervisor and provide available information. In addition, the Communications Center personnel are also responsible for the following:

(a) Clear the radio channel of non-emergency traffic.

(b) Repeat the transmissions of the pursuing officer as needed.

(c) Relay all pertinent information to responding personnel.

(d) Contact additional resources as indicated.

(e) Coordinate response of additional resources to assist with the foot pursuit.

423.5 REPORTING

The initiating officer shall complete the appropriate crime/arrest reports documenting, at minimum, the following:

(a) The reason for initiating the foot pursuit.

(b) The identity of involved personnel.

(c) The course and approximate distance of the pursuit.

(d) Whether a suspect was apprehended as well as the means and methods used.

    1. Any use of force shall be reported and documented in compliance with the Use of Force Policy.

(e) Any injuries or property damage.

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Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

In any case in which a suspect is not apprehended and there is insufficient information to warrant further investigation, a supervisor may authorize that the initiating officer need not complete a supplemental report in addition to the data normally created during the event.

423.6 ADDITIONAL INFORMATION

See the Procedural Standard of Practice Guideline for additional information.

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Automated License Plate Readers (ALPR)

424.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPRs are used by the Duluth Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPRs may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

424.2 ADMINISTRATION OF ALPR DATA

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Administration Deputy Chief. The Administration Deputy Chief will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

424.3 ALPR OPERATION

Use of an ALPR is restricted to the purposes outlined below. Department personnel shall not use, or allow others to use, the equipment or database records for any unauthorized purpose.

(a) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

(b) An ALPR shall only be used for official and legitimate law enforcement business.

(c) An ALPR may be used in conjunction with any patrol operation or official department investigation. Reasonable suspicion or probable cause is not necessary before using an ALPR.

(d) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

(e) If practicable, the officer should verify an ALPR response through the Minnesota Justice Information Services (MNJIS) and National Law Enforcement Telecommunications System (NLETS) databases before taking enforcement action that is based solely upon an ALPR alert.

(f) ALPR operators must have successfully completed approved Minnesota Justice Information Services (MNJIS) and National Law Enforcement Telecommunications System (NLETS) data base access training and obtain clearance through the Bureau of Criminal Apprehension prior to operating ALPR equipment or accessing ALPR data.

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424.4 ALPR DATA COLLECTION AND RETENTION

All data and images gathered by an ALPR are for the official use of the Duluth Police Department. Because such data may contain confidential information it is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law. Collection and retention of ALPR data is subject to the following guidelines:

(a) Files will be transferred from field units to Department servers in accordance with current Duluth Police Department file storage procedures.

(b) All ALPR data captured during a shift should be transferred to the Department server before the end of each shift.

(c) All ALPR data downloaded to the server will be retained for thirty days. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

(d) All non-hit data on Safe at Home participants will be destroyed immediately if a request for such data to be destroyed has been received by the department. All such requests will be classified as "Security Information"(Minnesota Statute 13.137 subd. 1).

424.5 ACCOUNTABILITY AND SAFEGUARDS

All saved data will be closely safeguarded and protected by both procedural and technological means. The Duluth Police Department will observe the following safeguards regarding access to and use of stored data:

(a) Requests for access to stored ALPR data shall be logged and for any non-public data a stated purpose for access must be provided.

(b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date, time, and who has accessed the information.

(c) Persons approved to access ALPR data under these guidelines are permitted to access the data when there is an articulable suspicion that the data relates to an investigation in a specific criminal or Department-related civil or administrative action.

(d) Requests to review stored data shall be recorded and maintained in the same manner as criminal history logs.

(e) Transmission and storage of ALPR data shall meet state and federal requirements for network and computer security.

(f) ALPR system audits should be conducted on a regular basis.

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424.6 RELEASING ALPR DATA

The ALPR data not public data may be shared only with other law enforcement agencies for legitimate law enforcement purposes or as otherwise permitted by law and in accordance with this policy, provided the following criteria are met:

(a) The law enforcement agency or department sworn personnel make an official request for the ALPR data by completing the Automated License Plate Reader Data request form. Requests are processed through the Administrative Sergeant.

(b) The identity of the agency and the person requesting the data and the intended purpose is documented and retained on file.

(c) The request is approved by the Records Supervisor or designee.

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Stolen Vehicle Reporting, Initial Investigation, and Recovery

425.1 PURPOSE AND SCOPE

The Duluth Police Department responds to reports of numerous stolen vehicles each year, which result in a significant loss to the victims. On scene preliminary investigations can gather evidence, apprehend and convict suspects, determine false reports, and provide the victim with much needed service. This policy also outlines procedures to be used in the investigation of stolen vehicles.

425.2 VEHICLE REPORT

Patrol officers are responsible to fill out a VEHICLE REPORT on all stolen:

- Cars
- Trucks
- ATVs
- Motorcycles
- Boats
- Trailers
- Snowmobiles
- Stolen vehicle parts that have Vehicle Identification Numbers (VIN) or VIN derivatives on them (i.e.: engines, etc.)
- License plates (see note below)
- License tabs

Note: VEHICLE REPORTS only need to be filled out and signed on stolen license plates or tabs when both plates or tabs are stolen from the same vehicle; or when one plate or tab is stolen from a vehicle which requires only one. In cases where one plate or tab is stolen, officers should have the owner surrender or destroy the second plate or tab so they can be entered into NCIC. An investigating officer needing an "Attempt to Locate" entry into NCIC reference a feloniously used vehicle shall fill out a VEHICLE REPORT.

425.3 PRELIMINARY INVESTIGATIONS

Patrol officers conduct preliminary investigations of all reported auto thefts. Patrol officers conducting a preliminary auto theft investigation are responsible for:

- Assuring the report is criminal, not civil.
- Making an initial determination of the reports authenticity (and not due to hit/run, DUI, etc.)

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- Responding to the victims/reporting party's location and completing the DULUTH POLICE DEPARTMENT VEHICLE REPORT. Should someone other than the listed owner report the theft of a vehicle, the owner is unavailable to sign the vehicle report, and the investigating officer believes the report to be accurate, the officer can allow the responsible person to sign the vehicle report. The reason for the exception is noted on the back of the form. The owner must be notified to sign the original report as soon as possible.
- Verifying insurance.
- Verifying ownership.
- Checking the area from which the vehicle was stolen for evidence and for other abandoned stolen vehicles.
- Forward the completed VEHICLE REPORT to the Report Writing Room Box as soon as possible.
- Checking the towing records for both police and private tow offs at the earliest possible time to limit unnecessary paperwork. When it has been determined that the vehicle has not been towed, both boxes reference towing shall be marked by the investigating officer.

Patrol officers should continue investigating the theft by checking the immediate area for the vehicle and paying attention to possible theft, recovery and suspect patterns. Patrol officers should maintain a list of stolen vehicles.

425.4 ADDITIONAL RESPONSIBILITIES

(a) Immediately route a copy of the signed VEHICLE REPORT to 911 dispatch for radio broadcast to all area squads and/or for entry into NCIC.

(b) Run a query on the vehicle registration to be affixed to the VEHICLE REPORT.

(c) Contact 911 dispatchers to obtain the NCIC numbers and enter relevant information on the "Vehicle Entered" line of the VEHICLE REPORT.

(d) Turn the original report into the Stolen Vehicle Report bin located in the DPD Report Writing Room.

(e) Send a CAL referral (RFPRO) to Property Crimes and enter the vehicle in the Patrol Log.

(f) Complete a PROPERTY REPORT for any property that was in the vehicle at the time it was stolen.

425.5 INVESTIGATIONS

The Property/Financial Crimes Sergeant will assign auto thefts. They will be responsible for supervising all follow-up investigations, assisting the investigators working the cases, and authorizing suspension of cases.

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The Property Crime Investigator is responsible for follow up investigation of auto thefts. These responsibilities include:

- All reasonable follow up.
- Maintaining a record of stolen vehicles and their recovery.
- Attempting to discern patterns of both loss and recovery.

425.6 RECOVERY

When a stolen vehicle is recovered in the City of Duluth a separate ICR for a "VRECOV" shall be generated which will include the vehicle's plate.

425.6.1 VEHICLE PROCESSING

Every effort should be made to effectively process recovered stolen vehicles for evidence. A patrol unit leader shall be contacted to determine if the stolen vehicle should be processed by a CSI Investigator or a patrol officer crime scene investigator (POSCI).

If the recovered stolen vehicle is from another agency, the originating agency determines if they want the vehicle held for processing after recovery.

If a vehicle is to be processed by Crime Scene Investigations, a REQUEST FOR PROCESSING form shall be filled out by the investigating officer and forwarded to the CSI Unit with a copy of the VEHICLE REPORT. A CAL entry (RCIP) shall also be directed to CSI regarding the request for processing.

If a stolen vehicle is not processed at the scene, it should be impounded for processing and stored inside in a secure location at the wrecker company. Storage of recovered stolen vehicles in the police garage requires prior approval by a patrol unit leader.

425.6.2 RECOVERY INFORMATION

The officer who recovers a stolen vehicle shall immediately notify the owner of the recovery and determine whether or not the vehicle can be released. If the vehicle is going to be towed and processed, the owner will be notified of the recovery and that they will be re-contacted as soon as the vehicle can be released. The owner is also advised that upon receiving the vehicle, any items discovered stolen from, or items added to, the vehicle should be reported to the Police Department.

If a Duluth stolen vehicle is recovered by an outside agency, the officer who takes the recovery report will complete the "Recovery Information" on the original VEHICLE REPORT, notify the owner of the recovery, and notify 911 personnel to cancel the stolen vehicle in NCIC.

The officer shall place the original Stolen Vehicle Report in the DPD Report Writing Room, make an RFPRO entry in CAL indicating the vehicle was recovered, and enter the recovery information in the Patrol Log..

When an officer recovers a vehicle which was stolen from outside of Duluth, the officer documents the recovery information, typically the same as required on a local stolen recovery, in a narrative

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report, and makes a CAL referral to Property Crimes (RFPRO). . This officer is also responsible for notifying the originating agency of the recovery and the DPD ICR.

The Property/Financial Crimes sergeant is responsible for reviewing all recoveries, ensuring the owner was notified, and ensuring that other requirements of this policy are met.

425.6.3 EVIDENCE

Any officer obtaining physical evidence from a vehicle must complete an EVIDENCE REPORT. The evidence is handled in accordance with Policy 807.

425.6.4 VEHICLE DISPOSITION

Officers must remain with the vehicle until it is towed from the scene or retrieved by the owner.

(a) Towing

- When a vehicle is towed a wrecker must be called from the rotation list in accordance with Policy 511. A TOWED VEHICLE REPORT must also be completed, including a complete inventory of its contents. If the vehicle is towed before processing, the wrecker driver should be instructed to handle the vehicle as little as possible.
- Vehicles are not to be towed to the police garage without the permission of a patrol unit leader. When a vehicle is towed to the police garage, it should be clearly marked as evidence.
- When towing vehicles stolen from outside of Duluth, confirmation on the stolen status should be made with the originating agency. When the vehicle is towed, a copy of the TOWED VEHICLE REPORT and hit confirmation should be left for the Property/ Financial Crimes sergeant and notification of the recovery must be made to the originating agency.

(b) Release to Owner from Scene

- If the recovered vehicle has been processed at the scene, or it is not necessary to process it, the owner should be given an opportunity to respond to the scene within a reasonable amount of time to get their vehicle, provided it is properly registered and insured.
- Should the recovered vehicle be un-driveable, the officer may give the owner the opportunity to have the vehicle towed by a wrecker of the owner's choosing, otherwise the vehicle shall be towed in accordance with Policy 807.

(c) Release after Processing

- Post-processing owner notification is the responsibility of the investigator or CSI personnel.

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Criminal Conduct on School Buses

426.1 PURPOSE AND SCOPE

Criminal conduct on school buses has been identified by the legislature as a critical component for the safety and security of the community. The primary purpose of this policy is to provide officers guidance in responding to reports of alleged criminal conduct on school buses within this jurisdiction is the responsibility of this department in cooperation with any other law enforcement agency that may have concurrent jurisdiction over the alleged offense. This policy is not intended to interfere with or replace school disciplinary policies that relate to student misconduct on school buses (Minn. Stat. § 169.4581).

426.2 PROCEDURE

This department shall respond to all criminal misconduct on school buses within the jurisdiction of this department regardless of the source of the report. Officers should take reasonable actions to complete the following:

(a) Provide for the safety of any person involved in the incident or present at the incident.

(b) Coordinate any appropriate care.

(c) Investigate reports of crimes committed on school buses using the same procedures as followed in other criminal investigations as appropriate for juveniles and/or adults.

(d) Issue citations, release pending further investigation, or apprehend and transport individuals committing crimes on school buses to the extent authorized by law.

(e) Submit reports regarding the incident for review, approval and consideration for prosecution.

(f) Complete follow-up and additional investigation as reasonably necessary to prepare a case pertaining to criminal conduct on school buses as required for prosecution.

(g) Provide information to the relevant school regarding the incident as required or authorized by law.

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Investigation of Fuel Thefts

427.1 PURPOSE AND SCOPE

This General Order will direct the Duluth Police Department response to reports of Theft of Fuel, and to serve as a guide for the successful investigation and prosecution of fuel theft suspects.

427.2 RESPONSIBILITIES

The Department will require a squad response (in person or phone) on all reported theft of gasoline incidents. Incidents involving limited suspect information, with little likelihood of identifying the suspect, require the completion of a Property Report.

If viable suspect information on the vehicle and/or driver may allow for the successful identification of the suspect, an Incident Report is required in addition to a property report and a CAL entry. Officers initiating an investigation with suspect information are expected to complete follow up investigation until such a time the case is submitted for prosecution or the case is suspended due to a lack of viability for prosecution. (Policy 345).

427.3 REPORTS

Minimally, Property Reports will be completed on all reported Theft of Fuel incidents.

Incident Reports are required if there is follow-up information or criminal charges are issued.

427.4 CHARGING AND ADDITIONAL STATE PENALTIES

In 2005, the State of Minnesota passed legislation for individuals found guilty or adjudicated delinquent for the theft of gasoline. The Commissioner of Public Safety shall suspend the license of the guilty individual for 30 days. This legislation allows law enforcement and the courts to deliver a stern consequence for violations.

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Response to Vehicle Prowl and Vehicle Damage Incidents

428.1 PURPOSE AND SCOPE

Incidents resulting in unauthorized entry into and damage to motor vehicles are an increasing problem. Citizens often leave valuables in their vehicles, which make them vulnerable to entry and damage. Vehicle prowling is a crime of opportunity that often includes the suspect damaging a vehicle to make entry, or causing damage to the vehicle in the process of removing valuables. Vehicles are also damaged due to general vandalism and disputes, not related to unauthorized entry or theft. This order will deal with a response to such incidents.

428.2 RESPONSIBILITY

Officers will respond to all reported incidents of unauthorized vehicle entry (VPROWL) and vehicle damage (VDAMP). A preliminary investigation will be conducted to identify possible suspects, identify, collect and package evidence left at the scene and document loss of property or vehicle damage.

428.3 DOCUMENTATION AND REPORTS

Officers shall prepare a Property Report, documenting any loss of property and/or vehicle damage, unless there is no documented loss or damage to the vehicle. Incidents involving multiple vehicles damaged through a single course of action (pellet gun, spray paint, tires slashed), may use one ICR number to cover all of the separate reports related to the incident. Officers must obtain approval of the Watch Commander before using a single ICR. Separate Property Reports must be completed for each individual victim.

Officers initiating an investigation with suspect information are expected to complete follow-up investigation until such time as the case is submitted for prosecution or the case is suspended due to lack of viability for prosecution.

428.4 CAD CODING

To facilitate proper record keeping, officers should ensure that incidents involving unauthorized vehicle entry and associated vehicle damage are coded VPROWL and damage to a vehicle by any other means is coded VDAMP. If it is determined that no vehicle entry occurred, the CAD code UNF shall be used. If there is no loss or damage, the CAD codes AST or ADV shall be used as a disposition. Matter of Record (MOR) disposition is not acceptable.

Documentation of VDAMP incidents includes all reported vehicle damage of any type, not just in relation to unauthorized vehicle entry. Damage to vehicles caused by crashes is not applicable to this order.

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Shoplifting Arrests

429.1 PURPOSE AND SCOPE

This general order provides guidelines for shoplifting complaints involving juveniles and adults.

429.2 ARREST BY MERCHANT

Shoplifting arrests are seldom initiated by officers. M.S. 629.366 allows merchants, or their employees, to detain persons they have reasonable cause to believe have committed a theft. The merchant may not interrogate the person against their will. They may not detain the individual for more than one hour unless they are awaiting the response of a law enforcement officer, or in the case of a juvenile, the response of the parent or guardian.

429.3 OFFICER RESPONSE

429.3.1 ADULT OFFENDERS

ARREST REPORTS are completed for each offender. In most instances, store security personnel complete the reports. Officers must review ARREST REPORTS for completeness. Officers should attempt to obtain a statement. The statement may be taken while the person is being detained in which case the Miranda warning is required. A statement may be taken after release, without Miranda, if it is clear to them that they are free to leave.

Adults with identification may be issued citations and released for misdemeanor offenses. The person may be lodged at the County Jail if:

- They are from outside the state or immediate area;
- The incident constitutes a felony or gross misdemeanor; or
- They do not have identification.

429.3.2 JUVENILE OFFENDERS

ARREST REPORTS are completed for each offender. In most instances, store security personnel complete the reports. Officers must review ARREST REPORTS for completeness. Officers should attempt to obtain a statement. The statement may be taken while the person is being detained, after Miranda, if the juvenile understands the warning, and agrees to provide a statement. (Policy 322 Search and Seizure) Parents must be notified prior to the statement if the juvenile doesn't understand Miranda or they request their parent or guardian is present. (See Policy 324 Juvenile Investigations) A statement may be taken after release, without Miranda, if it is clear to them that they are free to leave.

Officers are to notify the parent or guardian and release the juvenile to them. It is preferable to release the juvenile directly to the parents; however, it is permissible to release the juvenile after verbally notifying the parent. If the parents, or a responsible adult can not be contacted the officer will place a juvenile that is 15 years of age or younger at Bethany Crisis Shelter. If the parents, or a responsible adult, can not be contacted in the case of a 16 or 17 year old offender the officer

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may release the offender based upon their maturity level and emotional reaction to the arrest. In the instance that notification can not be made, and the officer does not believe it is safe to release the 16 or 17 year old, the unit leader should be contacted. All efforts, whether successful or not, to notify parents or responsible adults, must be documented in the SUPPLEMENTAL REPORT. Officers issue juveniles a citation prior to release. No court date is set.

429.3.3 EVIDENCE

Generally, merchants retain the evidence. In extenuating circumstances, evidence is placed into department evidence. M.S. 609.523 permits officers to photograph the evidence.

An EVIDENCE REPORT must be completed by the person who collected the evidence. The disposition of the evidence must be noted on the report.

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Use of Push Bumper

430.1 PURPOSE AND SCOPE

This General Order establishes procedures for using push bumper-equipped squad cars to push disabled or damaged vehicles. Use of push bumpers will restore normal traffic flow and reduce the threat of additional property damage or injury.

430.2 DEFINITION

A push bumper is defined as two or more vertical metal posts wrapped in protective covering and affixed to the front bumper assembly of a police squad car. Push bumpers are used to push motor vehicles out of a traffic lane to a safer location. The push bumper is intended only for bumper to bumper contact. Push bumpers are not intended for ramming or PIT maneuvers, unless allowed by policy and training. Push bumpers differ from brush guards or grille guards, whose main purpose is protecting the front of the vehicle from damage.

430.3 AUTHORIZED USE AND LIMITATIONS

Officers shall follow departmental limitations on the use of push bumpers.

- The installation of push bumpers on police vehicles is not intended to eliminate the use of tow trucks.
- With owner/operator consent, push bumpers may be used to assist in moving to safety a stalled or disabled vehicle which is creating an obstruction or hazard on a public street or highway traffic or a hazard.
- Prior to pushing any occupied vehicle, officers shall ensure the driver has valid driver's license and proof of insurance.
- A vehicle shall not be pushed in the instance of the arrest of the owner.
- Officers shall not push-start another vehicle or provide a push as a public service to citizens whose vehicles are not creating a hazardous situation.
- Do not push the vehicle if it is felt that any damage will result to either vehicle.

430.3.1 OFFICER DISCRETION - FACTORS FOR CONSIDERATION

The use of push bumpers is at the discretion of the officer. Use must be within the limitations set by policy and be done with consideration of the following factors:

(a) The use of push bumpers is authorized only in cases where it is in the best interest of public safety to push the vehicle to a safe place rather than wait for a tow truck.

(b) Inclement weather shall be considered as it relates to safety.

- Visibility: snow or rain may obstruct visibility. Also, the windshield wipers may not work on a disabled vehicle.

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- Roadway: snow, sleet, icy or wet conditions may cause unpredictable or unsafe driving conditions.

(c) Pushing vehicles downhill or uphill grade is discouraged due to the potential for the bumpers to disengage, resulting in loss of control over the disabled vehicle and damage. If bumper to bumper contact is lost, officers shall re-contact the bumper of the other vehicle only after it has completely stopped moving.

(d) Other safety factors:

- Ensure the vehicle being pushed is visible at all times.
- Avoid pushing over deep holes, as this can cause misalignment of the bumpers.
- Avoid turns. Contact during turns has a high probability of causing damage to the vehicle being pushed.

430.3.2 PRE-PUSH CONSENT, INSPECTION, AND OPERATOR DIRECTION

Prior to pushing another vehicle, the officer shall provide the owner/operator with a clear explanation of the pushing process.

(a) Consent: If the operator is not the registered owner of the vehicle, consent for pushing must be obtained prior to pushing (regardless of whether the owner is present.)

(b) Vehicle Inspection: Advise the owner/operator that the City is NOT responsible for any vehicle damage (including scratched bumpers) which may occur as a result of being pushed.

- Inspect the vehicle to be pushed for prior damages and ensure that the rear bumper is properly affixed.
- Document with owner any vehicle damage identified prior to pushing The in- car video camera may be used to document any existing damage prior to making contact with the push bumper. Officers must note in CAD comments any damage and the responses by the owner/operator regarding the owner's consent to the pushing of the vehicle.

(c) Direction: Discuss the pushing procedure with the driver and make sure the driver understands your plans.

(d) Explain to the driver they may have minimum control of the vehicle as disabled vehicles not under power do not have power steering or power brakes.

(e) Describe the planned push in detail to include:

- The driver must put the transmission in neutral.
- Brake pressure cannot be applied with the police vehicle is pushing.
- The steering wheel must be unlocked.

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- Advise the driver of the push destination; the vehicle should be pushed only far enough to eliminate the hazard.
- Instruct the driver to signal when they are ready to begin the push.

430.3.3 PUSHING PROCEDURE

To properly push another vehicle, the following procedure shall be used to ensure the action is done in a safe manner.

(a) Use of Safety Devices

- Overhead emergency lights shall be used when pushing a disabled vehicle.
- Hazard warning flashers should be used on both vehicles if possible.
- It may be necessary to use another officer to direct traffic.
- Flares or secondary squad should be considered if there is a visibility concerns.

(b) Before engaging the push bumper, the front of the squad car is positioned as closely as possible to the bumper of the other vehicle, without actually touching the other vehicle. The officer will visually inspect the alignment of the two vehicles before beginning the push.. If the alignment of the vehicles may lead to damage, the officer shall re-align the squad car. If the re-alignment does not correct the issue, the officer shall not push the other vehicle.

(c) If the alignment is correct, slowly accelerate to a safe speed.

(d) Safety Warning: Vehicles should not be pushed faster than ten (10) MPH. Indications are that airbags may activate if an impact exceeding 12 MPH occurs.

(e) Squad cars shall push vehicles in as straight a path as possible, to avoid contact damage. In no case should contact be maintained when pushing a vehicle around a corner. The patrol car should provide the other vehicle with enough momentum to allow it to coast around the corner where the vehicles may be reengaged to continue in a straight line if necessary.

(f) Vehicles shall not be pushed from the front. It is difficult for the other driver to control a vehicle being pushed backwards. Airbags may also deploy on certain vehicles if they are pushed from the front, resulting in possible injury to the driver.

(g) Contact between the two vehicles should be ceased prior to the disabled vehicle slowing down or coming to a complete stop.

(h) After the push is completed, assess the necessity for continued traffic control, driver safety and post-push vehicle inspection with the driver. When possible, utilize in-car camera to zoom in on the bumper of the vehicle that was pushed, to show any change in vehicle condition. Note in CAD comments any change in vehicle condition or damage.

(i) In the event of damage to either vehicle a Patrol Supervisor must be contacted. Proper paperwork shall be completed as determined by the Patrol Supervisor. Damage to another

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vehicle by a squad car shall also be reported to the City Loss Prevention Agent in the City Attorney's Office.

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Public Recording of Law Enforcement Activity

431.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

431.2 POLICY

The Duluth Police Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Officers should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

431.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

(a) Recordings may be made from any public place or any private property where the individual has the legal right to be present.

(b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:

1. Tampering with a witness or suspect.
2. Inciting others to violate the law.
3. Being so close to the activity as to present a clear safety hazard to the officers.
4. Being so close to the activity as to interfere with an officer's effective communication with a suspect or witness.

(c) The individual may not present an undue safety risk to the officers, him/herself or others.

431.4 OFFICER RESPONSE

Officers should promptly request a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an

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individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

431.5 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

(a) Request any additional assistance as needed to ensure a safe environment.

(b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.

(c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.

(d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.

(e) Explain alternatives for individuals who wish to express concern about the conduct of department members, such as how and where to file a complaint.

431.6 SEIZING RECORDINGS AS EVIDENCE

Officers should not seize recording devices or media unless (42 USC § 2000aa):

(a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.

    1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.

(b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.

(c) The person consents.

    1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.

    2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

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431.7 SECTION TITLE

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Chapter 5 - Traffic Operations

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Traffic Function and Citations

500.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventative patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on collision data, enforcement activity records, traffic volume and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in collision situations but also in terms of traffic-related needs.

500.2 TRAFFIC OFFICER DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the Duluth Police Department. Information provided by department analysts is a valuable resource for traffic collision occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of collision-causing violations during periods of high-collision incidence and at locations of occurrence. All officers will take directed enforcement action on request, and random enforcement action when appropriate, against violators as a matter of routine. All officers shall maintain high visibility while working general enforcement, especially at high-collision incidence locations.

Other factors to be considered for deployment are citizen requests, construction zones or special events.

500.3 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance. The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions (Minn. Stat. § 169.985 and Minn. Stat. § 299D.08):

500.3.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant.

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Verbal warnings are also appropriate for minor violations of newly enacted legislation. An explanation is provided concerning the requirements of the new law.

500.3.2 TRAFFIC CITATIONS

Traffic citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

(a) Explanation of the violation or charge.

(b) Court appearance procedure, including the optional or mandatory appearance by the motorist.

(c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court.

(d) The court contact information.

500.3.3 TRAFFIC CITATION COURT JURISDICTION

Whenever a citation is issued, an ICR number must be assigned and written in the blank provided. This does not include parking citations. The issuance of an ICR number to all citations references them to any other citations or reports on a single incident. Incidents that are separate but related should be cross-referenced to each other by ICR number (13-000001 XR 13-000002). The following information is required on all citations:

- ICR Number,
- Full name of recipient,
- Date of birth,
- License plate number (or VIN#),
- State statute or City Ordinance number,
- Name and badge number of officer, and
- Notes on the back of the citation or CAD comments. Notes must include probable cause for the traffic stop and factual basis of the offense.

If CAD notes are used, rather than notes on the back of the citation write (CAD NOTES) in the notes section on the back of the citation, and attach a copy of them to the citation.

Completed citations are placed in the designated bin in the Patrol Report Writing room and should include:

- The citation on top,
- Copy of driving record,
- Copy of registration, and
- CAD notes if they are used in lieu of notes on the back of the citation.

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500.3.4 PHYSICAL ARREST

A custodial arrest can be made on a number of criminal traffic offenses. These physical arrest cases usually deal with, but are not limited to (Minn. Stat. § 169.91):

(a) Negligent homicide.

(b) Driving under the influence of alcohol/drugs.

(c) Hit-and-run resulting in serious injury or death.

(d) Hit-and-run resulting in damage to any vehicle or property.

Gross Misdemeanor Violations:

Gross misdemeanor violations require a complaint/summons be issued, and therefore cannot be charged by citation. If any of the violations is a gross misdemeanor do not issue any citations. All of the violations will be included in the complaint.

Misdemeanor Violations:

A custodial arrest (citations are issued) may be made for a misdemeanor only to:

- ensure the defendant's appearance in court;
- prevent criminal conduct; or
- prevent bodily harm.

500.3.5 NON-RESIDENT VIOLATORS

Violations committed by out-of-state residents are controlled by M.S. 169.91, Subd. 4 (a) and (b), which states that if a non-resident commits a violation, and is a resident of a state which has a reciprocal agreement with Minnesota, they will not be required to post bail unless:

(a) Conviction of the offense would result in the revocation of driving privileges.

(b) The offense involves highway weight limitations or hazardous materials.

(c) The offense is driving without a license.

The Traffic Unit maintains a current list of states with reciprocal agreements with the State of Minnesota (see Appendix "A" for a list of the current states having reciprocal agreements with the State of Minnesota). Persons from states that do not have a reciprocal agreement may be required to post bail at the county jail. The officer may escort the individual to the jail for this purpose.

500.3.6 JUVENILE OFFENDERS

Citations are issued to juveniles.

The Juvenile Division of the County Attorney's Office prosecutes in the following instances so the court date is "to be set":

- All violations committed by persons up to and including fifteen years of age,

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- Major violations committed by 16 and 17 year olds defined as misdemeanors and gross misdemeanors (including reckless driving, careless driving, hit and run, no insurance, driving after revocation, driving after suspension, driving after cancellation, no valid driver's license). (Does not include DWI's committed by 16 and 17 year olds).

Adult court handles the following violations committed by juveniles (16 and 17 year olds):

- Petty misdemeanor violations, and
- DWI's committed by 16 and 17 year olds, and any traffic offenses committed as one course of action with the DWI.

500.3.7 SPECIAL SITUATIONS

a. Diplomats

Foreign diplomats and consular officials have diplomatic immunity which is covered by federal law in the Diplomatic Relations Act of 1978. This immunity does not mean the officer is prohibited from conducting an investigation; in fact the State Department encourages a thorough investigation so they are able to take action through diplomatic channels.

b. Military Personnel

Military personnel do not enjoy any special status and will be treated as the officer would treat any other person. If there are exceptional circumstances, the officer's unit leader or someone from the Traffic Unit can assist.

c. State Legislators

Minnesota state legislators do not have immunity from being arrested and enforcement practices will apply to them equally.

500.3.8 SPECIFIC SITUATIONS

1. Speeding Enforcement/Radar

Motorists determined to be speeding may be issued a verbal warning or a citation depending upon the circumstances. A few circumstances to consider are:

- The speed compared to the speed limit;
- Traffic volume;
- Pedestrian traffic volume;
- Road conditions;
- Weather conditions; and
- Location (residential area, business district, etc.)

Radar units are preassigned to patrol squads. All radar units are installed in accordance with the manufacturer's instructions.

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M.S. 169.14, Subd. 10, requires radar operators to:

- Have sufficient training to operate the equipment;
- Testify to the manner in which the radar was set up;
- Testify to the manner in which the radar was operated;
- Operate the unit with minimal interference; and
- The unit's calibration must be checked externally and documented.

Officers using other electronic speed measuring devices must have appropriate training to accurately operate the device. All devices are maintained, stored, and operated in the method required by the manufacturer.

2. Equipment Violations

Equipment violations can be handled by a verbal warning or a citation.

3. Driving After Revocation/Driving After Suspension

When a motorist who has been stopped for a violation is either revoked or suspended, a citation will be issued. Information is gathered to complete an ARREST REPORT. If the vehicle is insured, has current registration, and a licensed diver immediately available whom the owner will allow to drive, the car may be released to that person.

If the vehicle is towed, the officer will complete a Department Tow Slip. Disposition of the violator is also up to the discretion of the officer and a custodial arrest may be made, or the person released after issuing the citation.

4. Public Carrier/Commercial Vehicles

Public carrier and commercial vehicle violations may be handled by verbal warning or citation. The Minnesota State Patrol Commercial Vehicles Compliance Section can be of assistance when dealing with commercial vehicles. If necessary or desired, they may be contacted on accidents involving public carrier or commercial vehicles at any time an enforcement action is being contemplated.

5. Off-road Vehicles

a. Registration

All motor vehicles, as defined in Minnesota Statute 169.01, Subd. 3 as any self-propelled vehicle, must be registered in accordance with state law in order to be operated upon any public street or highway (M.S. 169.79).

Unregistered vehicles are removed from the roadway by the person in possession of the unregistered vehicle, or by the officer, at the officer's discretion.

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City Ordinance Section 33-236 requires that all snowmobiles owned or operated within the City must be registered. Citations may be issued, or verbal warnings given, depending upon the circumstances.

b. Operator's License

All operators of motor vehicles must have a valid operator's license or certification for the vehicle which they are driving (M.S. 171.02, Subd. 1.)

City Ordinance 33-226 prohibits operation of a snowmobile by a driver under the age of fourteen upon a public street or while crossing a public street. Operators between the ages of 14 and 18 must have a snowmobile safety certificate to operate upon a public street. Snowmobiles are regulated by M.S. 84.81 - 84.89. All-terrain vehicles are regulated by M.S. 84.92 - 84.94.

Vehicles operated by unlicensed persons, or person without proper certification, are to be removed from the roadway. They may be removed by a licensed driver, the parents of a juvenile operator, or by the officer, at the officer's discretion. Citations or verbal warnings may be issued. It is appropriate to notify the parents of juveniles even if citations are not issued.

c. Crash Investigation

The Department investigates motor vehicle crashes which occur on private property. The driving while intoxicated and reckless driving statutes are applicable on private property and officers are to take the same enforcement actions they would take on public streets.

d. Implied Consent Advisory

The implied consent advisory for snowmobiles and all-terrain vehicles is different from that used for other motor vehicles (M.S. 84.91). It is available in the intoxilyzer room and the Traffic Bureau.

6. Request for Examination of Driver

During the course of normal activities relating to patrol, officers come into contact with drivers who appear to be incompetent drivers because of some mental or physical condition. If the condition leads the officers to believe that the person is not capable of operating the motor vehicle, the officer will fill out a "Request for Examination of Driver" (D.P.S. 31924) form and turn it in to the Records Disseminator. No other report or citation is necessary unless the situation requires or warrants one.

7. Parking Enforcement

The Department employs parking enforcement personnel to enforce parking regulations, primarily in the downtown area. Patrol squads are also expected to enforce parking regulations, other duties permitting. Periodically, certain areas may be targeted by unit leaders as needing additional enforcement and patrol squads are expected to monitor those areas

8. Insurance Enforcement

Minnesota requires insurance for all motor vehicles parked or operated on public streets or highways. Motorists are required to provide proof of insurance upon demand of a police officer.

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If the owner/driver does not have insurance they are charged as follows:

- If owner and driver M.S. 169.797-2
- Driver M.S. 169.797-3
- Owner M.S. 169.797-2

If the owner/driver claims to have insurance but does not have proof they are charged as follows:

- If owner and driver M.S. 169.791
- If driver not owner M.S. 169.791
- If owner not driver M.S. 169.791

500.4 HIGH-VISIBILITY VESTS

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to reduce the danger to employees who may be exposed to hazards presented by passing traffic, construction vehicles and disaster recovery equipment (Minn. R. 5205.0030).

Although intended primarily for use while performing traffic-related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the employee.

500.4.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, collision investigations, lane closures and while at disaster scenes, or any time high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

500.5 TRAFFIC RELATED REPORTS

Some traffic related violations require a narrative report, they are:

- Driving while intoxicated
- Reckless driving'
- Hit and run

500.6 CITATION CORRECTIONS AND DISMISSALS

1. Voiding Citations

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed but not issued. All copies of the citation shall be presented to a supervisor to approve the Voiding of the citation. The citation and copies shall then be forwarded to their unit leader.

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2. Correction of Traffic Citations

When a traffic citation is issued and in need of correction, the officer issuing the citation shall submit the citation and a letter requesting a specific correction to his/her immediate supervisor. The citation and letter shall then be placed in the appropriate bin in the report writing room.

3. Dismissal of Traffic Citations

Employees of this department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued. Any request from a recipient to dismiss a citation shall be referred to the issuing officer or their supervisor. Upon a review of the circumstances involving the issuance of the traffic citation they may recommend dismissal of the traffic citation. A letter requesting the dismissal and the reasons for it shall be drafted, reviewed by the supervisor, and placed in the appropriate bin in the report writing room.

500.7 ADMINISTRATIVE VIOLATIONS

Administrative violations may be issued by officers to any person for violations of any City ordinance by using the Duluth Administrative Violation Form. A completed Administrative Violation Form should be submitted in the same manner as any other citation. Administrative citations should not be issued for crimes that may need to go through District Court for enhancement consideration purposes. The issuing officer or a supervisor should determine the appropriate citation type to use in each situation after considering the factors in each circumstance.

Administrative Violation Considerations

When determining the appropriateness of issuing an administrative violation, an officer should consider the following:

- Only one ordinance violation can be written per Administrative Violation Form
- Parking tickets cannot be written on an Administrative Violation Form
- Speed and license-related citations should be written on a District Court ticket, as they will not appear on a driver's record if written on an Administrative Violation Form
- A person receiving an administrative citation cannot be jailed solely based on the ordinance violation
- Officers who are aware that a violator has received prior administrative citations and failed to pay the related fine, should consider issuing a District Court Citation if the following conditions exist:

1. The violator has an established record of non-payment with the City Clerk's Office.
2. The violator is apparently unable to pay the fine.
3. The violator owns no real property.

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Traffic Collisions

501.1 PURPOSE AND SCOPE

The public safety responsibilities of law enforcement include responding to traffic collisions, providing aid and assistance, documentation of the incident and identification of criminal activity.

The Duluth Police Department prepares traffic collision reports in compliance with Minn. Stat. § 169.09 and as a public service makes traffic collision information available to the public.

501.2 CALL RESPONSE

Officers should respond without delay when dispatched to a traffic collision. A traffic collision with injuries reported may include a Code 3 response if the officer reasonably believes such a response is appropriate.

501.2.1 RESPONSE CONSIDERATIONS

An officer responding to and upon arrival at a collision, should consider the following:

(a) The most appropriate route to the incident.

(b) Proper placement of the emergency vehicle to provide protection for officers and the scene.

(c) Potential for involvement of hazardous materials.

(d) Additional support that may be necessary (e.g., traffic control, medical aid, HazMat, ambulance, tow vehicles and airship landing).

(e) Provide first aid to any injured parties if it can be done safely, and obtain medical assistance as necessary.

(f) Provision of traffic control and protection of the scene.

(g) Clearance of the roadway.

501.3 COLLISION INVESTIGATION

Investigation of traffic collisions should include, as a minimum:

(a) Identification and interview of all involved parties.

(b) Identification and interview of any witnesses.

(c) Determination if any crime has occurred and taking appropriate enforcement action.

(d) Identify and protect items of apparent evidentiary value.

(e) Documentation of the incident as necessary (e.g., statements, measurements, photographs, collection of evidence and reporting) on appropriate report forms.

501.3.1 COMMERCIAL VEHICLE COLLISIONS

Commercial vehicle collisions additionally require notification to the Minnesota State Patrol if the collision results in (Minn. Stat. § 169.783):

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(a) A fatality.

(b) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the collision.

(c) One or more motor vehicles incurring disabling damage as a result of the collision and that require transporting away from the scene by tow truck or other motor vehicle.

A waiver or inspection by a state trooper or other authorized person is required before a person may drive a commercial motor vehicle that was involved in such a collision (Minn. Stat. § 169.783).

501.4 TAKING ENFORCEMENT ACTION

Officers typically cannot make an arrest for a misdemeanor that did not occur in their presence. After a thorough investigation in which physical evidence or independent witness statements indicate that a violation of Minnesota law led to the collision, officers may issue a traffic citation or a misdemeanor citation to the offending driver.

Incidents involving more serious violations, such as driving under the influence of drugs or alcohol, vehicular manslaughter or other felonies, shall be enforced immediately. If a driver subject to enforcement is admitted to a hospital, a supervisor shall be contacted to determine the best enforcement option.

501.5 TRAFFIC COLLISION REPORTING

All traffic collision reports taken by members of this department shall be forwarded to the Crash Investigations Unit for approval and data entry into the Records Management System. The Crash Investigations Supervisor will be responsible for:

(a) Monthly and quarterly reports on traffic collision statistics, which shall be forwarded to the Patrol Deputy Chief or other persons as required.

(b) Forwarding the traffic collision report to the Department of Public Safety within 10 days of the collision investigation (Minn. Stat. § 169.09 Subd. 8).

(c) Ensuring completion and submission of a DPS Fatality Report when a collision results in a fatality.

501.5.1 MODIFICATIONS TO TRAFFIC COLLISION REPORTS

A change or modification of a written report prepared by a peace officer that alters a material fact in the report may be made only by the peace officer who prepared the report. A written supplemental report may be made by any authorized employee.

501.6 REPORTING SITUATIONS

501.6.1 TRAFFIC COLLISIONS INVOLVING CITY VEHICLES

Traffic collision investigation reports shall be taken when a City-owned vehicle is involved in a traffic collision on a roadway or highway wherein any damage or injury results. A general information report may be taken in lieu of a traffic collision report at the direction of a supervisor

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when the collision occurs on private property or does not involve another vehicle. Whenever there is damage to a City vehicle, a Vehicle Damage Report shall be completed and forwarded to the appropriate Deputy Chief.

Photographs of the collision scene and vehicle damage shall be taken at the discretion of the traffic investigator or any supervisor.

501.6.2 TRAFFIC COLLISIONS WITH POLICE DEPARTMENTOFFICE EMPLOYEES
When an employee of this department, either on- or off-duty, is involved in a traffic collision within the jurisdiction of the Duluth Police Department and it results in a serious injury or fatality, the Crash Investigations Supervisor or the Watch Commander should request the Minnesota State Patrol or other outside agency complete an investigation and report.

The term serious injury is defined as any injury that may result in a fatality.

501.6.3 TRAFFIC COLLISIONS WITH OTHER CITY EMPLOYEES OR OFFICIALS
The Crash Investigations Supervisor or Watch Commander may request assistance from the Minnesota State Patrol or other outside agency for the investigation of any traffic collision involving any City official or employee where a serious injury or fatality has occurred.

501.7 NOTIFICATION OF CRASH INVESTIGATIONS SUPERVISOR

In the event of a serious injury or death-related traffic collision, the Watch Commander shall notify the Crash Investigations Supervisor to relate the circumstances of the traffic collision and seek assistance from the Crash Investigations Unit. In the absence of a Crash Investigations Supervisor, the Watch Commander or any supervisor may assign an investigator or motor officer to investigate the traffic collision.

501.8 REPORTING CONFORMITY RESPONSIBILITIES

The Crash Investigations Supervisor will be responsible for distribution of the Collision Investigation Manual. The Crash Investigations Supervisor will receive all changes in the state manual and ensure conformity with this policy. All collision reporting shall be made on forms approved by the Department of Public Safety (Minn. Stat. § 169.09 Subd. 9).

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Traffic Crash Response, Reporting, and Department Vehicles

502.1 PURPOSE AND SCOPE

Traffic crashes are a major cause of avoidable property damage, injury, and death. The public safety responsibilities of law enforcement include responding to traffic crashes, providing aid and assistance, documentation of the incident and identification of criminal activity.

502.2 TRAFFIC CRASH INVESTIGATION PROCEDURES

502.2.1 CRASH SCENE PROTECTION

Responding squads are positioned to protect the scene from further damage and alert approaching traffic to the hazard. Some crashes require closing the street while first-aid is being administered and the crash is being investigated. Sufficient squads should be obtained to adequately and safely reroute traffic. Civilians should not be allowed to provide traffic direction or control.

502.2.2 FIRST-AID

First-aid equipment is provided in all squads. First-aid must be provided to victims. Gold Cross Ambulance and the Duluth Fire Department are routinely dispatched to all personal injury crashes.

502.2.3 ASSISTANCE

Additional assistance should be requested as necessary. This may include additional squads, traffic unit investigators, a patrol unit leader, or the Minnesota State Patrol Commercial Vehicle Compliance Section.

Public Works can provide barricades, traffic cones, and trucks with flashing directional arrows.

Minnesota Power must be contacted if transmission lines, poles, or equipment are damaged. Other utilities should also be notified if their equipment is damaged. Notification is made through the Emergency Communication Center.

Portions of I-35 have electronic warning signs. The appropriate message is arranged through the District Office of the State Patrol.

502.2.4 DRIVER CONTACT

Once located and identified, the drivers' identifying information and insurance information is recorded on a DULUTH POLICE CRASH REPORT and/or a STATE OF MINNESOTA CRASH REPORT (either written or electronically submitted and printed). The report should include a brief summary of the driver's account of the crash and any criminal charges.

502.2.5 WITNESS STATEMENTS

If witnesses are located, their full name (first, middle, last), date of birth, address, phone numbers, and their account of the crash is recorded on a DULUTH POLICE CRASH REPORT and/or a

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STATE OF MINNESOTA CRASH REPORT. In the case of a major injury or fatal crash, this information will be recorded in an INCIDENT REPORT or SUPPLEMENTAL REPORT.

502.2.6 PASSENGERS

All passengers in each involved vehicle are to be identified to include their full name (first, middle, last), date of birth, address, and phone numbers. Their identifying information, seat positions, and other pertinent information shall be recorded on a DULUTH POLICE DEPARTMENT CRASH REPORT and/or a STATE OF MINNESOTA CRASH REPORT. In the case of a major injury or fatal crash, this information and any statements from the passenger(s) will be recorded in an INCIDENT REPORT or SUPPLEMENTAL REPORT.

502.2.7 ROADWAY, PUBLIC, PRIVATE PROPERTY DAMAGE

Damage to the roadway, public, and private property is examined and noted on the reports, including the name of the property owner. Damage presenting a hazard is reported to the appropriate authority through the Communication Center. Officers may be required to remain at the scene until repairs are made.

502.2.8 MEASUREMENTS

To gather the information necessary for a crash reconstruction, measurements should be taken at serious crashes, especially those with injuries. Measurements should be taken:

- of the roadway
- to locate the positions of the vehicles
- to identify the location of evidence
- to locate the position and length of skid marks, significant marks or gouges

Paint is available to mark the locations.

A drag factor should be determined if speed is an issue and skid or scuff marks are present.

502.2.9 PHOTOGRAPHS

Serious crash scenes (injuries, fatalities, major property damage) should be photographed. All crashes involving city vehicles or city property must be photographed. One set of pictures should be taken before marking the roadway.

Photographs should document vehicle damage, the interiors of the vehicles, the roadway evidence, the approaches to the scene, and any other property damage.

502.2.10 OTHER EVIDENCE AND PROPERTY

All other evidence collected at the scene of an accident must be collected in accordance with Policy 807 Evidence Packaging.

The property of crash victims who are transported to the hospital may be transported to the hospital or left with the vehicle.

Apparent valuables should be brought to the victim rather than left in the vehicle.

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502.2.11 HAZARDOUS MATERIALS

Traffic crashes involving hazardous materials should be approached cautiously. Officers should not *walk in, or touch, spilled material. Inhaling fumes, smoke or vapors should be avoided.*

Hazardous materials are identified by locating placards, container labels, shipping papers, or the persons responsible for transporting the material. Squads are equipped with the Emergency Response Guidebook published by the U.S. Department of Transportation which provides preliminary guidelines for handling a hazardous material incident.

The Duluth Fire Department must be notified as they have equipment and training to deal with hazardous materials. The Communication Center has a data base of hazardous materials information.

502.2.12 COMMERCIAL VEHICLE CRASHES

When a traffic crash involves a commercial vehicle, school bus, or Head Start bus, and any of the following have occurred the Minnesota State Patrol must be notified (Minn. Stat. § 169.783 and 169.4511) and the appropriate section of the Minnesota State Accident report completed.

(a) a fatality

(b) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the crash

(c) one or more motor vehicles incurring disabling damage as a result of the collision and that require transporting away from the scene by tow truck or other motor vehicle

(d) more than $4400 property damage

If a crash involves a commercial vehicle, school bus, or Head Start bus, and these factors are not present; however, there appears to be a defect with the commercial vehicle or bus, the assistance of a State Patrol Commercial Vehicle Inspector shall be utilized to ensure the vehicle is safe before it is released to continue operating on the roadway.

A waiver or inspection by a state trooper or other authorized person is required before a person may drive a commercial motor vehicle that was involved in such a collision (Minn. Stat. § 168.783).

A commercial vehicle is a vehicle or combination that has an actual weight or a gross vehicle weight rating greater than 26,000 pounds, a vehicle required to display a hazardous materials placard, or a vehicle used for transporting more than 15 passengers including the driver. Duluth Transit Authority buses are not considered commercial vehicles.

502.2.13 INFORMATION EXCHANGE

Officers are required to facilitate the exchange of information between the drivers involved in a traffic crash. This may be accomplished by giving the drivers the pink copy of the DULUTH POLICE CRASH REPORT which gives them the identifying information of the other driver involved, vehicle information, insurance information, officers' names, and the report number. The information exchange may also be made electronically in squads equipped to print field based accident reports at the scene.

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Officers should advise drivers that they or their insurance company may obtain a copy of the final law enforcement STATE OF MINNESOTA CRASH REPORT in person from the Duluth Police Department Customer Service Desk during normal business hours, or on-line at www.docview.us.com five working days after the crash. Officers should also inform drivers if they are required to complete a citizens' MINNESOTA MOTOR VEHICLE CRASH REPORT.

502.2.14 PRIVATE PROPERTY MATTER OF RECORD CRASHES

When officers are summoned to a traffic crash where there is very minor damage, it has occurred on private property and no further enforcement action (DWI, reckless driving, careless driving, or hit-and-run) can be taken, or the involved drivers do not desire a police report, it may be treated as a "matter of record." However, officers are required to:

- check driver's license status of the drivers
- verify insurance information and registration
- determine if a violation has occurred
- ensure involved parties exchange information

The full name and date of birth of each driver as well as the license plate numbers of the involved vehicles shall be recorded in CAD.

502.2.15 AFTER THE FACT CRASHES

ICR numbers will not be assigned by the Customer Service Center for crashes where there was no police involvement. The practice of assigning ICR numbers gives the public the impression that the Police Department has verified the facts surrounding how the crash happened and who was driving. Since no police involvement was requested at the time of the crash, the crash is a civil matter to be processed between the involved parties and their insurance companies.

If the party calling states the crash was a hit-run with no suspect information and they want to make a matter of record report, advise them to call the communications center and have an officer respond to verify damage and complete a hit and run report.

502.3 FATAL OR MAJOR INJURY CRASHES

Major injury or fatal crashes require the application of special investigative procedures, which include:

(a) Department death investigation procedures apply in all instances of fatal motor vehicle crashes.

(b) Alcohol and drug tests are required of all drivers who are victims in fatal crashes and of all pedestrians over 16 years of age who are killed in traffic crashes. (Minn. Stat. § 169.09, Subd. 11)

(c) In all fatal crashes or major injury crashes, the drivers of all involved vehicles shall be requested to provide a sample of blood or urine for alcohol and drug testing, even if there is

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no reason to believe they are under the influence. Drivers may legally refuse this test unless the officer has reason to believe the driver is under the influence of alcohol and/or drugs.

(d) If the officer has reason to believe that a driver is under the influence of alcohol and/or drugs follow the procedures in Policy 515 Driving While Impaired.

(e) If the officer has probable cause to believe that the person has violated the criminal vehicular homicide or injury laws (Minn. Stat. § 609.21, Subd. 1-5) a blood or urine sample will be taken for alcohol and drug testing, with the person's consent (Minn. Stat. § 169A.50, Subd. 2, Paragraph 3). A search warrant is necessary if the person does not consent. The statute states that a person is guilty of Criminal Vehicular Homicide or Injury if they cause the death, great bodily harm, substantial bodily harm, or bodily harm to a person, or the death of or injury to an unborn child, as a result of operating a motor vehicle, aircraft, or watercraft:

- In a grossly negligent manner
- In a negligent manner while under the influence of alcohol or a controlled substance, or any combination of these elements
- While having an alcohol concentration of .08 or more
- While having an alcohol concentration of .08 or more as measured within two hours of driving
- In a negligent manner while knowingly under the influence of a hazardous substance
- In a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or Tetrahydrocannabinols, is present in the person's body
- Where the driver who causes the crash leaves the scene of the crash in violation of Minn Stat. § 169.09, Subd. 1 or 6 (hit-and-run resulting in injury or death)

The statutory language of Minn. Stat. § 609.52 definition a motor vehicle applies in these incidents.

f. Investigative reports should be submitted as soon as possible.

g. A crash investigator is responsible for all investigations involving traffic fatalities and the submission of the appropriate reports to the Department of Public Safety.

502.4 CRASH SCENE RESPONSIBILITIES

502.4.1 PATROL

Patrol is responsible for the investigation of all crashes in their district, but in some instances may call upon traffic investigators to assist them. Patrol unit leaders should respond to serious crashes if they are available.

Officers must wear a high visibility vest while in the roadway or adjacent to the roadway (MN OSHA Rule 5207.0100, Subpart 1).

Officers may request other squads to assist in protecting the crash scene. Squads are positioned to protect the scene and officers are utilized to direct traffic.

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502.4.2 TRAFFIC UNIT CRASH INVESTIGATORS

The Traffic Unit has specially trained and equipped crash investigators responsible for investigating serious and fatal crashes. Crash investigators do not provide 24-hour-a-day coverage, but when on duty, and if available, will respond to crashes with injuries, crashes involving City-owned vehicles, and crashes involving Duluth Transit Authority coaches. The district patrol squads assist in these investigations unless told to disregard. If crash investigators from the Traffic Unit are not working at the time, the patrol unit leader has the option of requesting that one respond. In the case of a major injury or fatal crash and a traffic investigator is not available, the Minnesota State Patrol will be contacted to provide at-scene assistance.

Follow-up investigations on hit and run, injury, and fatal crashes are assigned to crash investigators by the unit leader of the Traffic Unit.

502.4.3 OFFICER IN CHARGE OF CRASH SCENE

A crash investigator responding to a crash is responsible for the scene and the investigation. If a crash investigator does not respond, a district patrol officer is responsible for the scene and the investigation, unless specifically relieved of that responsibility by a patrol unit supervisor. Any time a crash investigator from the Traffic Unit responds, they are in charge of the follow-up investigation.

Crash investigators from the Traffic Unit are responsible for conducting follow-up investigations on hit-and-run crashes, although the responding squad is responsible for continuing the investigation as far as feasibly possible. The crash investigators will also do any follow-up necessary on other crashes that may be assigned by the unit leader of the Traffic Unit. Speed calculations, follow-up interviews, gathering of off-scene data, reconstructions, etc., are documented in narrative reports.

502.4.4 RECONSTRUCTION/TECHNICAL SKILLS

The Department attempts to have at least one investigator trained in crash reconstruction. The Minnesota State Patrol has crash reconstructionists that may be available if needed.

Technical services or equipment necessary in crash investigations which are not available within the Department may be requested through the Traffic Unit. For example; a mechanical inspection of a vehicle's brake system, the weighing of a vehicle at an approved scale, or an aerial photograph of a scene.

502.4.5 ENFORCEMENT AT TRAFFIC CRASH SCENES

Officers investigating a traffic crash who determine from statements and/or evidence that a violation has occurred must issue a citation unless circumstances exist which warrant an exception. In most instances the officers will not have witnessed the violation. Exceptional circumstances must be documented in the report.

When a crash occurs on private property, the only moving violations which can be cited are: driving while impaired, reckless driving, hit and run, and some instances of careless driving. However, a driver may be cited for no insurance, driver license offenses, and vehicle registration violations if they drove their vehicle on a public street to get to the private property.

A person may not be required to post bail for an unwitnessed misdemeanor.

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502.4.6 REPORTS

The STATE OF MINNESOTA CRASH REPORT is the starting point of efforts to reduce the costs in death, injury, and property damage associated with traffic crashes. As such, these reports shall document the results of the investigation, they shall be complete, and they shall be legible.

All traffic crashes that occur or originate on a public roadway require the completion of the STATE OF MINNESOTA CRASH REPORT (either written or electronically submitted and printed). In the event of a hit-and-run, the state crash report is not required until the investigation is complete. Traffic crashes that occur on private property do not require the completion of a STATE OF MINNESOTA CRASH REPORT unless the crash results in an injury or death.

SUPPLEMENTAL REPORTS are used to document information during the investigation, as necessary. Follow-up investigations on crashes are documented in the Case Activity Log (CAL) in accordance with General Order 305.00 €# Case Maintenance/Management.

502.5 CRASHES INVOLVING DEPARTMENT VEHICLES

Any traffic crash involving a department vehicle, or involving any employee, regardless of rank, while acting within the scope of his duties, shall be reported to the department by the employee operating the vehicle. If available, the Crash Investigation Squad should investigate each accident.

An outside agency shall be requested to investigate a department vehicle involved crash if any of the following occur:

- Airbag deployed
- Extrication from a vehicle
- Either vehicle is non driveable
- Any **injury**
- **NOTE**: an outside agency is **not** required if any of the above occurred and the crash involved an unoccupied vehicle.

502.5.1 PATROL UNIT LEADER DUTIES

A shift sergeant or shift lieutenant shall be dispatched to the scene of each crash involving a Department vehicle. They are required to conduct an investigation to determine whether the employee was adhering to department rules, policies, and regulations. The shift sergeant/ lieutenant may request another law enforcement agency conduct the investigation.

The responsibility of the responding shift sergeant or shift lieutenant to a squad involved crash is to facilitate reporting and documentation of the incident. The following requirements are established for a consistent response:

- All traffic crashes involving squads require the notification of the shift sergeant or shift lieutenant. The responding shift sergeant or shift lieutenant determines any additional resources necessary to conduct a thorough investigation.

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- All traffic crashes require an ICR to be generated. If an outside agency is investigates the crash the ICR is still generated. The investigating agency ICR is noted in the CAD comments.
- Photos of the scene and damage are required.
- A City Incident report must be completed and reviewed and approved by the responding shift sergeant or shift lieutenant. If injuries to personnel are sustained, refer to policy 1012 for instructions .
- Completion of a City Crash Report is required for crashes occurring on roadways and private property. If the crash occurs on City property such as the police parking lot, police garage, or City property other than a roadway, a City Accident Report is required in lieu of the State of Minnesota Crash Report.
- A State of Minnesota Crash Report is completed by the investigating officer on all crashes occurring on public property. The report is reviewed by the shift sergeant or shift lieutenant.
- Copies of completed reports are directed to the working file maintained on the involved employee by their unit leader for inclusion in the EDA process. Copies are also sent to the Chief's clerical person for later review by the Crash Review Board.
- Copies of the reports are distributed by the Chief's clerical person to the Deputy Chief of patrol, the involved employee's Area Commander, and the Crash Sergeant.

502.5.2 CRASH INVESTIGATORS DUTIES

The crash investigator responding to the scene shall fully investigate the incident including writing the traffic accident reports. A copy of all investigative reports, statements, and photographs must be forwarded to the Police Secretary for review by the Crash Review Board.

502.5.3 DUTIES OF EMPLOYEES INVOLVED IN TRAFFIC CRASHES

Any employee directly involved in a traffic crash while operating or riding in a city-owned vehicle shall notify a shift sergeant or shift lieutenant of the crash. The involved employee must complete a City Incident Report describing the events leading to the crash.

When an employee is involved in a crash, the employee shall urge the other parties involved to remain at the scene until the arrival of the investigating officer. If the person insists upon leaving the scene, the employee is responsible for obtaining:

- The person's name, address, and telephone number
- The location where he may be interviewed
- Vehicle and driver's license information
- Name, address and telephone number of registered owner of the vehicle or the property damaged by the employee
- Name, address and telephone number of the driver's and owners insurance company.

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502.5.4 CRASHES OCCURRING OUTSIDE THE CITY

When a crash occurs outside the City of Duluth and a patrol unit leader is not sent to the scene, the involved employee shall:

- Fulfill any legal reporting requirements at the jurisdiction where the crash occurs
- Notify a law enforcement agency with jurisdiction where the crash occurred
- Complete the necessary City Incident reports upon return to the city
- Notify their unit leader as soon as possible (preferably while still at the scene) of the crash and the circumstances surrounding the crash

502.6 CRASH REVIEW BOARD

A Department Crash Review Board has been established to review crashes involving department vehicles and vehicles being used for legitimate police purposes. The purpose of the review is to determine if the crash was preventable and to recommend any appropriate corrective action.

The CRB reviews all crashes involving department-owned or leased vehicles within the following parameters:

- All vehicles are the responsibility of the department member using it
- The amount of damage or cost of repair is not a determining factor in review of crashes
- All crashes are subject to review
- Properly parked police vehicles that are damaged by another vehicle will not normally be the subject of review (ordinary "wear and tear" damage that occurs in police parking facilities is not reviewed by the CRB)
- A deliberate emergency exposure that results in damage to a police vehicle. Legitimate legal intervention when the CRB determines it was a proper course of action may be held "non-preventable"
- Crashes occurring while the vehicle is being operated as an emergency vehicle, including vehicle pursuits, (defined by M.S. 169.03) are subject to review

502.6.1 STRUCTURE

The Crash Review Board (CRB) is appointed by the Chief of Police. The Patrol Division Deputy Chief is the standing chairperson of the committee. Members are appointed to represent the following:

- Crash investigators
- Police Union
- Patrol Division
- Investigative Division

Reviews are conducted on a quarterly basis, or at the call of the chairman.

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502.6.2 REVIEW PROCESS

The CRB has access to the following information to conduct their review:

- Original crash reports
- Supplemental reports (including diagrams)
- Photos and other evidence
- Verbal description by involved employee(s)
- Investigating supervisor's report and conclusions
- Verbal description of accident by the investigating officer

NOTE: Crashes that may be the subject of a criminal action are not reviewed by the CRB until the matter is closed.

502.6.3 CRB FINDINGS AND RECOMMENDATIONS

Reviews of each crash result in one of two categories of Findings:

(a) Non-preventable: a crash in which the employee did everything reasonable to prevent the crash.

(b) Preventable: a crash in which the employee failed to do everything reasonable to prevent the crash (i.e., Employee failed to see the other vehicle, person or object prior to the crash; employee failed to take any defensive actions.).

Recommendations for "Preventable" crashes may fall into one or more of the following categories:

- Training: recommendation will identify the specific area that contributed to the crash
- Driver re-examination
- Specific changes in equipment or procedure
- Recommendation on the type of assignment, handled by the unit leader
- Recommendation for progressive disciplinary action, handled by the unit leader

The CRB Chairman is responsible for completing the CRB Findings and Recommendations and forwarding copies as follows:

- Unit leader of the involved employee
- Employee involved
- Officer Development Unit, if recommendation relates to training, equipment, or procedure issue

502.6.4 FOLLOW-UP DOCUMENTATION

When the crash is referred to the unit leader for follow-up, the unit leader is responsible to report back to CRB within 30 days.

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Towing Procedures

503.1 PURPOSE AND SCOPE

The Department is responsible for the safe and efficient flow of traffic in the city. In conjunction with that responsibility, officers are empowered to remove vehicles from public streets and highways under the guidelines and restrictions placed upon towing by State statutes and this Order.

503.2 TOWING PROCEDURES

503.2.1 WRECKER ROTATION

Officers request wreckers through the Customer Service Center or designated officer. It is the Customer Service Center's responsibility to summon the appropriate wrecker and record the information in the towing log at the desk.

In case of emergency when public convenience and necessity requires it, officers may depart from the strict rotation of emergency wrecker lists for the duration of such emergency and call any licensed wrecker service or, in the case of a need for secured indoor storage, call the next wrecker service on the list which has a sufficient facility, at their discretion. A record of such departure together with the reason shall be documented in the towing log.

503.2.2 OWNER REQUESTS

Owners requiring a specific towing company must make their own arrangements unless safety is of concern. The only exception to this is wreckers dispatched through AAA or Amoco Travel Club. Officers may assist with traffic control until vehicle is removed.

503.2.3 OFFICER REQUESTED TOWS

When an officer has requested a tow, he or another licensed officer must remain at the scene until the vehicle is towed. The wrecker operator's signature must be on the tow slip.

If a vehicle is towed for a parking violation, a parking ticket must be issued.

503.2.4 PARKING VIOLATIONS

When the owner of the vehicle parked in violation arrives before the wrecker, the owner is allowed to move the vehicle. The officer may use his discretion in issuance of a citation. In this instance the wrecker is canceled and remains first on the call-out list.

City ordinance 33-262 prohibits wrecker companies from charging a fee when service is not actually provided. If the wrecker has not begun hooking up to the vehicle, no service has been provided and the wrecker remains first on the call-out list.

If circumstances allow, the owner of a vehicle may have the vehicle towed to a location of his choosing. Payment in this case is solely between the wrecker driver and the vehicle owner. In all other instances, vehicles must be towed to locations operated by the wrecker companies. Impounded vehicles are not towed to the police garage unless authorized by the Station Commander.

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503.2.5 TOWED VEHICLE REPORTS
A TOWED VEHICLE REPORT (tow slip) must be completed for all vehicles towed at the direction of an officer. In an effort to safeguard the contents of all legally impounded vehicles, the department requires officers to inventory the contents found therein. The inventory shall include a record of all items present within the vehicle. This record will include all items in plain view as well as the contents of closed containers, whether locked or unlocked.

A completed inventory and damage assessment must be noted on the report by the officer. The officer and wrecker driver must sign the TOWED VEHICLE REPORT.

A vehicle registration check on the towed vehicle must be obtained and attached to the TOWED VEHICLE REPORT by the towing officer. The claim check is attached to the TOWED VEHICLE REPORT.

Tow reports are filed in a master file located at the Customer Service Center. When a vehicle is held, the following information is noted on the top of the TOWED VEHICLE REPORT:

- If it is being held for an investigative unit, the name of the unit for which it is being held, the reason (investigation, evidence processing, forfeiture), and the case # (if applicable).
- Requirements or instructions for release. For example: proof of insurance, current registration, proof of title transfer, valid driver, etc.
- A Case Activity Log entry regarding the towed vehicle & HOLD along with a copy of the tow report must be sent to the investigative unit for which the tow is held.
- If it is being held for evidence processing, a Request For Processing must be completed and sent to the Crime Scene Investigation Unit.

When a wrecker is requested off the rotation list by police for a disabled vehicle, no TOWED VEHICLE REPORT is necessary. The owner receives the claim check

503.3 TOWING RESTRICTIONS

503.3.1 FOUR HOUR WAITING PERIOD
Minnesota Statute 169.041, Subd. 3, requires a four-hour waiting period after the issuance of a traffic ticket or citation prior to towing a vehicle.

503.3.2 EXCEPTIONS TO WAITING PERIOD
The following situations are exempt from the four-hour waiting period:

(a) The vehicle is parked in violation of snow emergency regulations

(b) The vehicle is parked in a rush hour restricted parking area

(c) The vehicle is blocking a driveway, alley, or fire hydrant

(d) The vehicle is parked in a bus lane where parking is prohibited

(e) The vehicle is parked within 30 feet of a stop sign and visually blocking the stop sign

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(f) The vehicle is parked in a handicapped transfer zone or handicapped parking space without a handicapped parking certificate or handicapped license plates

(g) The vehicle is parked in an area that has been posted for temporary restricting parking at least 24 hours in advance

(h) The vehicle is parked within the right of way of a controlled access highway or within the traveled portion of a public street when travel is allowed there

(i) The vehicle is unlawfully parked in a zone that is restricted by posted signs to use by fire, police, public safety, or emergency vehicles

(j) The driver, operator, or person in physical control of the vehicle is taken into custody and the vehicle is impounded for safekeeping

(k) A law enforcement official has probable cause to believe that the owner, operator, or person in physical control of the vehicle has failed to respond to five or more citations for parking or traffic offenses

(l) The vehicle is unlawfully parked in a zone that is restricted by posted signs to use by taxicabs

(m) A motor vehicle that is subject to forfeiture and the seizure is incident to a lawful arrest or search, or there is probable cause to believe that a delay caused by obtaining a court process would result in the removal or destruction of the vehicle.

(n) A vehicle may be towed by a law enforcement officer, from public property, or if in plain view on private property, for any of the following reasons:

- There is probable cause to believe the vehicle was stolen
- The vehicle was used to commit a crime
- Possession of the vehicle constitutes a crime
- The vehicle is in possession of a person who intends to use it in a crime
- The vehicle constitutes evidence which tends to show a crime has been committed or a particular person has committed a crime

Officers are encouraged to seize vehicles that have been involved in crimes such as hit and runs, to allow the processing of the vehicles for evidence.

503.4 ABANDONED VEHICLES

503.4.1 PRIVATE PROPERTY

Abandoned vehicles are defined by M.S. 168B.02 and City Ordinance 30-2 as vehicles that have been left on private property in an inoperable condition and which have no substantial potential for further use as a motor vehicle.

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The City Building Inspector handles abandoned vehicles on private property and on City property (except for roadways). Notice is given to remove the vehicle within ten days, or it is removed by the Building Inspector.

503.4.2 PUBLIC PROPERTY/STREET
Vehicles left standing or parked more than 24 consecutive hours on any street or highway within the city should be towed for violating the 24-hour parking ordinance, City Ordinance 33-85. In absence of any of the above-stated exceptions, officers shall wait 4 hours after issuing the ticket before towing the vehicle.

503.5 TOWING PROHIBITED
Officers are prohibited from towing vehicles for the following singular violations:

- with expired registration tabs less than 90 days; and
- vehicles parked at expired meters, unless they meet one of the criteria for exceptions to the four-hour waiting period.

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Driving While Impaired and Evidence Collection

504.1 PURPOSE AND SCOPE

The Department encourages all officers to be aware of indications of alcohol and/or drug impairment when dealing with drivers. This policy explains the procedures to be followed while collecting evidence to establish the presence of impairment and substances that are causing the impairment of operators arrested for driving while intoxicated.

504.2 PROCEDURE

Throughout contact with the subject officers should pay attention to their actions, statements, and attitude. Proper procedure as well as the proper administration of the standardized field sobriety tests is crucial to ensure the conviction of drivers suspected of driving while impaired.

504.2.1 FIELD SOBRIETY TESTS

Officers who have contact with a suspected impaired driver should request the subject perform standardized field sobriety tests (SFST's).

The 3 standardized field sobriety tests are listed below and should be conducted in this order when practicable. These tests shall be conducted in accordance with NHTSA, National Highway Traffic Safety Administration, guidelines to be considered standardized. Validated tests are:

(a) Horizontal Gaze Nystagmus

(b) Walk and Turn

(c) One Leg Stand

Other alternative tests may be conducted in addition to the SFST's or in place of an SFST that cannot be administered due to physical or environmental limitations. These tests may include but are not limited to the following:

(a) Finger to Nose

(b) Alphabet - not a recitation of the alphabet but rather have the driver start and end at selected letters; ex. start at "f" and end at "s".

(c) Counting - do not start and end with common points such as 0 or 10; ex. count backwards from the number 57 and end at the number 42

(d) Finger Dexterity

(e) And other tests that divide the subjects attention

504.2.2 PRELIMINARY BREATH TEST (PBT)

The basic purpose of the Preliminary Breath Test is to demonstrate the association of alcohol with the observable evidence, SFST's, of the suspects impairment. Officers should attempt to observe the subject for 15 minutes prior to requesting a PBT to insure that no alcohol has entered the driver's mouth during that time. Officers must have derived a specific and articulable suspicion of

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a DWI violation before a request for a PBT can be made (Bladio vs. MN Commission of Public Safety).

The results of the PBT are used to confirm alcohol as the cause of the driver's impairment, to corroborate evidence obtained during the administration of SFST's, and to help establish probable cause for a DWI arrest.

504.2.3 IMPLIED CONSENT ADVISORY

A chemical test may be required of a person if an officer has probable cause to believe that the person is driving, operating, or in physical control of a motor vehicle in violation of Minn. Stat. § 169A.20 (Driving While Impaired) and one of the following conditions exist:

(a) The person has been lawfully placed under arrest for violation of Minn. Stat. § 169A.20

(b) The person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death

(c) The person has refused to submit to SFST's or a preliminary breath test (PBT) as provided for in Minn. Stat. § 169A.41

(d) The PBT was administered and indicated an alcohol concentration of 0.08 or more

The test may also be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol.

The Minnesota Implied Consent Advisory is only read to a driver if an officer is seeking to obtain a breath test. The Advisory should not be read when seeking a blood or urine test pursuant to a search warrant.

The Minnesota Implied Consent Advisory should be read as soon as practical, filling in the appropriate information. The advisory should be recorded at all times when practicable. The advisory should be read verbatim. The Implied Consent Advisory explains to the individual their right to contact an attorney prior to making a decision about testing. A phone and directory must be made available for the contact. Officers should document the subject's decision regarding this right.

The Peace Officer's Certificate (back side of the Implied Consent Advisory) shall be completed to the extent possible based on the information obtained by the officer regarding the arrest of the person for DWI.

504.3 BREATH, BLOOD, OR URINE EVIDENTIARY TESTS

Persons arrested for driving while impaired by alcohol, unless sustaining injuries requiring medical attention or other special circumstances exist that require a blood or urine test, are to be transported to the Duluth Police Department or other available facility for breath testing. If circumstances exist where the driver is believed to be impaired by alcohol and a blood or urine test will be taken, this test shall be requested pursuant to Minnesota's Implied Consent law. Every

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effort should be made to collect the evidentiary test within two hours of the driving incident if alcohol is suspected as the impairing substance.

If the officer has probable cause to believe the driver is impaired by drugs or a hazardous substance (based on evaluation by DRE, driver admission, etc.), a blood or urine test shall be requested pursuant to Minnesota's Implied Consent law.

If the driver is involved in a traffic crash resulting in bodily harm or death to someone other than the driver; and the driver is suspected of being under the influence of alcohol and/or any drug, a blood test shall be obtained from the driver pursuant to a search warrant. If alcohol is suspected as the impairing substance and the test cannot be obtained within two hours of driving, the test shall be obtained without a search warrant.

An officer may direct that a blood or urine test be administered even after a breath test if there is probable cause to believe that (Minn. Stat. § 169A.51 Subd. 4):

- There is impairment by a controlled substance or hazardous substance that is not subject a breath test.
- A controlled substance or its metabolite, that than marijuana or tetrahydrocannabinols, is present in the person's body.

504.3.1 BREATH TEST

If the driver consents to a breath test, it must be administered using an infrared or other approved breath-testing instrument (currently the DataMaster DMT-G with fuel cell option) in accordance with Minn. Stat. § 169A.51 Subd. 5(a) by a State of Minnesota certified DataMaster DMT-G operator. If the arresting officer is not a certified operator, request that dispatchers locate one for administration of the test.

When a breath test is administered, failure of a person to provide two separate, adequate breath samples in the proper sequence constitutes a refusal. Additionally, if the first breath test obtained is deemed deficient by the instrument, a second test must be administered. Two deficient breath tests constitute a refusal.

504.3.2 BLOOD TEST

Blood samples are withdrawn by a qualified medical professional or other qualified person which includes medical personnel trained in a licensed hospital or educational institution to withdraw blood, packaged in an approved blood kit, and tested at the MN Bureau of Criminal Apprehension laboratory.

If the officer requests a blood test, the officer shall transport the subject to an appropriate medical facility (Saint Luke's Hospital or Essentia/Saint Mary's Hospital) and have a qualified person draw the blood sample. The officer shall complete the report that accompanies the blood kit and seal it in the kit along with the blood samples. The kit is then placed in the department's evidence refrigerator and an evidence report is submitted.

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504.3.3 URINE TEST

If the officer requests a urine test, the samples must be witnessed by an officer of the same sex as the person giving the test. The officer shall complete the report that accompanies the urine kit and seal it in the kit along with the sample. The kit is then placed in the department's evidence refrigerator and an evidence report is submitted. Urine samples are packaged in an approved urine kit and tested at the MN Bureau of Criminal Apprehension laboratory.

504.3.4 TESTING OF UNCONSCIOUS DRIVER AT A HOSPITAL

A person who is unconscious or who is otherwise in a condition rendering the person incapable of refusing to provide a chemical test is deemed not to have withdrawn the consent to test and a blood sample may be obtained, Minn. Stat. § 169A.51 Subd. 6.

504.4 REFUSAL TO TEST

It is a crime for any person to refuse to submit to a chemical test of his/her blood, breath or urine (Minn. Stat. § 169A.20 Subd. 2). A test refusal is a gross misdemeanor in all cases and is an additional charge to the DWI offense. The driver will be charged for both the DWI and Test Refusal. Refusal to submit to a chemical test does not constitute Obstructing Legal Process, Minn. Stat. § 609.50, unless the refusal was accompanied by force or violence, or the threat of violence.

When a driver refuses to test and their driver's license status is either canceled-IPS or has a restriction for total abstinence the vehicle being driven should be forfeited according to Minn. Stat. § 169A.63.

504.5 ADDITIONAL TEST

A person has the right to have a person of their own choosing administer a chemical test or tests in addition to any that are administered at the direction of a peace officer (Minnesota Statute 169A.51, Subd. 7b). A person has a right to an additional test only after they have submitted to the law enforcement requested test. When a person requests a chemical test of their own, an officer's is only obligated to provide the person with a phone and directory to make arrangements to obtain the test. Failure or inability to obtain an additional test tor tests by a person does not preclude the admission of evidence of the test taken at the direction of a peace officer unless the additional test was prevented or denied by the peace officer.

504.6 LICENSE PLATE IMPOUNDMENT AND VEHICLE DISPOSITION

Minnesota Statute § 169A.60 requires that a Notice and Order of License Plate Impoundment form be issued if the violation meets the following criteria:

(a) The second or subsequent alcohol violation within ten years

(b) BAC is .16 or more

(c) DWI while a child under 16 years of age is in the vehicle and the child is more than 36 months younger than the offender

(d) Driving after canceled-IPS (DWI or sober)

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In these instances the officer will issue the plate impoundment notice, and seize and destroy the Minnesota license plates from the vehicle, regardless of ownership. All plates seized shall be placed in the license plate fin in the Duluth Police garage to be destroyed.

The arresting officers are responsible for ensuring the safe disposition of the vehicle. If the vehicle is subject to a possible forfeiture (Policy 605) pursuant to Minn. Stat. § 169A.63, the vehicle is impounded and towed to the Duluth Police Department's impound lot. The tow slip is marked with a hold for forfeiture, and a copy of the tow slip with the invoice is placed in the traffic unit's mailbox.

If the vehicle is not subject to forfeiture or license plate impoundment, the vehicle disposition shall be in accordance with Policy 511.

In all cases, the vehicle shall be searched incident to arrest. It the vehicle is to be towed, it shall be inventoried prior to towing and documented on the towed vehicle report.

504.7 CITATION

If the DWI violations, or any other violations stemming from the same incident, are misdemeanor level violations, citations for driving while impaired and all the other violations must be issued at one time. A report shall be completed by the officer documenting any impairment and violations that were observed during the incident.

If the DWI violations, or any other violations stemming from the same incident, are gross misdemeanor or felony level violations, no citations are issued for any of the violations. The impairment and other violations shall all be documented in a report and a CAL referral shall be made to the Traffic Unit (RFAIU) asking that a warrant request be submitted to charge the driver.

When a blood or urine test was taken to determine impairment, no citation is issued for any charges until the results of the blood or urine test are returned. All paperwork related to the arrest shall be turned in and the original DWI paperwork will be maintained by the Traffic Unit until the test results are obtained. If the result of the chemical test results in misdemeanor charges the information will be returned to the arresting officer for completion of a supplemental report and citation. If the resulting charges will be a gross misdemeanor or felony, the Traffic Unit will complete a supplemental report regarding the test results and submit a warrant request to the appropriate charging authority.

504.8 DISPOSITION OF INDIVIDUAL

If the driver is arrested for a 1st or 2nd degree DWI or refusal, and absent any extenuating circumstances, the subject shall be incarcerated. If the driver is arrested for a 3rd degree DWI or refusal they shall be incarcerated if the following conditions exist:

(a) Current test of 0.20 or higher

(b) Driver is canceled-IPS or under 19 years of age

(c) Child endangerment (child is less than 16 years of age and there is more than 36 months difference in age from the driver)

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If a driver is arrested for a violation of Minnesota Criminal Vehicular Homicide and Injury Laws, the driver shall be incarcerated, absent any extenuating circumstances, even without the results of the blood test immediately available.

If none of the above conditions exist or the violation is a misdemeanor level, the subject may be incarcerated at the jail, lodged at the Duluth Detoxification Center, or released to a responsible, sober adult at the officer's discretion. If the subject is jailed for misdemeanor level violations, a citation is issued and a release time is specified on the jail booking form.

504.9 REPORTS

NARRATIVE REPORT

A narrative report is required for all driving while impaired or Criminal Vehicular Homicide or Injury charges.

If a private citizen has reported an impaired driver and the officer makes contact with the suspect based on the attempt to locate and an arrest is made, the following information must be included in the narrative report:

- name of caller
- address
- telephone number
- the observations that lead the caller to believe the driver was impaired

If a private citizen reports an impaired driver but does so anonymously, the officer must include in their narrative:

- the information that was called in from the anonymous citizen
- the officers observation of the driving conduct that suggests the driver may be impaired
- reason(s) for the traffic stop or contact

OTHER REQUIRED REPORTS - The first four reports shall be created by using E-Charging, unless circumstances exist that do not allow E-charging to be utilized.

(a) Notice and Order of Revocation - issued to all drivers who provide a breath sample indicating an alcohol concentration of 0.08 or more or refuse a chemical test, regardless of what state in which they are licensed or their current license status. If the driver has a valid Minnesota driver license in their possession, a top corner of the license shall be clipped and the license is returned to the driver. An officer shall not invalidate a driver's license from another state.

(b) Notice of License Plate Impoundment - if applicable (Minnesota license plates only)

(c) Implied Consent

(d) Notice and Intent to Forfeit Vehicle - if applicable (vehicle from any state or country)

(e) Evidence Reports - for blood , urine kits, or any other physical evidence if applicable

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(f) Alcohol Influence Form

(g) DataMaster DMT-G Report (breath test)

(h) Crash Reports - if applicable

(i) QDR and QMR

(j) Booking Sheets

(k) Citation -if all charges are at the misdemeanor lever; attach to the booking sheet if applicable

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Traffic Citations

505.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the collection of data, the procedure for dismissal, correction and voiding of traffic citations.

505.2 RESPONSIBILITIES

The Records Bureau should maintain information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including race if available. The Records Bureau should submit an annual report to the Chief of Police of the information collected to assist in the implementation and administration of the Department's Racial- or Bias-Based Profiling Policy required by state law (Minn. Stat. § 626.8471 Subd. 4).

505.3 DISMISSAL OF TRAFFIC CITATIONS

505.3.1 REQUEST TO VOID A CITATION

A request to VOID a citation can be made if the citation has not been submitted to the courts. Officers are to submit a brief explanation as to why they are requesting the citation be VOIDED. This request must be attached to the citation, reviewed by the officer's supervisor, and forwarded to the Records Support Unit.

505.3.2 DISMISSAL OF CITATIONS

Employees of this department do not have the authority to dismiss a citation once it has been submitted to court. Any request for dismissal of a citation will be reviewed by the officer's supervisor. Upon a review of the circumstances involving the issuance of the citation, the supervisor may recommend dismissal of the citation. If approved by the supervisor, the citation will be forwarded to the appropriate prosecutor with a request for dismissal.

505.4 DISPOSITION OF TRAFFIC CITATIONS

The court and file copies of all traffic citations issued by members of this department shall be forwarded to the employee's immediate supervisor for review. The citation copies shall then be filed with the Records Bureau.

505.5 ADMINISTRATIVE VIOLATIONS

Administrative violations may be issued by officers to any person for violations of any City ordinance by using the Duluth Administrative Violation Form. A completed Administrative Violation Form should be submitted in the same manner as any other citation.

Administrative citations should not be issued for crimes that may need to go through District Court for enhancement consideration purposes. The issuing officer or a supervisor should determine the appropriate citation type to use in each situation after considering the factors in each circumstance.

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505.5.1 ADMINISTRATIVE VIOLATION CONSIDERATIONS

When determining the appropriateness of issuing an administrative violation, an officer should consider the following:

(a) Only one ordinance violation can be written per Administrative Violation Form.

(b) Parking tickets cannot be written on an Administrative Violation Form.

(c) Speed and license-related citations should be written on a District Court ticket, as they will not appear on a driver's record if written on an Administrative Violation Form.

(d) A person receiving an administrative citation cannot be jailed solely based on the ordinance violation.

(e) Officers who are aware that a violator has received prior administrative citations and failed to pay the related fine, should consider issuing a District Court Citation if the following conditions exist:

1. The violator has an established record of non-payment with the City Clerk's Office.
2. The violator is apparently unable to pay the fine.
3. The violator owns no real property.

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Chapter 6 - Investigation Operations

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Case Screening, Assignment, and Management

600.1 PURPOSE

Due to the high volume of criminal matters reported to the Department, it is necessary to establish criteria by which cases are assigned for follow-up investigation. Some cases, by their nature, require follow-up; however, the majority of cases must be viewed in terms of solvability and available resources.

600.2 POLICY

It is the policy of the Duluth Police Department to investigate crimes to the extent practical. The Duluth Police Department's investigative resources will be managed to ensure that the focus is on those cases and offenders that possess the highest probability of conclusion.

The decision to continue or discontinue a case shall be made on available information, and may be based in part, on the desire and willingness of the victim to pursue the case, the existence of any suspects, and the existence of sufficient weighted solvability factors obtained through the initial investigation. (see Policy 345)

600.2.1 OBJECTIVES OF CASE SCREENING

1. To establish the policies and procedures for determining whether to assign a case for additional follow-up investigation or to suspend any further investigation.

2. To establish the responsibility and accountability for the decision to assign or screen out a case.

3. To manage the investigative caseload so that the potential for solving cases is improved.

4. To assign for additional follow-up investigation only those cases with sufficient solvability factors, in order to increase the probability of case clearance.

5. To provide procedures for notifying crime victims of the current status of their case.

600.2.2 OUTCOMES OF CASE SCREENING

1. Early suspension of unpromising cases, or

2. Follow-up investigation of those cases with a reasonable probability of case clearance.

600.3 CASE SCREENING RESPONSIBILITY

a. At the conclusion of the patrol investigation, the Patrol Officer/Supervisor must decide further action. The case can be suspended at the patrol level, or forwarded by the Patrol Supervisor (or their designee) for follow-up by investigations. This is accomplished thru a CAL referral to the appropriate investigative unit.

b. Patrol Officers/Supervisors are also required to make appropriate CAL entries regardless of the case status. This is done to insure that any potential crime patterns or trends are not overlooked. CAL entries should provide details as to the type of crime, time of day, place of occurrence and information relating to the solvability factors used.

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600.4 INVESTIGATIVE UNIT LEADER

The responsibility of the Unit leader in the case screening process will be:

(a) To review all offense reports forwarded to the investigative section.

(b) To assure all cases receive one of the following designations:

- **0pen** - Case is assigned to an investigator, or has been referred back to patrol for completion, the case is active.
- **Suspended** - Case is not actively being investigated but may be re activated if warranted. Cases may be suspended after preliminary investigation or when follow-up investigation becomes unproductive. (Suspended cases will be considered closed when the statute of limitations has expired.)
- **Closed** - Case has been resolved by prosecution, charges were denied, or investigation resulted in unfounded complaint. Closed cases may be reactivated, but it is not anticipated they will warrant reactivation.
- **Cited** - A citation has been issued ordering the offender to appear in court.
- **Charged** - The case has been referred to the prosecuting attorney and the offender(s) has been formally charged with a crime.

The Unit Leader or their designee is responsible for notifying the victim of any changes in case status. This may be accomplished via a letter or phone call to the victim.

The Unit Leader is responsible for assuring that the appropriate CAL entry has been done regarding any change in case status.

The Unit Leader is responsible for assuring that CAL entries are utilized by investigators to detail the actions taken throughout the investigative process. CAL entries allow officers, unit leaders and Record Support Unit personnel to access critical information about incidents. This enables personnel to make appropriate decisions regarding new information that becomes available in the investigators absence. It also provides accurate and timely answers in response to requests for information from victims/witnesses, in the investigating officer's absence.

The decision as to whether a crime report will be investigated should be based on the following factors;

(a) The quality of the preliminary investigation,

(b) Whether sufficient solvability factors and values are present in the case,

(c) Investigative resources.

- Upon assignment of the case by the Investigations Supervisor, an investigation shall be initiated and a follow-up report submitted within 10 days. The follow up report can be in the form of a CAL entry indicating the investigator has reviewed the file, contacted the victim and made progress towards clearance. This may be extended or waived at the discretion of the Unit Leader.

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- Unless otherwise directed, upon assignment of the case, the assigned Investigator shall ensure all records, statements, lab reports, and other case related materials with the case file have been loaded into Shield. This allows other investigators and Unit Leaders to have access to the file at all times. This does not pertain to confidential information such as internal investigations, protected cases and investigations conducted by SIU/GSF.
- The Investigator shall review the status of all assigned cases within 30 days after assignment. Investigators will make a recommendation to the unit leader either to leave the case in an "Open", "Suspended", or "Closed" status. Open cases will remain under investigation. Suspended cases are those cases that may need more elements to move to a closed status. Cases may be closed by arrest, exceptional clearance, or charges.
- Investigative Unit Leaders should review quarterly, the number of cases assigned to each officer in their Unit, and the case dispositions. Annually the Unit Leader will submit unit statistics and a synopsis of unit activity to the Divisional Deputy Chief for inclusion in the annual report.

600.5 EXCEPTIONAL CIRCUMSTANCES

While the case screening criteria are very specific, the Investigative Case Screening Process will be flexible enough to allow for exceptional circumstances including, but not limited to:

(a) Offenses of significant importance to the community.

(b) Potential danger to victim(s) or witness(es).

(c) Seriousness of offense.

(d) Modus operandi, pattern, or frequency of the offense.

(e) Management decisions to pursue a case regardless of solvability factors.

(f) While there is a degree of flexibility in the case screening process, exceptional circumstances such as those described above shall be the exception, rather than a standard procedure.

600.6 REPORT REVIEW - CRIME ANALYST AND COMPSTAT COORDINATOR DUTIES

The responsibility of the Crime Analyst and Compstat Coordinator in the case screening process will be:

(a) To analyze offense type, incident and other reports for crime patterns and trends, similar modus operandi characteristics, or unique factors;

(b) Notify appropriate personnel of the results of these analyses through bulletins, spot maps and/or other appropriate reports;

(c) Track case details for those incidents that do not have enough solvability factors to be assigned for follow up;

(d) Analyze changes in patterns and trends in connection with changes in enforcement efforts.

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(e) Review current trends, patterns, and/or problems with the Chief of Police (or designee) as needed.

Crime analysis/Compstat data will be available to Patrol Officers, Investigators and Supervisors on a weekly basis, through hard copy and electronic means.

600.7 LIEUTENANT - INVESTIGATIONS/MAJOR CRIMES

The responsibility of the Major Crimes Lieutenant in the case screening process will be:

(a) Oversee the case screening process, and

(b) Resolve any problems or conflicts developing from the process.

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Sex Crime Victims' Rights

601.1 PURPOSE AND SCOPE

This policy will establish a procedure by which the identity of sex crime victims can remain private and providing the victim information regarding other rights afforded by law.

601.2 INVESTIGATION CONSIDERATIONS

601.2.1 VICTIM CONFIDENTIALITY

Officers investigating or receiving a report of an alleged sex offense shall assist in keeping the identity of the victim private by providing the victim with Safe at Home Program information (Minn. R. 8290, et seq. and Minn. Stat. § 5B et seq.). A notation should be made within the incident report that the Safe at Home Program information was provided to the victim.

The Department shall withhold public access to information that would reveal the identity of a victim or alleged victim of criminal sexual conduct (Minn. Stat. § 13.82 Subd. 17 (b) and Minn. Stat. § 611A.021).

601.2.2 OFFICER RESPONSIBILITIES

Officers investigating or receiving a report of an alleged sex offense shall inform the victim of the following: (Minn. Stat. § 611A.02 Subd. 2 (b)):

(a) Victims have the right to apply for reparations.

(b) Victims have the right to request that the Department withhold public access to information that would reveal the victim's identity.

(c) Victims have the right to be informed about the nearest crime victim assistance program or resource.

(d) Victims have the right to be informed of and participate in the prosecution process if an offender is charged, including the right to request restitution.

Victims have the right should also receive the telephone number to call for a Safe at Home Program application form (Minn. Stat. § 611A.66).

601.3 MEDICAL EXAMINATION FOR SEXUAL ASSAULT VICTIMS

Officers investigating or receiving a report of an alleged sex offense that occurred within 96 hours of the offense shall, with the consent of the victim or a person authorized to act on behalf of the victim, request a medical examination of the victim.

If a sexual assault is not reported within 96 hours of the offense, the Department may still request a medical examination of the victim provided consent is given by the victim or a person authorized to act on behalf of the victim.

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601.4 POLYGRAPH EXAMINATION

An officer may not require a sexual assault victim to submit to a polygraph examination as a condition to investigating, charging or prosecuting the offense (Minn. Stat. § 611A.26 Subd. 1 and Minn. Stat. § 611A.26 Subd. 5).

Officers may conduct a polygraph examination of a sexual assault victim only with the victim's written, informed consent and only after the victim has been referred to and had the opportunity to exercise the option of consulting with a sexual assault counselor (Minn. Stat. § 611A.26 Subd. 2 and Minn. Stat. § 611A.26 Subd. 3).

To consent to a polygraph, the officer must inform the victim in writing that (Minn. Stat. § 611A.26 Subd. 4):

(a) The taking of a polygraph is voluntary and solely at the victim's request.

(b) The victim may not be asked or required to submit to a polygraph examination.

(c) The results of the examination are not admissible in court.

(d) The victim's refusal to submit to a polygraph examination may not be used as a basis not to investigate, charge or prosecute the offender.

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Sexual Assault Investigations by Patrol Officers

602.1 PURPOSE AND SCOPE

Initial officers responding to a sexual assault usually provide the bulk of the evidence for the prosecution. Officers play a significant role in both the victim's willingness to cooperate in the investigation and the ability to cope with the emotional and psychological after effects of the crime. Therefore it is especially important that these cases be handled from a nonjudgmental perspective. A concise, thorough and accurate initial investigation is essential.

602.2 DEFINITIONS

Adult/Adolescent: Any victim age 13 or above, or any victim that has begun menses.

Pediatric: Any victim under the age of 13.

SANE: Sexual Assault Nurse Examiner

602.3 RESPONSIBILITY

Sexual assault investigations require a response by at least one primary officer and a notification of a patrol unit leader. The initial officer assesses the victim's safety, need for emergency medical treatment and provides, or arranges for, transportation to a hospital for medical treatment/evidence collection.

If the initial assessment by the officer and supervisor shows a need for additional officers, the initial officer assumes responsibility for the victim while additional officers assume responsibility for preserving the scene, gathering evidence, searching for the suspect and other tasks as necessary.

The Department shall withhold public access to information that would reveal the identity of a victim or alleged victim of criminal sexual conduct (Minn. State. § 13.82 Subd. 17(b) and Minn. Stat. § 611A.021).

602.3.1 ADVOCATES

The Program for Aid to Victims of Sexual Assault provides 24 hour advocacy services to victims of sexual assault. These services are also available to family, parents, partners and other supportive persons of the victims, who will be referred to as secondary victims. These services include: providing support, crisis intervention, information and referral. These services can be provided on-site where the report is taking place, at the hospital or over the phone. It is always the victim's choice about whether or not they speak with an advocate.

In cases where the victim presents at or is taken to a Duluth hospital, the ER personnel will call an advocate. In such cases the officer should verify that an advocate has been called. If the hospital has not contacted an advocate it is the officer's responsibility to contact an advocate.

In rare cases where the victim is not seen at the hospital, the officer will explain the services provided by PAVSA advocates and the right of a victim (or secondary victim) to speak with an advocate prior to conducting the preliminary interview, or to have one present if possible. If the

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victim chooses to have an advocate contacted, the officer will immediately contact the 24 hour crisis line at. If the victim does not wish to have an advocate contacted at that time, the officer will provide a DPD Crime Victim Information Card with the PAVSA phone number circled, to the victim.

Officer's reports must document their advocate notification efforts, including the first name or initials of the advocate, in the report.

602.3.2 SEXUAL ASSAULT NURSE EXAMINER (SANE)

Time is critical in obtaining medical evidence from the victim. It is preferred and considered best evidence for all CSC victims to have a SANE. It has been determined that physical evidence may remain on/in the victim's body for up to 120 hours. If feasible, the victim should be advised to bring a change of clothes to the examination. The officer accompanies the victim to the hospital for a medical examination/collection of evidence.

If a pediatric victim is on a police hold, the responding officer may have to sign consent for the SANE.

In addition to the BCA Sexual Assault Evidence Collection Kit, the SANE will offer to collect the following tests for adult/adolescent victims:

- A urine sample for establishing the presence of chemicals either voluntarily ingested or given to the victim without their permission for BCA testing as necessary for the investigation
- A blood sample for purposes of establishing blood alcohol level for BCA testing as necessary for the investigation

Sexual Assault Nurse Examiner's (SANE) personnel are available 24 hours at both hospitals. Their responsibility is to collect, package and label physical evidence. They will obtain sufficient information from the victim to collect pertinent evidence. **Note** SANE will not perform an exam on a victim who is unable, due to intoxication or medical condition, to give consent. If a SANE is not available to respond to the hospital it is the responsibility of the responding officer to collect evidence and photos from the victim where applicable.

SANE personnel package all evidence collected, including clothes, BCA kits and photographs, for release to police. The investigating officer transfers the evidence to HQ and secures it in compliance with Department policy. It is not necessary for the officer to open the sealed evidence. The only exception to this would be items that need to be "dried" prior to sealing. The officer will also collect a copy of the SANE exam report. That report should NOT be put into evidence, but should be forwarded to the SCAN unit along with the medical release form.

602.3.3 PRELIMINARY INTERVIEW OF THE VICTIM

The primary investigating officer has the responsibility of interviewing the victim and completing an initial report on the incident. The only exception to the initial interview is when the victim is under the age of 13, do not interview them. Make sure that a statement is taken from whoever brought the child/victim to the hospital.

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The purpose of this interview is to obtain information concerning the basic elements of the crime, identify any and all witnesses, suspect(s), evidence, and crime scene(s), and determine the relationship between the victim and suspect(s) to determine if the incident also meets the elements for a domestic violence crime. Pertinent information should be given to assisting squads as soon as possible.

In interviewing the victim, the officer should allow the victim to speak freely and spontaneously. The officer should avoid using language of consensual sex or asking leading or suggestive questions. Based on the length of time between the assault and report of the crime, and the individual's personal history, the victim may be in crisis and experiencing post-traumatic stress disorder or rape trauma syndrome. The victim's response to the trauma of a sexual assault shall not be used in any way to measure credibility. When drugs or alcohol are involved, the victim may have limited recollection or may be unable to give a complete account of the crime. Not knowing the details of what happened may exacerbate the trauma experienced by the victim. The officer should consider follow up interviews by investigations, if the victim is in great distress.

Recording Victim and Witness Statements

Officers conducting all criminal investigations will, whenever possible, record oral victim and witness statements in lieu of written statements. It is not necessary to advise a victim or witness that their statement is being recorded. Officers should use discretion when determining the best method of recording depending on the circumstances of the event. For example with cases of domestic or sexual violence, a discrete and low profile approach to recording would be appropriate in an effort not to add to the distress the victim may already be experiencing.

Qualifying Domestic Violence Relationship

Recognizing the crossover between domestic violence and sexual assault allows us to have a more comprehensive victim centered response. Consider this co-occurrence when interviewing the victim. Begin by determining if there is a qualifying relationship (family or household members are defined in Minnesota Statute 518b.01 Subd. 2) as you would in a domestic violence investigation. Document in your report what the relationship is and if there is a history of domestic violence between the victim and the suspect.

The officer should begin the interview by explaining to the victim:

- What information is needed and why
- The types of evidence that may be important to the investigation
- The purpose of a SANE examination/evidence collection (to discover and treat any injuries and gather evidence for possible prosecution)
- Although the decision to prosecute can be made at a later time, evidence collection needs are immediate
- It should be emphasized to the victim the importance of not bathing, changing clothes or in any other way destroying possible evidence.

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Questions to consider during all interviews:

- How did you let the perpetrator know that you did not want to have sexual contact, including all physical, verbal and non-verbal actions?
- How did the perpetrator let you know that they understood you did not want the sexual contact, including physical, verbal and non-verbal?
- What did you think was going to happen to you? How did you feel?
- Who is the first person you told, and how can we contact them?
- What is your relationship to the perpetrator?

The officer should let the victim know that they will be contacted by an Investigator from the SCAN Unit, but DO NOT provide a time frame for that contact.

602.3.4 GATHERING AND PRESERVING EVIDENCE AT THE SCENE

It is critical that the chain of custody of evidence be maintained by all personnel involved in evidence collection.

Not all sexual assault incidents will have identifiable scenes containing recoverable and/or timely evidence. When presented with an identifiable crime scene containing recoverable evidence a decision should be made whether recovery is best done by the patrol officer, by a POCSI officer, or by the Crime Scene Unit. Generally speaking, patrol officers are expected to seize evidence such as bed sheets, clothing, articles left by the suspect, articles touched by the suspect, alcohol and/or drugs or their containers that may have been ingested by the suspect or victim, and other similar evidence. In cases where evidence collection is not done by the Crime Scene Unit, evidence collection is done under the direction of the patrol supervisor.

Patrol supervisors should summon Crime Scene Unit personnel to the scene in cases where evidence must be collected from immovable objects (walls and floors for example), where specialized collection techniques or equipment are needed, where spatter and other similar fluid evidence is to be documented and collected, in cases where the scene requires specific processing needs such as special photography, lighting, measurements and/or high profile cases.

The Duluth Police Department will maintain evidence for CSC 1st, 2nd and 3rd for 9 years from the date of the incident, CSC 4th and 5th for 3 years from the date of the incident. DNA evidence will be maintained permanently with the exception of a BCA kit that was sent to the BCA and returned. In that case the BCA will keep a copy of the DNA profile on record. DPD will not be contacting victims at the conclusion of the maintenance of evidence, and no effort will be made to return evidence to victims. (Exception would be made for items of value)

602.3.5 CRIMINAL SEXUAL CONDUCT ANONYMOUS (CSCA)

SANE personnel may make a 3rd party anonymous report of a sexual assault to allow DNA and other evidence to be collected and stored in case a victim decides to make a standard report at a later time. Evidence collected in CSCA will be maintained by the Duluth Police Department for three years from the date of collection.

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The SANE will obtain an ICR number from 9-1-1 with SANE as the reporting party and 2030 North Arlington Avenue as the address.

The SANE will collect, photograph and package any evidence present.

Officers will be dispatched to the hospital at the completion of the medical examination/evidence collection, after the victim has been released from the emergency room. The officer reports to the Charge Nurse to retrieve the packaged evidence and photograph disk. Chain of custody protocol should be followed for the transfer of the evidence from the hospital to the officer. The hospital is required to have a secure location to ensure the chain of custody. The evidence is transported to HQ and secured in accordance with Department regulations. The officer should not open sealed packages (BCA kits and photo disks) collected from the hospital. The only exception to this would be items that need to be "dried" prior to sealing.

Each item should also be labeled "SANE" in addition to the ICR number. Evidence report should not contain any information identifying the victim.

The disposition is RPT (report).

The SANE program will retain the victim's identifying information.

602.4 REPORTS AND REFERRALS

Each officer involved in the initial investigation should complete individual reports.

Reports should be as complete as possible.

Sexual assault reports must be completed before the end of the officer's shift if the initial report of the assault to police was done in a timely manner. The report should be marked as "priority" for prompt follow up investigation.

The primary officer involved in the incident is responsible for making a CAL referral to the SCAN Unit by the end of the shift.

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Administrative Forfeiture DWI and Fleeing in a Motor Vehicle

603.1 PURPOSE AND SCOPE

It is the purpose of this policy to establish investigative and administrative procedures involving forfeitures related to Driving While Impaired (DWI) and Fleeing a Peace Officer in a Motor Vehicle.

603.1.1 POLICY

It shall be the policy of the Duluth Police Department that all employees of the agency 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 vehicles seized for forfeiture.

603.1.2 DEFINITIONS

Administrative Forfeiture: a seizure that resulted in a "Notice of Seizure and Intent to Forfeiture Property" form being served.

Motor Vehicle: means every vehicle which is self-propelled. It does not include an electric personal assistive mobility device or a vehicle moved solely by human power.

- For purposes of this policy, motor vehicle and vehicle do not include a vehicle which is stolen or taken in violation of the law.

Forfeiture: the process by which legal ownership of an asset is transferred to a government or other authority.

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.

Flee: means to increase speed extinguish motor vehicle headlights or taillights, refuse to stop the vehicle, or use other means with intent to attempt to elude a peace officer following a signal given by any peace officer to the driver of a motor vehicle.

Owner: means a person legally entitled to possession, use, and control of a motor vehicle, including a lessee of a motor vehicle if the lease agreement has a term of 180 days or more, they are listed as the registered owner by the Department of Public Safety; and whether or not there are two or more owners listed it is presumed each owner's interest extends to the whole of the vehicle.

Family or Household Member: means a parent, stepparent, or guardian; and of the following persons related by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or persons residing together or persons who regularly associate and communicate with one another outside of a workplace setting.

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603.2 SEIZED MOTOR VEHICLES SUBJECT TO ADMINISTRATIVE FORFEITURES

The following motor vehicles may be seized and are presumed to be subject to administrative forfeiture when involved in the following designated offenses.

(a) A motor vehicle used to commit or facilitate or used during the commission of a violation of Minnesota State Statute §609.487 (Fleeing a Peace Officer in a Motor Vehicle):

1. in which life or properties were endangered;
2. when the driver is the owner of the motor vehicle.

(b) A motor vehicle used during a violation of 169A.20 (Driving While Impaired);

1. under the circumstances described in §169A.24 (1st Degree DWI or Test Refusal); when the vehicle is owned by either the driver or a family or household member.
2. by a person whose driving privilege has been canceled as inimical to public safety under §171.04, Subdivision 1, clause 10, and not reinstated; when the driver is the owner, or if the owner of the vehicle was privy to the act or omission upon which the forfeiture is based, or the act or omission occurred with the owner's knowledge or consent.
3. by a person who is subject to a restriction on the person's driver's license under §171.09 which provides that a person may not use or consume any amount of alcohol or a controlled substance; when the driver is the owner, or if the owner of the vehicle was privy to the act or omission upon which the forfeiture is based, or the act or omission occurred with the owner's knowledge or consent.
4. under the circumstances described in Minnesota State Statute §169A.25 (2nd Degree DWI or Test Refusal); when the driver is the owner, or if the owner of the vehicle was privy to the act or omission upon which the forfeiture is based, or the act or omission occurred with the owner's knowledge or consent.

603.3 TOWING AND REFERRALS

If an officer believes a motor vehicle is subject to forfeiture, the vehicle shall be taken or towed, at the time of the arrest, to the police impound lot.

Officers shall inventory the vehicle and its contents in accordance with the departments Towing Procedures, Policy 511. Officers will make a notation in the comment field of the Towed Vehicle Report "Seized Subject to Forfeiture." The officer shall attach an invoice from the tow company to the tow slip.

The officer seizing the vehicle shall, by the end of their shift, make a CAL referral to the Accident Investigation Unit (RFAIU) indicating the make of the vehicle, the location of the vehicle, and circumstances of the seizure.

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603.4 PROCESSING SEIZED VEHICLES FOR FORFEITURE

Motor vehicles subject to forfeiture relating to a DWI or Fleeing a Peace Officer in a Motor Vehicle arrest will be processed by the Administrative Sergeant in charge of forfeitures or a designee. The Administrative Sergeant or designee must ensure that the Notice of Seizure and Receipt (a and b below) are served within the statutory time-lines. This service may be accomplished at the time of arrest by e-charge.

(a) The proper Notice of Seizure and Intent to Forfeit Property form. This form must be completed to include the following: a description of the vehicle seized, the name of the individual served with the location, the date of seizure, case number, and the individual must be given the opportunity to sign the notice. Should they refuse there is a box on the form to check;

(b) A receipt for the item(s) seized;

1. These forms must be served to the driver, and the owner or owners if the driver was not the owner, in a reasonable amount of time. The yellow copy of both forms must be given to the individual served.

(c) The Administrative Sergeant or designee must also:

1. notify vehicle lien-holders of the forfeiture by certified mail;
2. send copies of the forfeiture forms and reports to the prosecuting authority;
3. retain the original and pink copy of the seizure notices, property receipts and a copy of all reports.

603.5 CASE FILE STATUS

The Administrative Sergeant or designee will be responsible to assist at each step of the forfeiture process, including court hearings, titles, and final disposition of each vehicle.

The Administrative Sergeant or designee will maintain the case file in the traffic office and shall note the final disposition of the vehicle in the Case Activity Log (CAL).

603.6 DISPOSITION ORDERED BY THE COURT

Court-ordered disposition may include (Minn. Stat. § 609.5315 and 169A.63):

- retention by the [Department/Office]
- sale, performed in a commercially reasonable manner
- other disposition pursuant to applicable provisions of Minnesota Statutes.

Members of this department or persons related to members of this department by blood or marriage are prohibited from purchasing forfeited items sold by this department.

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603.7 DISTRIBUTION OF ASSETS FROM FORFEITURE

Following a court determination that the seized vehicle is subject to forfeiture, the department shall dispose of the property pursuant to Minn. Stat. § 609.5315 and Minn. Stat. § 169A.63.

(a) Any forfeited property kept by this department may not be used for any purpose other than the performance of official duties (Minn. Stat. § 609.5315 Subd. 3). Reasonable efforts will be made to ensure that the motor vehicles forfeited resulting from a DWI arrest will be the drug abuse resistance education program.

(b) All forfeiture proceeds derived from the sale of property must be applied first to satisfy valid liens and forfeiture sale expenses (Minn. Stat. § 609.5315 Subd. 4). The balance shall be deposited pursuant to Minn. Stat. § 609.5315 and 169A.63.

1. Seventy percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the state or local agency's operating fund or similar fund for use in DWI related enforcement, training, and education;
2. Twenty percent of Fleeing Forfeiture proceeds and thirty percent of DWI Forfeiture proceeds must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes.
3. Ten percent of fleeing forfeiture proceeds must be forwarded to the state.

603.8 STATE FORFEITURE REPORTING

The Administrative Sergeant or designee shall report all forfeitures, fleeing and DWI, to the Minnesota Office of the State Auditor through the State Auditor's Form Entry System (SAFES) and the following information:

- the statutory authority for the forfeiture
- the date of the forfeiture
- the type of vehicle
- whether the forfeiture was contested
- the sale amount
- the department cost associated with the vehicle

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Confidential Funds

604.1 PURPOSE AND SCOPE

Confidential funds shall be used for the purposes intended and in accordance with standard accounting procedures. The use of confidential funds for the purchase of contraband, payment to cooperating individuals, and other authorized investigative expenditures is recognized as a significant factor in solving many criminal cases.

604.2 CONFIDENTIAL FUNDS ACCESS AND RESPONSIBILITIES

Officers assigned to positions allowing for the use of confidential funds shall utilize the practice of accessing cash via a bank ATM. The Organized Crime Lieutenant shall coordinate with the appropriate City Officials to establish an account agreement with a banking institution to allow for the deposit of confidential funds. Officers assigned to positions allowing for the use of confidential funds shall be issued ATM cards. Officers shall use the cards to obtain currency for the purpose of criminal investigations and intelligence gathering.

Assigned officers are responsible for the security of their issued card as well as the confidentiality of the PIN number. Officers shall not use any ATM card issued to any other officer. Officers are individually allowed to draw up to $1200.00 per day in a maximum of three transactions per day; the assigned supervisor is allowed to draw up to $1500.00 per day in a maximum of 3 draws per day.

In cases where additional funds are needed, officers may pool funds. In these circumstances, the appropriate documentation must be completed on the Confidential Funds Receipt. In cases where large amounts of cash are needed to be used as a "flash roll" or to conduct a large purchase, The Organized Crime Lieutenant or designee shall contact the City of Duluth Treasurers' office to make arrangements for the acquisition of larger amounts of cash.

All transactions will be documented on the Confidential Fund Log. This log will be a record of daily spending and will be monitored by the Organized Crime Lieutenant or designee to ensure that appropriate funds are maintained in the account. When funds are needed to replenish the account, the Organized Crime Lieutenant or designee will notify the City Auditor by submitting a written request for funds. A record of the up-to-date amount spent out of the account will be included with the request. Upon receipt of this request, the Auditor will arrange to have the account funded to a $10000.00 balance.

Officers shall retained ATM receipts for each transaction. Unused funds may be deposited back into the account or retained by officers. Deposits should be made in person to bank staff. A receipt must be obtained from the bank documenting the deposit. If officers make a deposit outside business hours (in the night deposit box), the officer making the deposit must complete a written deposit record. The record must be signed by the depositor and witnessed by at least one other officer. All expenditures will be tracked by each officer by using a Confidential Funds Expense Accounting Sheet.

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Officers shall obtain and maintain receipts for all expenditures, ATM transactions, and deposits. These items and the Confidential Funds Expense Accounting Sheet shall be turned in to the Organized Crime Lieutenant or designee on or about the 1st and the 15th of each month.

On or about the 1st and 15th of each month, or as soon as practicable, the Organized Crime Lieutenant or designee will review all Confidential Funds Expense Accounting Sheets, ATM receipts, Confidential Funds Receipts, and other documentation to determine if funds are spent appropriately and within policy. The Organized Crime Lieutenant or designee will audit the expenses to ensure that ledgers are accurate.

604.3 USE OF CONFIDENTIAL FUNDS

Officers shall have access to confidential funds to be used in furtherance of investigative efforts. Confidential funds shall be used in furtherance of investigative purposes and may be utilized as follows:

(a) Payments made directly to informants

(b) Purchases of illegal drugs, contraband, or other evidence of criminal activity

(c) Expenses related to authorized undercover operations

(d) Payments of investigative expenses (hotel rooms, rental equipment, etc.), fuel, oil, and vehicle maintenance should not be paid using confidential funds

(e) Flash money

(f) Purchase of services, equipment, or information

604.4 RESPONSIBILITIES

604.4.1 ORGANIZED CRIME LIEUTENANT

The Organized Crime Lieutenant or designee will be responsible for the following:

(a) Maintenance of confidential funds in accordance with all applicable laws, policies and procedures

(b) Proper disbursements and deposits

(c) Bookkeeping and internal audits

(d) Maintaining a file containing copies of relevant fund transaction documents

(e) Review of all Confidential Funds Receipts to ensure that written reports, intelligence entries, receipts, and appropriate documentation have been submitted by the submitting officer

(f) Monitor spending as it relates to payments to individual informants and ensure that thresholds established in policy are met

(g) Coordinate timely tracking of account activity in partnership with the City of Duluth Treasurer and the City of Duluth Auditor

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604.4.2 ASSIGNED OFFICERS

Assigned officers will be responsible for the following:

(a) All payments shall be documented on a Confidential Funds Receipt. If payment is made to a CI (Confidential informant),CRI (Confidential Reliable Informant), CW (Cooperating Witness), CD (Cooperating Defendant), or other person, the person receiving the funds shall sign the Confidential Funds Receipt. The signature shall be witnessed by the primary officer, a witness, and signed by both.

(b) The Confidential Funds Receipt shall be completed in full and will minimally record the following information:

1. The item or informant number on which the money was spent
2. The date, time, and location of expense
3. Originals or copies of all supporting documentation (receipts)
4. Type of investigation
5. Case number

(c) Any confidential funds used to purchase evidence by a CI/CRI/CW/CD or other person shall be photocopied or photographed in such a manner that serial numbers and denominations are recognizable. These photocopies or photographs will be scanned into media in the record management system under the corresponding case number.

(d) If prerecorded confidential funds are recovered during an investigation (search warrant, arrest, etc.), these funds shall be photographed or photocopied separately from other evidence and counted by at least two officers. The currency shall then be deposited back into the appropriate bank account account.

(e) The involved officer making the deposit shall obtain a deposit receipt from the bank. The deposit receipt will be turned in along with other transaction receipts submitted by the officer at the appropriate times outline in this policy. The chain of custody in this process must be documented in a written report by the involved officer.

(f) Any time confidential funds are spent during a controlled buy, operation, or other activity, the officer shall prepare a written report documenting the use of the funds. A written report is not required when funds are used in the following manner:

1. Expenses associated with the purchase of supplies or services used in a department operation, (i.e. phone cards, costumes/disguises, hotel rooms, etc.) In these circumstances, receipts must be submitted.
2. For the purchase of intelligence information obtained from an informant. In these circumstances, an intelligence entry into the intelligence database is required. The worksheet entry must correspond with the date of the payment; the informant number recorded on the Confidential Fund Receipt, and must highlight all intelligence

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604.5 EXPENDITURE LIMITS

Expenditures outside the following parameters require approval by the Organized Crime Lieutenant or designee:

(a) $40.00 payment to informants for intelligence information

(b) $60.00 payment for service at the completion of an intelligence level controlled buy. Attempted controlled buys may be compensated at the rate of $40.00 if documented intelligence information is obtained

(c) $100.00 Payment for service at the completion of a prosecutable level controlled buy

(d) $200.00 payment to informants at the completion of a successful search warrant or arrest that resulted from the informant's involvement

(e) $500.00 for the purchase of evidence

(f) Expenses related to an investigation in excess of $500.00.

604.6 AUDITS

At least once every six months, The Organized Crime Lieutenant shall arrange to have a thorough audit of all confidential funds account activity to ensure accountability and security of the funds. Audits may consist of random sampling or a full examination of applicable documentation.

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Confidential Informants

605.1 PURPOSE AND SCOPE

In many instances a successful investigation cannot be conducted without the use of confidential informants. To protect the integrity of the Duluth Police Department and the officers using informants it shall be the policy of this department to take appropriate precautions by developing sound informant policies.

605.1.1 DEFINITION

For the purpose of this Order, an Informant is an individual that provides information to the Department in exchange for money or consideration in a criminal case. A concerned citizen who gives information regarding a criminal case is not considered an informant and, therefore, should not be considered to receive monetary compensation.

605.1.2 USE OF INFORMANTS

Informants are assets of the law enforcement agency that utilizes their services. As such, informants are not the assets of any one individual or specific person. The initiating investigator shall compile sufficient information through background investigation to determine the reliability and credibility of the informant. In addition to verification of information provided by an informant during debriefings, a controlled buy may be performed to help establish reliability and determine the amount of management controls needed for the informant.

The unique nature of the uniform patrol assignment may dictate the need for assistance of a plainclothes investigator when using a confidential informant, but in all cases, the use of a confidential informant by a uniformed officer shall:

(a) Be coordinated through the member's supervisor, and

(b) Comply with all requirements of this policy

Before using an individual as a confidential informant, an officer must receive approval from the Lieutenant of the Organized Crime Bureau or designee.

605.1.3 CONFIDENTIAL INFORMANT MANAGEMENT

Members of the Duluth Police Department are authorized to work with confidential informants to aid in successful case conclusion. An investigator must consider these three criteria when deciding whether to use a person as an informant:

(a) The person is in a unique position to help law enforcement regarding past, present or future investigations

(b) The person will not compromise law enforcement interests, activities or investigations

(c) The person agrees to the direction necessary to effectively use his/her services.

If it is determined that the confidential informant is currently assisting another agency, that agency shall be contacted to determine that no duplication or conflict of efforts will occur, as well as to

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establish the reliability of the confidential informant. The information as to which agency is working the confidential informant will be noted on a Confidential Worksheet.

If it is determined that the confidential informant is currently on probation or parole status, pre-trial release, in a diversion program, or any other court sanctioned supervision the member shall obtain permission from the supervising Probation or Parole Officer prior to any utilization as a confidential informant

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.

Persons who are designated as a Sexual Predator or a Sexual Offender, along with persons who have local and/or extraditable warrant/capias, shall not be utilized as confidential informants without prior approval of the Chief of Police.

Whenever possible, informants shall not be provided with knowledge of Operational Plans or planned enforcement activities. If the informant is involved in a meeting, transaction or controlled purchase, only limited, necessary information for officer and informant safety and success of the operation will be provided to the informant. Minimal contact with other law enforcement personnel, including surveillance teams, should be the rule. Under no circumstances shall an informant be allowed access to restricted areas or investigators' work areas within a law enforcement agency.

605.2 INFORMANT FILE SYSTEM

The Organized Crime Bureau shall maintain a complete set of informant files that contain the required documentation and information relating to all Duluth Police Department informants that they have used or are currently being used by the Duluth Police Department. The Lieutenant of the Organized Crime Bureau or designee will review and ensure the file is complete. After review, the Lieutenant of the Organized Crime Bureau or designee will approve and sign each informant file. Each file shall be regularly reviewed by the Lieutenant of the Organized Crime Bureau or designee to ensure compliance with department policies and procedures.

No informant payment or activity may be commenced until the completed informant file and associated documentation is reviewed and approved by the Lieutenant of the Organized Crime Bureau or designee.

Officers and Investigators are responsible for the timely filing of all reports, documents, and other administrative and /or case work required by law, the Lieutenant of the Organized Crime Bureau, and/or set forth in the policy manual. All files are the property of the Duluth Police Department. The Lieutenant of the Organized Crime Bureau or designee shall establish a record keeping system that tracks confidential informants, the cases on which they have worked, and other appropriate information.

605.2.1 FILE SYSTEM PROCEDURE

Each file shall be coded with an assigned informant control number and shall contain the following confidential information:

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(a) Informant's name, date of birth, address, telephone number(s), employer information, physical description, and description of vehicles owned/driven/used

(b) Name of initiating investigator

(c) Informant's photograph

(d) Evidence that an informant's criminal history was reviewed

(e) A written report outlining an initial debriefing for intelligence and corroborative information obtained from the informant and its subsequent reliability. Investigators wishing to use an informant shall conduct an extensive, detailed, initial interview. Documentation of the interview shall be placed in the informant file. The informant interview shall include a detailed account of the informant's knowledge regarding past involvement in any criminal activity, including dates, times, places, amounts, methods of operation, who was present, and any other pertinent information. An attempt should be made to verify, if possible, the information provided and identity of persons mentioned. Informant information regarding criminal activity unrelated to an investigation should be provided to the appropriate law enforcement agency at a time and in a manner so as not to compromise an investigation and/or reveal the identity of the informant.

(f) Signed and initialed informant agreement and signature exemplar.

Informant files shall be maintained in a secured area. No informant files, or portions thereof, may leave the office without a court order or supervisory approval.

605.2.2 INFORMANT AGREEMENT

Each informant shall abide by the provisions set forth in the informant agreement. Failure of the informant to abide by the agreement may result in the immediate termination of using the informant. No payments shall be made to an informant failing to comply with the informant agreement, regardless of information received, without prior approval from the Commander or designee.

The investigator shall discuss the provisions of the agreement with the informant, adding particular emphasis to the following:

(a) The informant is not part of law enforcement. S/he may not carry any weapons, conduct searches or seizures, and has no arrest authority beyond that of a citizen

(b) Informants will receive no special legal consideration and may be arrested if they are found engaging in any criminal activity

(c) The informant shall not take any actions in furtherance of an investigation without receiving specific instruction(s) from the investigator

(d) The informant agrees that he/she may be subject to a full body search before and after any operation.

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605.2.3 INFORMANT FILES SUPERVISORY RESPONSIBILITIES

The Lieutenant of the Organized Crime Bureau or designee shall conduct an audit/review inspection of the Confidential Informant Files to ensure compliance to this SOP and other applicable policies on an annual basis or as directed by the Chief of Police. Upon completion, the report shall be provided to the Chief of Police for appropriate review, action, and distribution. The person designated to review the files will have the following responsibilities:

- Ensure that the informant is properly documented
- Prohibit the use of informants who are not properly controlled
- Compare informant signatures for payments received with the informant's known handwriting exemplar
- Restrict the use of informants involved in unlawful or undesirable activity
- Review and approve all payments to informants
- Ensure that payments to informants are not excessive
- Review the file for proper signatures of the informant and witnesses
- Ensure that the investigator takes the appropriate action if an informant is wanted or the subject of a pick-up order from another agency
- Make proper notification to the Deputy Chief of Police when irregularities or discrepancies are found in an informant file.

605.3 INFORMANT MEETING DOCUMENTATION

Each contact with a confidential informant, whether in person or by other means, shall be documented in the appropriate case file and on the Confidential Informant Contact Log which shall remain a component of the confidential informant documentation package. Two investigators will be present when meeting with an informant, at least one of the same sex, except when not practical.

605.3.1 INFORMANT RELATIONSHIP

No member of the Duluth Police Department shall knowingly maintain a social relationship with a confidential informant while off-duty, or otherwise become intimately involved with a confidential informant. Members of the Duluth Police Department shall neither solicit nor accept gratuities nor engage in any private business transaction with a confidential informant.

To maintain officer/informant integrity, the following requirements must be adhered to:

(a) Officers shall not withhold the identity of an informant from their superiors.

(b) Identities of informants shall otherwise be kept confidential.

(c) Criminal activity by informants shall not be condoned.

(d) Informants shall be told they are not acting as police officers, employees or agents of the Duluth Police Department and that they shall not represent themselves as such.

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(e) The relationship between officers and informants shall always be ethical and professional.

(f) Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Special Investigations Unit supervisor.

(g) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of the Special Investigations Unit supervisor. Officers may meet informants alone in an occupied public place such as a restaurant. When contacting informants for the purpose of making payments officers shall arrange for the presence of another officer whenever reasonably possible.

(h) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.

The unit supervisor shall take corrective action, as appropriate, when violations to this policy occur.

605.3.2 JUVENILE INFORMANTS

Generally, juveniles shall not be used as informants. An investigator choosing to use a juvenile informant shall receive prior authorization from the Lieutenant of the Organized Crime Bureau or designee, the prosecutor, the juvenile's parents or guardian (written consent), and judicial or probation officials, if applicable. The use of juveniles under the age of 13 as informants is prohibited.

For purposes of this policy, a "juvenile informant" means any juvenile who participates, on behalf of this department in a prearranged transaction or series of prearranged transactions with direct face-to-face contact with any party when the juvenile's participation in the transaction is for the purpose of obtaining or attempting to obtain evidence of illegal activity by a third party, and where the juvenile is participating in the transaction for the purpose of reducing or dismissing a pending juvenile petition or criminal charge against the juvenile.

605.4 USE OF CONFIDENTIAL FUNDS

Confidential funds are to be used in furtherance of investigative purposes. Investigators and Officers may use confidential funds for the following purposes:

- Payments made directly to informants
- Purchases of illegal drugs, contraband, or other evidence of criminal activity
- Expenditures for authorized undercover operations
- Payments of investigative expenses (e.g., hotel rooms, rental equipment)
- Flash money
- Purchases of services, equipment or information.

The Lieutenant of the Organized Crime Bureau shall not make disbursement of confidential funds to him/herself. Such disbursement shall be handled in conjunction with the Deputy Chief of Police or his/her designee.

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605.4.1 PAYMENTS TO INFORMANTS

Payments to informants shall be made in a manner and amount commensurate to the location, scope, and nature of the investigation; value of forfeited or recovered contraband or property; level of arrest; and past performance of the informant. The Lieutenant of the Organized Crime Bureau shall establish prior approval guidelines. The guidelines should include provisions for unusual or extraordinary circumstances. The Lieutenant of the Organized Crime Bureau or designee must authorize all informant payments. When practical, that authorization should be obtained prior to payment being made. Payments or expenditures shall be documented on a Confidential Funds Receipt signed by the informant, the primary officer and a witness. The Lieutenant of the Organized Crime Bureau or designee shall review all Confidential Funds Receipts for completeness, proportionate, and policy compliant spending. After review, all Confidential Funds Receipts shall be maintained within the applicable informant's file. Receipts, invoices, documents or other items associated with allowable purchases shall be attached to signed confidential funds receipts.

605.4.2 CONTROLLED BUY

Only documented and approved informants and undercover officers may be used to conduct controlled purchases of evidence. During controlled buys, the controlling agent must take reasonable steps to ensure the integrity of the investigation and prevent tampering with any evidence. A thorough pre-transaction search of the informant, his/her immediate area, and vehicle (if applicable) shall be performed before conducting a controlled buy. The controlling agent shall ensure that the informant does not possess any contraband or money that could get mixed with marked police department confidential funds.

The use of electronic monitoring devices during the controlled buy is required when equipment is available except in cases where the device would compromise the safety of any individual or other circumstances restrict use. Audio and video recording of the transaction by surveillance officers is required whenever the controlled purchase will be used as evidence in a prosecution of a sale or testimony of the informant may be required. Exceptions to this requirement exist if the act of audio and video recording would compromise the safety of any individual or other circumstances restrict use.

The informant shall be surveilled closely from the time of that pre-transaction search until the informant meets with his/her controlling investigator after the undercover meeting. Afterward, the controlling investigator shall ensure that the informant, his/her immediate area, and vehicle (if applicable) are again thoroughly searched for contraband and police department confidential funds. The controlling investigator shall provide sufficient surveillance during a controlled buy to minimize potential risks to the informant. At a minimum, two investigators shall provide surveillance for each informant involved in the operation.

Confidential Informants who reveal knowledge of evidence or information pertaining to dangerous items outside their scope and range of ability, including but not limited to: firearms, dangerous chemicals, and bomb making materials, shall be instructed to avoid any personal contact with

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those items. The furtherance of the investigation pertaining to these items shall only be conducted by one or more of the following:

(a) The use of the same CI while escorted by an undercover officer.

(b) The use of undercover officer/s working alone.

(c) Other law enforcement divisions or agencies that focus on the items in question.

(d) The use of CI's who typically associate with the items in question.

The informant shall be debriefed to collect intelligence about occupants, firearms, dogs, children present, interior layout, evidence storage locations, and other pertinent information.

A written report will be authored describing the events of the controlled buy. The informant's involvement shall be documented in a recorded statement. Investigators must have prior approval of the Lieutenant of the Organized Crime Bureau or designee for evidence purchases or extraordinary informant expenditures that exceed normal purchases.

605.5 COOPERATING DEFENDANTS

A cooperating defendant should be thoroughly debriefed regarding past criminal activity. A cooperating defendant may be debriefed about current charges pending only if a waiver of rights has been documented. If the defendant is represented by counsel, any contact with the defendant must be approved by the defendant's lawyer. A cooperating defendant may work as an informant so long as any conditions of release or bail are not violated and, if required by the jurisdiction; pre-trial supervision personnel and the court are aware and approve of the cooperation. Federal rules require that any person under federal court supervision cannot work as an informant without prior written approval from the court. Any agreement between law enforcement, prosecutors, defendants, and defense attorneys regarding cooperation from a defendant shall be agreed upon before the defendant actively participates in any investigation beyond a thorough debriefing. The terms of that agreement must be documented in writing prior to any active participation by a cooperating defendant or, in extraordinary circumstances, as soon as practical after participation.

605.5.1 COOPERATING DEFENDANTS AS WITNESSES

When a defendant agrees to testify for the government either against a co-defendant or in another case, any agreement regarding the active participation in a case or testimony will be governed by the agreement reached by the defendant, the defendant's legal counsel and the government prosecutor.

605.5.2 PROMISES TO WITNESSES, INFORMANTS, AND DEFENDANTS

It is not proper or legal to promise confidentiality or any degree of immunity at any time to a witness, defendant or informant by an investigator. The only promise an investigator can make to any defendant or person under investigation is that the investigator will make known to the prosecutor and the court the full extent of any cooperation provided to law enforcement. At the same time, a defendant or person under investigation should be advised that any behavior that violates any

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agreements with investigators and the prosecution will be forwarded for consideration by the court and may render any agreements as non-binding by investigators and prosecutors.

605.5.3 DEACTIVATION OF CONFIDENTIAL INFORMANTS

The Special Investigations Supervisor shall review confidential informant files on a quarterly basis (by the last working day of March, June, September, and December) to ensure appropriate use/documentation and de-activation procedures are in compliance with this general order. The review shall be documented, and delivered to the Lieutenant of the Organized Crime Bureau for appropriate action.

Confidential informant files indicating that the informant is not being used in a timely manner shall be reviewed with the originating member to determine if the informant can be de-activated. If it is determined at any point that the continuing use of a confidential informant is no longer beneficial to the Department, the appropriate Supervisor shall complete the Deactivation Sheet in order to deactivate the confidential informant.

Factors to consider in determining whether a particular confidential informant is no longer beneficial to the Department include, but are not limited to:

(a) The repeated failure of the CI to follow operational and/or safety instructions provided by members

(b) Any violation of the CI agreement

(c) Repeated failure of the CI to keep appointments, return telephone calls or follow through on legitimate requirements affecting the outcome of an investigation

(d) Behavior of the CI that brings his/her credibility into doubt

(e) Any actions by the CI that compromise the identity of any other CI, undercover investigator, or that reveals any confidential information

(f) Failure to appear for court hearings and/or to cooperate with the State Attorney's Office or U.S. Attorney with matters directly relating to their role as a CI

(g) Whether the person has shown any indication of emotional instability, unreliability, or of furnishing false information

All confidential informant files shall be purged in accordance with applicable policies and public records laws.

A member may request that a confidential informant be re-activated upon demonstrating specific needs and benefits. The Special Investigations Section Commander sha ll review the request and if approved shall issue a confidential informant control number.

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Witness Identification of Suspects

606.1 PURPOSE AND SCOPE

Eyewitness evidence can be critical in identifying, charging, and ultimately convicting suspected criminals. The purpose of this policy is to ensure that eyewitness evidence be accurate and reliable.

606.2 DEFINITIONS

(a) Sequential Lineup - The witness is presented with one lineup member at a time, requiring the witness to decide whether that person is the perpetrator before moving to the next photo.

(b) Show-up(s) - A show-up is a field identification procedure performed when circumstances require the prompt display of a single suspect to a witness.

606.3 PHOTOGRAPHIC IDENTIFICATION OF SUSPECTS

a. The officer presenting the photographic lineup must take the utmost care not to communicate the identity of the suspect in any way.

b. The following precautions should be taken by any officer presenting a photographic lineup:

1. The person of interest or suspect in the photo lineup should not stand out from the other people depicted in the photos.

2. At no time prior to, during or after the presentation of the photographic lineup should it be suggested to a witness that any person depicted in the lineup is a suspect or was in any way connected to the offense.

3. When possible, the officer presenting the photographs to a witness should not know which photograph depicts the suspect.

4. The officer presenting the photographs to a witness should do so sequentially (i.e., showing the witness one photograph at a time) and not simultaneously. The witness should view all photographs in the lineup.

5. The position of the suspects photo and filler photos should be placed in a different random order for each witness.

6. In order to avoid undue influence, witnesses viewing a photographic lineup should do so individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or the photographic lineup with other witnesses.

7. An admonishment should be given to each witness that the suspects photograph may or may not be among those in the lineup and that the witness need not make identification.

c. The procedure employed and the results of any photographic lineup should be documented in the case report. A copy of the photographic lineup presented to the witness should be included

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in the case report. Witness comments of how certain he/she is of the identification or non-identification should also be quoted in the appropriate report.

606.4 PHOTO IDENTIFICATION FORM

a. The Organized Crimes Lieutenant or the Major Crimes Lieutenant shall be responsible for the development and maintenance of a photographic lineup identification form consistent with this policy.

b. The form, at a minimum, shall contain the following:

- The date, time, and location of the lineup procedure
- The name and identifying information of the witness
- The name of the officer administering the lineup procedure
- The names of all individuals present during the lineup procedure
- An admonishment that the suspect's photograph may or may not be among those in the lineup and that the witness need not make an identification
- A signature line where the witness acknowledges that he/she understands the lineup procedure and instruction.

c. The photo identification form should be reviewed at least annually and modified when necessary.

606.5 SHOW-UP IDENTIFICATION OF SUSPECTS

a. The use of a show-up can provide investigative information at an early stage, but the inherent suggestiveness of a show-up requires careful use of procedural safeguards.

b. The following procedure should be taken when conducting a show-up identification:

- When multiple witnesses are involved, separate the witnesses.
- Determine and document a detailed description of the suspect prior to show-up.
- Caution the witness that the person they are looking at may or may not be the suspect.
- Transport the witness to the location of the detained suspect to limit the legal impact of the suspect's detention and scene contamination.
- If possible and safe, have the witness view the suspect while the suspect is not restrained by handcuffs or in the back of a police car. If this is not possible, take any practical steps to minimize the suggestiveness of the procedure, for example concealing the handcuffs from view.
- Document the time, location, and length of time the suspect was viewed.
- Record both identification and non-identification results in writing, including the witnesses own words and how certain he/she is in the identification.

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- Record the show-up, both audio and video, whenever possible.
- Show-ups ideally would be done within two hours of a crime. Factors to be considered would be how long the initial contact lasted, and/or if the witness had an exceptional view of the suspect during the crime.

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Brady Material Disclosure

607.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called #*Brady* information#) to a prosecuting attorney.

607.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** - Information known or possessed by the Duluth Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

607.2 POLICY

The Duluth Police Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Duluth Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information as provided in this policy.

607.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor's office.

If information is believed to be privileged or confidential (e.g., confidential informant or protected personnel files), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an officer is unsure whether evidence or facts are material, the officer should address the issue with a supervisor.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the Department case file.

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607.4 DISCLOSURE OF PERSONNEL INFORMATION

If a member of this department is a material witness in a criminal case, a person or persons designated by the Chief of Police shall examine the personnel file and/or internal affairs file of the officer to determine whether they contain *Brady* information. If *Brady* information is located, the following procedure shall apply:

(a) In the event that a motion has not already been filed by the criminal defendant or other party, the prosecuting attorney and department member shall be notified of the potential presence of *Brady* material in the member's personnel file.

(b) If the data is classified as public data, a copy of it shall be provided to the prosecuting attorney. In the case of non-public data, the prosecuting attorney should then be requested to file a motion in order to initiate an in camera review by the court.

    1. If no motion is filed, the supervisor should work with counsel to determine whether the records should be disclosed to the prosecutor.

(c) The Custodian of Records shall accompany all relevant personnel files during any in camera inspection to address any issues or questions raised by the court.

(d) If the court determines that there is relevant *Brady* material contained in the files, only that data ordered released will be copied and released to the parties filing the motion.

    1. Prior to the release of any materials pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use and further dissemination of such materials to the involved case and requiring the return of all copies upon completion of the case.

(e) If a court has determined that relevant *Brady* information is contained in the member's file in any case, the prosecutor should be notified of that fact in all future cases involving that member.

The person or persons designated by the Chief of Police should periodically examine the personnel files and/or internal affairs files of all officers who may be material witnesses in criminal cases to determine whether they contain *Brady* information. The obligation to provide *Brady* information is ongoing. If any new *Brady* information is identified, the prosecuting attorney should be notified.

607.5 INVESTIGATING BRADY ISSUES

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

607.6 TRAINING

Department personnel should receive periodic training on the requirements of this policy.

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Undercover Operations

608.1 PURPOSE AND SCOPE

Planning is important in undercover operations, not only to ensure success, but to ensure officers' safety. All undercover operations require a written operations plan. The unit leader may give verbal approval to the plan but it must be reduced to writing. Safety of the officer is paramount to any undercover operation. Any concern for officer safety is cause to abort the operation. Suspects and their associates, as well as the geographical area, need to be carefully analyzed before the implementation of an undercover operation. Making contact with the suspect and the methods of accomplishing that must be carefully considered. The on-duty patrol sergeant responsible for the area in which the operation is being conducted must be notified.

The Department encourages proactive efforts by all officers, however due to the unusual nature of undercover operations and the inherent risks involved, officers not assigned to the Organized Crime Bureau (OCB) must have approval of their unit leader prior to conducting an undercover operation. Unit leaders receiving a request that do not have experience in undercover operations are strongly encouraged to seek guidance from OCB officers and/or unit leaders.

608.2 PROCEDURES

608.2.1 SUSPECT IDENTIFICATION

Undercover operations can involve suspects whose name is not known. Surveillance of them to locate their residence, employer, associates, and vehicles is conducted in order to identify the suspect and gather information. Driver's license and booking photographs are available through the State in order for officers to make positive identification.

608.2.2 CONTACT

Initial contact with suspects should be made in a public place. Surveillance of the suspect and the contact is conducted to promote officer safety. Body transmitters are utilized unless their use would compromise the situation. Confidential informants may be used to make the initial introduction.

608.2.3 DEMOGRAPHICS

Reconnaissance of the area in which the contact is going to be made is advisable. This is facilitated by making those contacts in public places. Contacts in non-public places require analysis through intelligence information, information from patrol officers who may have been in the building, maps, photographs, a review of the City Directory, and information from the City Assessor's Office.

608.2.4 OFFICER IDENTIFICATION

Minnesota driver's licenses and employee identification cards from different organizations are available through OCB. All false identification is returned to the unit leader when it is no longer needed. If there is potential for suspects to attempt verification of the false identity, arrangements are made to ensure confidentiality.

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608.2.5 EXPENSES

Money is available in accordance with Policy 607 - Confidential Funds. OCB must be actively involved in the investigation for funds to be used. Depending upon which fund is used, it can be spent on equipment or daily operational expenses, including controlled buys, hotel expenses, car rental, etc. These expenses need to be documented by completion of normal buy-fund paperwork.

608.2.6 EQUIPMENT

All department-owned equipment is available for use in undercover assignments. Other necessary equipment may be purchased or borrowed from other agencies. Equipment needs to be signed out through OCB.

608.2.7 COMMUNICATIONS

Short-term undercover assignments involve the use of body transmitters and surveillance. Key words or phrases are predetermined so the undercover officer can communicate necessary information during the contact. A meeting place after the contact is also designated. Reports are left on all undercover activities.

Long-term undercover assignments require officers to maintain regular contact with the unit leader and in a manner, which is predetermined. Arrangements are made for emergency contact, including alternate persons to be contacted if the unit leader is unavailable. Surveillance of long-term undercover assignments is also advisable. Confidential file entries should be completed in a timely manner to pass along valuable information to other assisting officers.

608.2.8 LEGAL RAMIFICATIONS

Legal concerns are discussed with the appropriate prosecutor and involved officers are advised. Officers involved in undercover operations must be aware they must not become involved in any felonious conduct. The use of alcohol is at the discretion of the unit leader.

608.2.9 ARREST

Guidelines for arrests are predetermined. Officers are designated to make the arrest, and under what circumstances it will occur. The involvement of the undercover officer in the arrest must be clearly communicated to all officers involved. Most situations require uniformed officers be involved, or available, when the arrest occurs. The officer in charge must make necessary arrangements

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Surveillance

609.1 PURPOSE AND SCOPE

Surveillance is an important investigative method and at times may be the only method of obtaining factual information in an investigation. All surveillance operations are conducted in a manner that will not infringe on the statutory or constitutional rights of any individual.

Surveillance will only be used to collect information for legitimate law enforcement purposes. A legitimate and reasonable belief must exist that an individual or organization is engaged in, or there is reason to believe they may engage in, criminal activity.

The Department is committed to assisting other agencies whenever possible in conducting surveillance. Officers in the Organized Crime Bureau (OCB) use their own judgment on notifying their unit leader prior to, our subsequent to a surveillance operation.

609.2 LEVELS OF SURVEILLANCE

The level of surveillance used is dependent upon the scope and type of information to be collected and/or type of criminal activity. These levels of surveillance are defined in the following subsections.

609.2.1 CASUAL

Casual surveillance which does not involve any particular planning, equipment or additional personnel. Casual surveillance is generally random and informal - such as a drive-by of a location of interest.

609.2.2 FORMAL

Formal surveillance which is conducted for an extended period of hours or days. Formal surveillance usually requires some planning, depending upon the equipment and personnel to be utilized.

609.2.3 LONG-TERM

Long-term surveillance which is conducted on an ongoing basis and may require extensive planning.

609.2.4 ELECTRONIC

Electronic surveillance conducted through mechanical monitoring equipment. Electronic surveillance may require the permission of the court before being utilized.

609.3 EQUIPMENT

The Department owns, or has access to different types of equipment which can be used for surveillance. Officers in OCB have access to all equipment. Other Department personnel, and other law enforcement agencies, may use the equipment with approval of the OCB unit leader, or his designee. OCB maintains an inventory of equipment and maintains a sign out sheet for all equipment. An entry must be made on the sign-out sheet whenever equipment is taken.

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609.4 PLANNING

Planning is an integral part of any long term surveillance activity. The individual designated as being responsible for the surveillance is responsible for each of the following areas.

609.4.1 CRIME AND VICTIM ANALYSIS

The type of criminal or crimes involved, elements necessary to prove that a crime has occurred, the persons victimized, and varying methods of investigation need to be examined.

609.4.2 ANALYSIS OF SUSPECTS

As much information as possible needs to be gathered concerning the suspects. This includes information on:

- identification of suspects, or ways to identify suspects if their identities are not known
- associates and their level of involvement
- co-conspirators
- residence and business addresses
- locations the suspect is known to frequent
- vehicles
- method of operation
- past criminal involvement
- suspected degree of involvement in crime currently being investigated.

609.4.3 DEMOGRAPHIC ANALYSIS

Aerial photographs, reconnaissance photographs, plat maps, and drive-bys are methods used to familiarize officers with the area in which the surveillance is to be conducted. Information may also be obtained from patrol officers by a computer check to determine what officers, if any, have responded to calls at a specific address.

609.4.4 PERSONNEL

The number of officers involved depends upon the circumstances and length of the surveillance. Officer safety is a primary concern as well as effectiveness of the operation. More officers are required when dealing with individuals suspected of being armed, with a history of violence, or committing crimes with a high potential for violence.

609.4.5 OPERATIONAL PROCEDURES

An operations plan is completed for search warrant executions, arrests of violent suspects, or buy/bust operations. The patrol unit leader of the target area is also notified.

The most secure method of communication should be utilized for surveillance.

Criteria for arrests can be partially pre-determined. If possible, the location of arrest and officers responsible for the arrest should be identified, whenever possible. The officer in charge may direct

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during the operation that an arrest will occur. If there is potential for an arrest, sufficient officers must be present to deal with the subjects in the safest possible manner. On-duty patrol sergeants and the watch commander should be advised of the operation. It may be advisable to notify the Communication Center as well if assistance from patrol squads is anticipated.

The Department realizes that surveillance involves certain risks and officers are expected to use good judgment and weigh the risks to themselves and the public against the possible benefit.

609.4.6 EXPENSES

Money is available in accordance with Policy 607 - Confidential Funds. The money may be used for vehicle rental if Department vehicles are not suitable, rental of electronic equipment, hotel expenses, apartment rental, and dialed number recorder hook-ups (requires an appropriate warrant).

609.4.7 BRIEFING

All major surveillances require a formal briefing. Legal ramifications are discussed with the appropriate prosecutor, if necessary, and reviewed at the briefing. All officers in OCB are trained in, and aware of, the legal requirements and restrictions on surveillance

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Intelligence Information and Confidential Files

610.1 PURPOSE AND SCOPE

The collection and dissemination of intelligence information is an integral part of the Department's ability to function efficiently. Most intelligence information collected concerns vice, organized crime and drug enforcement. The unit leader of the Special Investigations Unit (SIU) is responsible for the over-all intelligence function of the Department.

610.2 COLLECTION OF INTELLIGENCE INFORMATION

(a) Officers' Roles

1. Every officer has a role in the collection and discovery of intelligence information. Officers with intelligence information should document the information and forward it to the Special Investigations Unit secretary, by way of the Case Activity Log, to be added to the confidential files.

(b) SIU's Role

1. Officers assigned to the SIU must be knowledgeable in the intelligence function of their unit. Officers should consider the following when recording intelligence information:
   - Sensitivity of the information, particularly unverified information;
   - The legal issues concerning the gathering of information; and
   - The laws relating to the dissemination of this information.
   - Information is documented on Confidential Worksheets. The unit's secretary enters the information into the SHIELD Intelligence File.
2. The SIU Unit Leader reviews intelligence file entries and assigns follow-up based on:
   - Quality of the information;
   - Completeness of the information;
   - Possible connections with current cases/past information;
   - Investigative resources available; and
   - Degree of seriousness of criminal activity.

(c) Information Sources

1. All information will be gathered within the guidelines of the law. Sources of information are reports, criminal intelligence reports, citizens' tips, etc.

610.3 TYPES OF INFORMATION TO BE COLLECTED

Intelligence information collected must be related to at least one of the following areas:

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- Suspected or specific criminal activity, to include controlled substance violations, vice/ prostitution activities, and organized crime information;
- Persons involved in criminal activities or their associates;
- Activity that presents a threat to the community; or
- Tactical information related to investigations that may increase the likelihood of a successful operation or increase officer safety.

610.4 ACCESS TO INTELLIGENCE RECORDS

Secure confidential intelligence files are maintained in the Department computer system (SHIELD) and manually in the SIU office. Access to the computerized intelligence files requires the use of an assigned code for entry.

Direct access to intelligence files is limited to the following persons:

- Chief, Deputy Chiefs;
- Unit leader and officers in the Special Investigations Unit;
- Secretary assigned to the Special Investigations Unit and
- Investigative Division Lieutenant.

The Investigative Division Lieutenant and the unit leader of SIU determine who else may or may not have access to intelligence files.

Officers requiring specific information from the intelligence files may acquire it from a member of SIU. The SHIELD administrator has access to computerized intelligence files strictly for the purpose of administration of computerized records.

The unit leader of the SIU will periodically direct that the access codes be changed to ensure their security. The SHIELD administrator assigns access codes.

610.5 DISSEMINATION OF INFORMATION

(a) Intra-Department

1. At times it may be necessary to disseminate intelligence information to other Department members to advise them of possible pending criminal activity or possible officer safety risks At no time will copies be made of actual confidential entries to be kept in case files or included in paperwork submitted to the County Attorney.
2. This information may be disseminated through one or more of the following means:
    - Applicable unit leaders relaying information to their personnel;
    - Convening a meeting of affected personnel;
    - Attendance at roll cal,

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- Personally to individual officers on a legitimate basis, and
- Including the information in the Narcotics Intelligence book available to all patrol officers.

(b) Inter-Agency Intelligence information may also be shared with other law enforcement agencies. Intelligence information should only be disseminated to other law enforcement agencies by personnel authorized to do so. The unit leader of the Special Investigations Unit is responsible for liaison with other law enforcement agencies concerning intelligence information.

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Chapter 7 - Equipment

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Department-Owned Property

700.1 PURPOSE AND SCOPE

Department employees are expected to properly care for Department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or department property while performing their assigned duties. Certain procedures are required depending on the loss and ownership of the item.

700.2 DOCUMENTATION OF ISSUED PROPERTY

All property issued shall be documented in the appropriate property sheet or equipment log and receipt acknowledged by signature. Upon an employee's separation from the Department, all issued equipment shall be returned and documentation of the return shall be entered on the Employee Seperation Checklist (obtained from Training) which is then submitted to Training. Training is responsible for making sure all employee access to systems has been terminated.

700.2.1 CARE OF DEPARTMENT PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to, the cost of repair or replacement.

(a) Employees shall promptly report through the chain of command, any loss, damage to or unserviceable condition of any department-issued property or equipment assigned for their use.

1. A supervisor receiving such a report shall make an appropriate investigation and direct a memo to the appropriate Deputy Chief that shall include the result of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss, damage or unserviceable condition.
2. A City Incident Report shall be completed.
3. A review by Staff to determine whether misconduct or negligence was involved should be completed.

(b) The use of damaged or unserviceable department property should be discontinued as soon as practicable and, if appropriate and approved by staff, replaced with comparable Department property as soon as available and following notice to a supervisor.

(c) Except when otherwise directed by competent authority or required by exigent circumstances, Department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.

(d) Department property shall not be thrown away, sold, traded, donated, destroyed or otherwise disposed of without proper authority.

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(e) In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

700.3 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement function shall report it as provided below.

(a) A verbal report shall be made to the employee's immediate supervisor as reasonably soon as circumstances permit.

(b) A City Incident Report shall be submitted before the employee goes off-duty or within the time frame directed by the supervisor to whom the verbal report was made.

700.3.1 DAMAGE BY PERSON OF ANOTHER AGENCY

If employees of another jurisdiction cause damage to personal property or property belonging to the City, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as reasonably soon as circumstances permit. The employee shall submit a written report before going off-duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Deputy Chief.

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Take-Home Use Of City Vehicles

701.1 PURPOSE AND SCOPE

This policy establishes guidelines to ensure the proper use of take-home vehicles. It is the policy of the City of Duluth to assign police vehicles to officers assigned to certain positions within the Police Department as identified by the Chief of Police for use pursuant to the following guidelines and procedure.

701.2 POLICY STATEMENT

Take-home vehicles shall be authorized on a case-by-case basis to employees who have specific law enforcement duties by the Chief of Police, and if abused, this privilege may be immediately revoked. Employees who are allowed this privilege are required to strictly abide by all guidelines listed in this policy and those set forth by the Chief of Police. Take-home vehicle use authorization is at the discretion of the Chief of Police and is subject to change at any time for any reason.

701.3 DEFINITIONS

Take-Home Vehicle: A take-home vehicle is a City of Duluth Police Department-owned automobile or motorcycle that is authorized by the Chief of Police to be taken home and operated by officers under the conditions allowed in this policy. A take-home vehicle may also be an automobile owned by another governmental agency that has been provided to the Department.

Employee: Sworn Minnesota law enforcement officer employed full-time by the City of Duluth Police Department.

Home: Residence within the corporate limits of the City of Duluth, Minnesota.

701.4 GENERAL CRITERIA

Employees may be assigned take-home vehicles for commuting purposes if one or more of the following criteria are met, as determined by the Chief of Police:

(a) Employee's position includes a primary emergency response function

(b) Employee works in an operational division, section or unit which requires the use of a vehicle for the employee to perform the required duties of his or her position and the required vehicle is specifically the vehicle assigned by the Chief of Police (i.e. K-9)

(c) Employee is directly assigned to take-home vehicle use by the Chief of Police

(d) Employee's position requires immediate emergency response to a crime scene or incident creating immediate and substantial threat to human life during non-scheduled work hours.

701.5 PROCEDURES

(a) Take-home vehicles may only be used to conduct official City business and to commute directly from work to home and home to work.

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(b) Employees are prohibited from using take-home vehicles for personal errands or travel not directly related to the employee's duties, except in an emergency. Emergencies shall be reported within twenty-four (24) hours to the Chief of Police.

(c) Officers shall not transport non-departmental personnel in the vehicles unless it's in an official capacity.

(d) Only the employee shall operate the take-home-vehicle.

(e) Any officer on light-duty or suspension is not authorized a take-home vehicle.

(f) Take-home vehicles shall be properly maintained and kept clean at all times.

(g) The Police Department's fleet manager shall update and maintain with Fleet Services a current list of take-home vehicle assignments.

(h) The fact that an employee is driving a take home vehicle in commuting to and from work is not a basis for determining that commuting time is hours of work.

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Automatic Vehicle Locator (AVL) System

702.1 PURPOSE AND SCOPE

This policy is to establish guidelines regarding the use of the Automatic Vehicle Locator (AVL) System.

702.2 POLICY

The use of the AVL System is to provide better emergency services for the citizens of Duluth, improve police response to calls for service, and enhance officer safety. It is to be used for official business for the management of resources.

The AVL System may be utilized to recommend the closest available unit(s) to an incident, or to identify the location of units involved in an incident at the request of supervisory personnel. The AVL system may be used to identify unit locations if radio transmissions fail advise incoming units of the location of the primary unit or instances where radio transmissions are unintelligible. AVL may also be used to follow vehicle pursuits, provide the involved units with location and direction of the pursuit vehicle and provide information to responding units and/or crew supervisors.

702.3 PROCEDURES

702.3.1 SUPERVISORS RESPONSIBILITY

Supervisors shall ensure that AVL equipped vehicles are assigned to patrol officers until the inventory of such equipped vehicles is exhausted.

Supervisors shall use the AVL system to help them monitor vehicles under their command during their shift.

Should an AVL equipped vehicle not appear on the map the supervisor shall inspect the antenna, receiver, and all connections to include the MDC for the malfunctioning vehicle and check for any obvious reasons for the malfunction, keeping in mind the vehicle may be parked at such a location the receiver may not be able to transmit.

- If there are signs of damage or tampering the supervisor shall fill out an incident report form and begin an investigation. The supervisor shall notify the lieutenant and deputy chief of the investigation and the results of the investigation.
- If no signs of damage or tampering are evident the supervisor shall notify communications the vehicle's AVL system is not working.
- The supervisor will complete a work order and ensure the damage is repaired.

Willful tampering or damaging of AVL and/or AVL equipment is a violation of the law and Department policy. Employees found to have tampered with AVL and/or MDC equipment will be investigated criminally and subject to Departmental disciplinary action up to and including suspension or termination.

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702.3.2 PATROL RESPONSIBILITIES

Patrol Officers can view the AVL map by clicking on the AVL link on the MobileCOM interface on the squads MDC.

(a) Patrol Officers can use the AVL map to assist them with verifying the location of their vehicle and other responding vehicles during any incident.

(b) Patrol Officers that discover damage to the MDC or AVL equipment in their assigned vehicles shall immediately contact their Supervisor.

702.3.3 RADIO SHOP RESPONSIBILITIES

The Radio Shop shall be responsible for inventorying, installing, and repairing all AVL related systems and hardware, as well as maintaining all related maintenance records.

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Vehicle Maintenance

703.1 PURPOSE AND SCOPE

Vehicle inspections are to ensure that vehicles are safe and adequate for use on patrol and to determine that no contraband is in the vehicle prior to an officer's shift.

Officers are required to inspect their assigned squad prior to use. The inspection must include vehicle condition, ensuring that it is properly equipped, emergency signal devices are functional, and that no contraband or weapons are contained in the vehicle.

703.2 MAINTENANCE/REPAIRS

Needed repairs are reported to the officer's unit leader. The unit leader E-Mails the request to "Fleet Work Order". Fleet Maintenance will need the squad number, the four digit vehicle number, and the required maintenance or repair. Unit leaders will be notified by e-mail that the repairs have been made.

Officers are responsible for checking the sticker in the vehicle which indicates when the next routine servicing is scheduled. (Computerized tracking of squad maintenance requires officers to enter accurate mileage figures when refueling). Squads requiring services are taken to the Fleet Maintenance Shop during normal work hours (0700 to 1530, Monday through Friday, holidays excluded). Fleet Maintenance will provide a spare squad for the officer to use. They will also provide computer access so officers may check reports, e-mail, etc.

Officers experiencing minor defects with their squads may stop at fleet maintenance during normal work hours.

Flat tires may be repaired by contacting Fleet Maintenance if they are open. If they are not open officers may change the tire if they choose, or contact Dukes Towing. Team Tire at 308 East Central Entrance will repair squad tires on Fridays until 1900 hours, and on Saturdays from 0800 to 1700.

Officers experiencing a breakdown after Fleet Maintenance hours contact their unit leader. The unit leader contacts the approved tow company and determines whether to have the squad towed to Fleet Maintenance or Headquarters.

Radio and overhead light maintenance are performed during normal work hours at the Police Radio Shop located at Facilities Management, 1532 W. Michigan Street.

Damage to squads must be documented and reported to the officer's unit leader. The unit leader is responsible for notifying the fleet sergeant.

Problems with squad shotguns are brought to the attention of the Use of Force coordinator or the officer's unit leader.

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Two-Finger Rapid Indentification System (IBIS)

704.1 PURPOSE AND SCOPE

This order establishes procedures for the proper use of the Two-Finger Rapid Identification device (IBIS). The procedures are developed to ensure the integrity of the process

704.2 DEFINITIONS

Rapid Identification System: Also known as IBIS (Identification Based Information System), is a subsystem of the Automated Fingerprint Identification System (AFIS) that is capable of searching submitted index fingerprints and returning identification and/ or criminal history data in a short time, typically less than three minutes.

Automated Fingerprint Identfication System (AFIS): The Minnesota Bureau of Criminal Apprehension's fingerprint system for identification of individuals in the criminal justice system.

Computerized Criminal History Data: All data maintained in criminal history records compiled by the Bureau of Criminal Apprehension and disseminated through the criminal justice information system, including but not limited to fingerprints, photographs, identification data, arrest data, prosecution data, criminal court data, custody and supervision data.

Criminal Justice Agency (MN Stat. 299C.46): An agency of the state or an agency of a political subdivision charged with detection, enforcement, prosecution, adjudication or incarceration in respect to the criminal or traffic laws of this state. This definition also includes all sites identified and licensed as a detention facility by the Commissioner of Corrections under section 241.021.

704.3 POLICY

The Rapid Identification equipment is designed to aid police personnel in the identification of individuals through the evaluation of fingerprints. Only employees who have received training in the use of the Rapid Identification system are authorized to use it.

704.4 STORAGE AND USE

The Rapid Identification equipment is stored in accordance with the manufacturer's recommendation and to ensure that it is functional and available. It is signed out through unit leaders and Command Staff. The Bureau of Criminal Apprehension requires a record of use be kept, and the record includes the name of the individual using the equipment, date, reason for use, and ICR.

Two-Finger based Rapid Identification data is only an aid to the identification of a person. Information received from the Rapid Identification system shall not be used as the sole grounds for establishing probable cause for arrest. Police using the Rapid Identification equipment or accessing the Rapid Identification data shall ensure that 4th amendment rights of the individual being tested are not violated and that civil rights, state law, policy and procedure are not violated.

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Those individuals who use the Rapid Identification System in a manner inconsistent with policies, state and federal law will be subject to discipline

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Cash Handling, Security and Management

705.1 PURPOSE AND SCOPE

The proper handling and documentation of cash transactions and the maintenance of accurate records of cash transactions is important to protect the integrity of police operations and ensure the public trust.

705.2 PETTY CASH FUNDS

Employees designated as fund managers and authorized to maintain and manage petty cash funds are the Records Supervisor and Administration Deputy Chief. These persons may delegate this responsibility to another person in their absence. All funds require the creation and maintenance of an accurate and current transaction ledger and filing of invoices, receipts and expense reports by the fund manager.

705.3 PETTY CASH TRANSACTIONS

The fund manager shall document all transactions on the ledger and other appropriate forms and each person participating in the transaction shall sign the ledger attesting to the accuracy of the entry. Transactions should include the filing of an appropriate receipt or invoice. Transactions not documented by a receipt, invoice or cash transfer form require an expense report.

705.4 PETTY CASH AUDITS

The manager of a petty cash fund shall audit the fund no less than once every six months. This audit requires that the manager and at least one other person, selected by the fund manager, review the ledger, records, receipts and funds, verifying the accuracy of the accounting. Each participant of the audit shall sign the ledger attesting to the accuracy of all documentation and fund accounting. A discrepancy in the audit requires documentation by those performing the audit and immediate reporting of the discrepancy to the Chief of Police.

Should fund management be transferred to any person, each transfer of this responsibility shall require completion of a separate Petty Cash Audit by those persons involved in the transfer.

A separate audit by the Chief of Police or designee shall be completed annually on each petty cash fund.

705.5 ROUTINE CASH HANDLING

Members of the Department authorized to routinely handle cash as part of their assignment are property officers and the Narcotics Unit supervisor. Routine cash handling shall be pursuant to their specific policies (see the Confidential Informants and Property Procedures Policies).

705.6 OTHER CASH HANDLING

Members of the Department who, within the course of their duties come into the possession of cash that is not their property or is outside their defined cash handling duties shall, as soon

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as reasonably practical, verify the amount of cash, summon another employee to verify their accounting, and process the cash as safekeeping, evidence or found property. Cash in excess of $1,000 requires immediate notification of a supervisor as well as special handling, verification and accounting by a supervisor. Each employee involved in this handling, verification or processing of cash shall complete an appropriate report or record entry as may be appropriate.

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Chapter 8 - Support Services

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Evidence/Properly Inspections

800.1 PURPOSE AND SCOPE

Inspections of evidence/property storage areas are to ensure the integrity of the evidence/property retention system.

800.2 PROCEDURES

800.2.1 SEMI-ANNUAL LINE INSPECTIONS

Inspections of evidence/property and storage areas are conducted by the CSI unit leader and the Administrative/Investigative Division Deputy Chief, or another unit leader in the Division. The inspection is accomplished by a random comparison of EVIDENCE REPORTS to ensure that:

- Record keeping procedures have been followed
- Evidence retention procedures have been followed
- The evidence is intact
- The evidence is disposed of in a timely fashion

The inspection will also assess the overall condition of evidence/property storage areas.

The inspection must be documented in writing and submitted to the Chief.

800.2.2 UNANNOUNCED INSPECTIONS

Annually the Chief will designate a unit leader to conduct an unannounced inspection of evidence and the evidence storage areas. The inspection will primarily consist of a random comparison of EVIDENCE REPORTS to evidence. A written report must be submitted to the Chief.

800.2.3 TRANSFER OF RESPONSIBILITY

When the CSI unit leader is transferred the person assuming responsibility for CSI and a designee of the Chief will conduct a joint inspection. A written report must be made to the Chief. The inspection is to ensure the integrity of the system.

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Evidence Retention

801.1 PURPOSE AND SCOPE

It is necessary for the Department to carefully monitor and control evidence for which it is responsible. No item of evidence has any more value than the written record which accompanies it.

801.1.1 DEFINITION

Evidence: Any substance, material, or item found, recovered or seized in connection with a criminal investigation, concerning which a provable chain of custody must be maintained.

801.2 RESPONSIBILITY

The Crime Scene Investigations (CSI) unit leader is responsible for evidence, evidence storage areas, the EVIDENCE PACKAGING MANUAL and for all records pertaining to evidence that is being retained by the Department.

801.3 PROCEDURE

801.3.1 INTAKE

Personnel coming into possession of evidence must enter the item into BEAST. Each item must be identified by a BEAST label and be packaged as directed in the EVIDENCE PACKAGING MANUAL.

Evidence may be secured at Headquarters or at the West Duluth Station. The procedures are identical. Incoming evidence is placed in a locker. (Items too large for a locker may be placed at Headquarters in the Evidence garage secured cage area.

Officers desiring, or anticipating the need to have evidence processed, complete a CAL entry to RCSIP. Similarly if officers need copies of audio or photographic evidence for court purposes or case files a CAL entry to RCSIC should be made. These referral codes are checked daily Monday through Friday by CSIU.

Evidence Technicians have the right to refuse any piece of property that is not properly documented or packaged. Should the Evidence Technician refuse an item, he/she will maintain secure custody of the item and inform the submitting officer. For details regarding proper packaging and documenting of property see the Evidence Packaging Manual in the Evidence Packaging Room.

All evidence must be turned into the evidence intake room by the end of the shift. This includes items taken out for viewing or Court. A deviation from this requires a receipt indicating its location or written authorization from CSI.

801.3.2 SECURING VEHICLES

Cars/vehicles connected with crimes should be towed to the wrecker companies secure area. Officers must make a determination as to indoor or outdoor storage of the vehicle based on

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potential evidence to be collected. Routine recovered stolen vehicles should not be towed to the Police garage. Do not leave cars on the wash rack.

Do not tow vehicles needlessly or produce duplicate towing costs for owners, insurance companies, or the Department.

Prior to securing vehicles involved in major crimes (Homicides, Assaults, kidnappings etc) contact a representative from CSI for storage option.

Officers must complete detailed requests for processing using CAL code RCSIP. An Evidence Report is not necessary on a towed vehicle. A tow slip must be completed and filed at the desk.

801.3.3 EVIDENCE NEEDING PROCESSING

All evidence needing processing should be handled according to the Evidence Packaging Manual, placed into one of the processing lockers with a BEAST label.

Processing Items of evidence is the responsibility of one of the Crime Scene Investigators. Upon completing the processing, all items will be returned to evidence for storage.

801.3.4 EVIDENCE NEEDED FOR COURT

All evidence needed for any court proceedings, the checking out, transportation, and returning, will be the responsibility of the officer requested to testify. If the court proceeding is resulting from the work of an investigator, the investigator will be responsible for the evidence. If an investigator is not involved with the court preceding it will be upon the officer who made the arrest or issued the citation to provide the evidence required for the proceeding. This process will require a discussion with the prosecutor prior to court, such as during the pretrial meeting, detailing what will be needed. During the pretrial discussion with the prosecutor, if you as the arresting or assigned officer/ investigator are eliminated from testifying, remind the prosecutor to assign this task to someone who is being called to testify.

801.4 RETENTION

Evidence and Property Technicians are responsible for transferring evidence from the receiving area to permanent storage. Only Evidence and Property Technicians have access to permanent evidence storage areas. Others needing to view evidence must make arrangements with, and be accompanied by the Evidence and Property Technicians.

801.5 DISPOSITION

Evidence and Property Technicians are responsible for clearing of evidence items.

Evidence may be cleared when:

- Prosecution is complete and the applicable appeal time has lapsed
- The statute of limitations has expired
- The complainant has provided a written request to close their case

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When an investigator is assigned to the case, the investigator should be notified prior to final disposition of the evidence.

Evidence still unclaimed 60 days after its release is authorized is be sold through public auction or destroyed. The Police Department conducts ongoing auctions through propertyroom.com.

801.5.1 RELEASE OF EVIDENCE TO OWNER

Minnesota Statute 609.523 permits release of evidence to the owner after proper recording and photographing. The prosecuting attorney and/or the assigned investigator must be consulted before evidence items are photographed and released.

Release of evidence shall be done through our Evidence and Property Technicians or through the officer/investigator assigned to the case under the direction of one of the Evidence and Property Technicians.

Evidence that needs to be mailed to the owner must have postage/handling paid in advance. The shipping cost will be determined by an Evidence and Property Technician bringing the item to the shipping authority to get a shipping quote. The shipping cost will be determined by taking the shipping quote and adding a packaging cost from the following list:

$.01-$50.00 - $2.50

$50.01-$100.00 - $5.00

$100.01-$150.00 - $7.50

$150.01-$200.00 - $10.00

And so forth.

801.5.2 RELEASE OF GUNS

Firearms that have no ownership established will be destroyed or if possible auctioned. For a list of firearms eligible to be auctioned refer to the BCA website.

801.5.3 DISPOSITION OF DRUG EVIDENCE

Two officers must be present during the entire drug evidence destruction process. The plastic evidence bags must be carefully inspected to determine that tampering has not taken place.

If there is any indication that the package has been tampered with, the substance must be re-tested in a manner determined by the Investigative Division Deputy Chief. If the weights or numbers of pills/capsules are not equal to the amount taken into custody, the discrepancy must be reported immediately to the CSI unit leader and the evidence retained so that the matter can be investigated.

Upon clearing a case involving drugs as evidence, the drugs will be marked for destruction and put into the drug destruction bin to be destroyed.

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801.6 TRANSFER OF EVIDENCE FOR DEPARTMENT PURPOSES

The use of evidence is a legitimate investigative or training need; this policy will protect the Department's evidence system and individual officers involved with its storage, transfer, and destruction.

801.6.1 REQUESTS

Requests must be made in writing to the Deputy Chief of Investigations, using the Requesting Evidence/Property for Department Need form found in the "I" drive under "Forms".

Upon the Deputy Chief's approval of the request, the request will be forwarded to the Sergeant in charge of CSI/Evidence and Property. That Sergeant will keep a file and spreadsheet of all requests. The Sergeant in charge of CSI, Evidence and Property will annually review the list and conduct an inventory of all items.

801.6.2 TRANSFER

Upon the approval of the Deputy Chief of Investigations, evidence will be signed out to the requesting party by an Evidence/Property Technician. When the evidence requested is a drug it will be weighed, measured, or counted and recorded in BEAST by an Evidence/Property Technician prior to being signed out.

The requesting/receiving party is responsible for the security and safety of the evidence while it is signed out to them.

If the evidence is lost or misplaced, the responsible person shall report such an occurrence to the Sergeant in charge of CSI, Evidence and Property immediately. The Sergeant in charge of CSI, Evidence and Property will notify the Deputy Chief of Investigations.

801.6.3 RETURN OF EVIDENCE

When the evidence is no longer needed it is to be returned in person to an Evidence and Property Technician.

The evidence will be checked in and transferred back to Evidence and Property. If the evidence is drugs it will be weighed, measured, or counted upon its return and documented in BEAST.

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Property Retention

802.1 PURPOSE AND SCOPE

It is necessary for the Department to carefully monitor and control property for which it is responsible.

802.1.1 DEFINITIONS

Property: any item(s), other than evidence, that is recovered, seized, or which comes into possession of the Department.

802.2 RESPONSIBILITY

The Evidence and Property Technicians are responsible for property, property storage areas, and all records pertaining to property being retained by the Department.

802.3 PROCEDURE

802.3.1 INTAKE

Personnel coming into possession of property enter each item into BEAST. Each item must be identified by a BEAST label and be packaged according to the Evidence Packaging Manual.

Property may be secured at Headquarters or at the West Duluth Station. The procedures are identical. Incoming property is placed in a locker. (Items too large for a locker may be placed at Headquarters in the Evidence Garage caged area). At the West Station locker keys are deposited in the secure key box in the Property Room.

Evidence Technicians have the right to refuse any piece of property that is not properly documented or packaged. Should the Evidence Technician refuse an item, he/she will maintain secure custody of the item and inform the submitting officer. For details regarding proper packaging and documenting of property see the Evidence Packaging Manual in the Evidence Packaging Room.

All property should be turned in by the end of shift.

802.3.2 RETENTION

Evidence and Property Technicians are responsible for transferring property from the receiving area to permanent storage. Only Evidence and Property Technicians have access to permanent property storage areas. Money, precious metals, gems, jewelry, weapons, narcotics, and dangerous drugs are transferred to the evidence vaults for storage.

The chain of possession is kept in BEAST and any moving of property will be recorded in BEAST by an Evidence Technician.

802.3.3 DISPOSITION

Recovered property is checked against Department records to determine whether it has been reported stolen or missing. If an owner is identified, they are contacted and advised that they may

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claim their property. Property is considered to be abandoned if it has been in the possession of the Department for 60 days according to State Statute. City Ordinance 40-6 authorizes the sale of abandoned property through public auction.

Release of property shall be done through our Evidence and Property Technicians or through the officer/investigator assigned to the case under the direction of one of the Evidence and Property Technicians.

Property that needs to be mailed to the owner must have postage/handling paid in advance. The shipping cost will be determined by an Evidence and Property Technician bringing the item to the shipping authority to get a shipping quote. The shipping cost will be determined by taking the shipping quote and adding a packaging cost from the following list:

$.01-$50.00 - $2.50

$50.01-$100.00 - $5.00

$100.01-$150.00 - $7.50

$150.01-$200.00 - $10.00

And so forth.

802.4 TRANSFER OF PROPERTY FOR DEPARTMENT PURPOSES

The use of actual property is a legitimate investigative or training need; this policy will protect the Department's property system and individual officers involved with its storage, transfer, and destruction.

802.4.1 REQUESTS

Requests must be made in writing to the Deputy Chief of Investigations using the Requesting Evidence/Property for Department Need Form found in the "I" drive under "Forms".

Upon the Deputy Chief's approval of the request, the request will be forwarded to the Sergeant in charge of CSI, Evidence and Property. That Sergeant will keep a file and spreadsheet of all requests. Annually this list will be reviewed by the Sergeant of CSI, Evidence and Property and an inventory of all items conducted.

802.4.2 TRANSFER

Upon the approval of the Deputy Chief of Investigations the requested property will be signed out to the requesting party by an Evidence/Property Technician. When the property requested is a drug it will be weighed, measured, or counted and recorded in BEAST by an Evidence/Property Technician prior to being signed out.

The requesting/receiving party is responsible for the security and safety of the evidence while it is signed out to them.

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If the property is lost or misplaced, the responsible person shall report such an occurrence to the Sergeant in charge of CSI, Evidence and Property immediately. The Sergeant in charge of CSI, Evidence and Property will notify the Deputy Chief of Investigations.

802.4.3 RETURN OF PROPERTY

When the property is no longer needed, the property is to be returned in person to an Evidence and Property Technician.

The property will be checked in and transferred back to Evidence and Property. If the property is drugs it will be weighed, measured, or counted upon its return and documented in BEAST.

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Evidence Packaging Manual

803.1 PURPOSE AND SCOPE

Evidence is defined as any material or item seized or recovered in connection with a criminal investigation which has probative value in determining who committed a crime, or how it was committed. The proper collection of evidence is necessary to preserve its usefulness in prosecutions. Evidence must be packaged in a way that protects and maintains an item and its evidentiary value for an indefinite period of time. The item must be maintained in its original condition to maintain its value.

803.1.1 POLICY

The Crime Scene Investigations Unit (CSI) supervisor maintains an EVIDENCE PACKAGING MANUAL which outlines procedures that officers must follow when packaging evidence and placing it into storage. The manual has the same authority as Department policy contained in a General Order. These procedures are designed to properly preserve evidence in its original condition for subsequent examinations, maintain a chain of custody, and also protect employees handling evidence from any hazards. Evidence and Property personnel will not accept any items that are not packaged properly. The items will be returned to the original officer to be re-packaged in a manner consistent with the EVIDENCE PACKAGING MANUAL.

803.2 EVIDENCE PACKAGING MANUAL PROCEDURE

The CSI unit leader is responsible for creating and maintaining the EVIDENCE PACKAGING MANUAL. The manual includes the current correct procedure for collecting, packaging, and labeling items that are routinely collected by police officers. A copy of the manual is maintained in the property rooms and the squad room. The CSI unit leader initiates any changes necessary for the manual and submits them to the investigative lieutenant. Subsequent to the investigative lieutenant's approval the changes are incorporated into all copies of the EVIDENCE PACKAGING MANUAL. Department personnel are immediately notified of the change in the most efficient manner which may include a Department-wide E-Mail and training at roll call. The policies are in effect, and must be complied with, as soon as personnel are notified.

803.3 ITEMS NOT COVERED IN MANUAL

Officers collecting evidence they are unsure of how to handle may contact CSI directly if they are on duty to determine the proper course of action. If not on-duty the officer should contact their own unit leader.

803.4 EVIDENCE REPORTS

Officers must complete a BEAST entry for items placed into evidence. A single BEAST entry may be completed for all items collected at a single location. The BEAST entry indicates the location in which the evidence has been stored. BEAST stores the evidence report; the computer program is used to maintain a chain of custody.

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803.5 REQUEST FOR SERVICES AND PROCESSING CAL ENTRIES

Officers submitting evidence needing analysis must complete a CAL entry "RCSIP" for processing of evidence or "RCSIC" for copying of media.

803.6 EVIDENCE PACKAGING MANUAL

See the Procedural Standard of Practice Guideline for a copy of the EVIDENCE PACKAGING MANUAL.

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Laboratory Submissions

804.1 PURPOSE AND SCOPE

This General Order regulates responsibility and documentation of evidence that must be submitted for laboratory analysis.

804.2 CRIME LABS

(a) Minnesota Bureau of Criminal Apprehension (BCA)

- As a general rule, the BCA lab is utilized by the Department for all evidence processing.

(b) Federal Agencies

- The Federal Bureau of Investigation (F.B.I.), Alcohol, Tobacco and Firearms (A.T.F.) and Secret Service each have crime labs. It may be necessary or desirable at times to utilize these lab services. Particularly, they may be considered for items such as expanded fingerprint searches; analysis of weapons, explosives, or ballistics; and analysis of government documents.

804.3 SUBMITTAL RESPONSIBILITY

Evidence requiring analysis is submitted by the Crime Scene Investigations Unit following the request of the investigating officer or the prosecuting attorney. Analysis requests are authorized by the CSI unit leader. Requests must include information on the intent of the evidence analysis.

Evidence not submitted immediately upon being acquired must be stored in a manner which preserves its evidentiary value. Permanent storage of evidence is the responsibility of CSI.

804.4 CHAIN OF CUSTODY

Generally, items submitted for analysis are sent by certified mail. The evidence technician submitting the item(s) logs the submittal on the "Chain of Custody" section of the EVIDENCE REPORT, including the fact that the item was sent by certified mail. The certified mail receipt of delivery is attached to the EVIDENCE REPORT when received.

Evidence technicians delivering evidence to a laboratory enter the pertinent information on the "Chain of Custody" section of the EVIDENCE REPORT. A receipt is obtained from the laboratory which includes the agency name, date, time, and the recipients name and signature. The receipt is attached to the EVIDENCE REPORT.

804.5 LABORATORY RESULTS

The Department requests that all laboratory results be submitted in writing. Lab personnel are available for questions regarding findings. They may also be subpoenaed to testify as to their laboratory findings

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Security, Release, and Retention of Records and Information

805.1 PURPOSE AND SCOPE

In compliance with the Minnesota Department of Administration, the Police Department has established a policy for the release of information. In compliance with Minnesota Government Data Practices Act, the Department carefully controls access to all information. In general information about law enforcement activities is public unless restricted by statute, and information about personnel issues is private unless reclassified by statute.

Due to the complexity of the release of information, and the severe penalties imposed for improper release of information, Department personnel must refer all requests for information release to Records Support Unit (RSU) personnel.

The Department has access to records created by multiple counties. The Department is prohibited from releasing other agencies records and may not divulge the fact that other agencies have records related to the citizen or media request.

805.1.1 DEFINITIONS

Confidential Data on Individuals - Data that is not public by statute or federal law and is inaccessible to the individual who is the subject of that data (Minn. Stat. § 13.02 Subd. 3).

Corrections and Detention Data - Data on individuals created, collected, used or maintained because of their lawful confinement or detainment in state reformatories, prisons and correctional facilities, municipal or county jails, lockups, work houses, work farms and all other correctional and detention facilities (Minn. Stat. § 13.85 Subd. 1).

Data on Individuals - All government data in which any individual is or can be identified as the subject of that data, unless the appearance of the name or other identifying data can be clearly demonstrated to be only incidental to the data and the data are not accessed by the name or other identifying data of any individual (Minn. Stat. § 13.02 Subd. 5).

Government Data - Data collected, created, received, maintained or disseminated by this department regardless of its physical form, storage media or conditions of use (Minn. Stat. § 13.02 Subd. 7).

Private Data - Data identifying an individual that is only available with the individual's written consent, to the individual, by court order or search warrant or pursuant to a federal or state statute that grants access (Minn. Stat. § 13.02 Subd. 13).

Records Management - The systematic control and management of data throughout the life cycle of the data, including, without limitation, the creation, use, maintenance, retention and ultimate disposition of the data.

805.2 RECORDS ACCESS

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805.2.1 RECORDS ACCESS BY DEPARTMENT PERSONNEL
All records related to calls for service, arrests, investigations, etc is available to officers and RSU personnel. These records can only be accessed by Department employees for legitimate law enforcement purposes. The electronic records system serves multiple counties and allows agencies to restrict information availability on a case-by-case basis.

805.2.2 RECORDS ACCESS BY NON-DEPARTMENT PERSONS
General Guidelines for the Release of Records Information:

NOTE: Release of Investigative Data and Comprehensive Investigative Data are strictly controlled by the Minnesota Government Data Practices Act.

RSU personnel are knowledgeable of the regulations regarding the release of information. RSU personnel having questions about the release of information direct the inquiry to the RSU unit leader. Unresolved questions are referred by the RSU unit leader to the City Attorney's Office. Most data contained in incident complaint reports (ICR) and arrest data are considered public. Information, other than ICR or arrest data, contained in active investigation files is usually confidential and is available only to other law enforcement agencies and the victim of the crime, if any.

Fees for Records Information:

The Department may assess a charge for the release of records information. Clerical personnel assigned to RSU may receive money for released records information. A receipt is issued any time money is received.

The RSU unit leader is responsible for money collected in the RSU. Collected monies are turned over monthly to the City Treasurer's Office for auditing.

805.3 RECORDS RETENTION
The Duluth Police Department follows the City's record retention schedule on file with the City Clerk. All records collected by the Department are retained, stored, microfilmed and destroyed in accordance with the schedule.

805.4 MINNESOTA GOVERNMENT DATA PRACTICES ACT (CHAPTER 13, M.S.A.)
The Minnesota Government Data Practices Act establishes three classes of information, each having separate restrictions on their release. The three classes are:

(a) Data on Individuals

1. Public Data - Accessible by any member of the public for any reason.
2. Private Data - Not accessible by the public but is accessible by the subject of the data.
3. Confidential Data - Neither accessible by the data subject nor by the public

(b) Data on Decedents

1. Public Data - Accessible by any member of the public for any reason.

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2. Private Data* - Not accessible by the public but is accessible by the representative of the decedent.
3. Confidential Data* - Neither accessible by the representative of the decedent nor by the public.

(c) Data NOT on Individuals

1. Public Data - Accessible by any member of the public for any reason.
2. Non-public Data - Not accessible by the public but is accessible by the subject of the data, if any.
3. Protected Non-public Data - Neither Accessible by the data subject nor by the public.

*Private and confidential data on decedents become public ten years after the death of the subject and 30 years after creation of the data.

805.5 CLASSIFICATIONS OF LAW ENFORCEMENT DATA

NOTE: M.S. 13.82 Subdivision 17 is referenced throughout this order and is quoted below. It protects the identities of a number of individuals. It is important for Department employees to realize that if a person's identity is protected by this statute even if that person is involved in a separate event where their identifying information would normally be public, that the information must still be protected. The persons protected are in bold to facilitate understanding.

Subd. 17. Protection of identities. A law enforcement agency or a law enforcement dispatching agency working under direction of a law enforcement agency shall withhold public access to data on individuals to protect the identity of individuals in the following circumstances: (a) when access to the data would reveal the identity of an undercover law enforcement officer, as provided in section 13.43, subdivision 5; (b) when access to the data would reveal the identity of a victim or alleged victim of criminal sexual conduct or of a violation of section 617.246, subdivision 2; (c) when access to the data would reveal the identity of a paid or unpaid informant being used by the agency if the agency reasonably determines that revealing the identity of the informant would threaten the personal safety of the informant; (d) when access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, unless the agency reasonably determines that revealing the identity of the victim or witness would not threaten the personal safety or property of the individual; (e) when access to the data would reveal the identity of a deceased person whose body was unlawfully removed from a cemetery in which it was interred; (f) when access to the data would reveal the identity of a person who placed a call to a 911 system or the identity or telephone number of a service subscriber whose phone is used to place a call to the 911 system and: (1) the agency determines that revealing the identity may threaten the personal safety or property of any person; or (2) the object of the call is to receive help in a mental health emergency. For the purposes of this paragraph, a voice recording of a call placed to the 911 system is deemed to reveal the identity of the caller; (g) when access to the data would reveal the identity of a juvenile

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witness and the agency reasonably determines that the subject matter of the investigation justifies protecting the identity of the witness; or (h) when access to the data would reveal the identity of a mandated reporter under section 609.456, 626.556, or 626.557. Data concerning individuals whose identities are protected by this subdivision are private data about those individuals. Law enforcement agencies shall establish procedures to acquire the data and make the decisions necessary to protect the identity of individuals described in clauses (c), (d), (f), and (g).

805.5.1 PUBLIC DATA

All data collected, created, received, maintained or disseminated by the Department is public unless specifically classified by statute or federal law as private or confidential.

(a) Arrest Data (M.S. 13.82 Subdivision 2)

1. Time, date and place of the action
2. Any resistance encountered by the agency
3. Any pursuit engaged in by the agency
4. Whether any weapons were used by the agency or other individual
5. The charge, arrest or search warrants, or legal basis for the action
6. The identities of the agencies, units with the agencies and individual persons taking the action
7. Whether and where the individual is being held in custody or is being incarcerated by the agency
8. The date, time and legal basis for any transfer of custody and the identity of the agency or person who received custody
9. The name, age, sex, and last known address of an adult person or the age and sex of any juvenile person cited, arrested, incarcerated or otherwise substantially deprived of liberty
10. Whether the agency employed wiretaps or other eavesdropping techniques, unless the release of this data would jeopardize an ongoing investigation
11. The manner in which the agencies received the information that led to the arrest and the names of individuals who supplied the information unless the identities of those individuals qualify for protection under M.S. 13.82 Subdivision 17
12. Response or incident report number

(b) Request for Service Data (I.C.R.) (M.S. 13.82 Subdivision 3)

1. The nature of the request or the activity complained of
2. The name and address of the individual making the request unless the identity qualifies for protection under M.S. 13.82 Subdivision 17

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3. The time and date of the request or complaint
4. The response initiated and the response or incident report number

(c) Response or Incident Data (M.S. 13.82 Subdivision 6)

1. Data, time and place of the action
2. Agencies, units of agencies and individual agency personnel participating in the action unless the identities of the agency personnel qualify for protection under M.S. 13.82 Subdivision 17
3. Any resistance encountered by the agency
4. Any pursuit engaged in by the agency
5. Whether any weapons were used by the agency or other individuals
6. A brief factual reconstruction of events associated with the action
7. Names and addresses of witnesses to the agency action or the incident unless the identity of any witness qualifies for protection under M.S. 13.82 S17
8. Names and addresses of any victims or casualties unless the identities of those individuals qualify for protection under M.S. 13.82 Subd. 17
9. The names and location of the health care facility to which victims or casualties were taken
10. Response or incident report number
11. Dates of birth of the parties involved in a traffic accident
12. Whether the parties were wearing seatbelts
13. The alcohol concentration of the driver

Contents of 911 Calls (M.S. 13.82 Subd. 4)

Written transcripts of 911 calls are public data unless it contains the identity of a person protected by M.S. 13.82 Subd. 17. Release of such transcripts is the responsibility of the 911 Center and requests should be referred to them.

Inactive Investigative Data (M.S. 13.82 S7)

Inactive investigative data is public data unless the release of the data would jeopardize an ongoing investigation (M.S. 13.82 Subd. 14, or the identity of someone protected by M.S. 13.82 Subd. 17.

An investigation becomes inactive when:

- a decision is made not to pursue the case

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- expiration of the statute of limitations, or 30 years after the commission of the offense, whichever comes earliest
- all rights of appeal by the convicted person have been exhausted

805.5.2 PRIVATE DATA

(a) Photographs which are part of inactive investigative files and which are clearly offensive to common sensibilities, but the existence of the photographs shall be disclosed to any person requesting access to the inactive investigative file M.S. 13.82 Subd. 7

(b) Investigative data that identifies a victim of child abuse or neglect

(c) Inactive child abuse investigative data that relates to the alleged abuse or neglect of a child by a person responsible for the child's care

(d) Property data that uniquely describes stolen, lost, confiscated, or recovered property or property described in pawn shop transaction records

(e) Firearms data pertaining to the purchase or transfer of firearms and applications for permits to carry firearms

(f) Criminal history data obtained from the Minnesota Bureau of Criminal Apprehension

(g) Personnel data

(h) Driver's license information (M.S. 171.12 Subd. 17)

(i) Motor vehicle registration.

805.5.3 CONFIDENTIAL DATA

(a) Investigative data collected or created by a law enforcement agency in order to prepare a case against a person for a crime or civil wrong while the investigation is active

(b) Active or inactive investigative data that identifies a reporter of child abuse or neglect

(c) Arrest warrant data until the defendant is taken into custody, served with a warrant, or appears in court, except when the law enforcement agency determines that the public purpose is served by making the information public

(d) Data that reflects the processes or investigative techniques of law enforcement agencies

(e) Domestic abuse orders for protection only until they are served upon the subject

(f) The identity of a person filing a property complaint even if it results in police action, M.S. 13.44 Subd. 1

NOTE: Law enforcement agencies are not prohibited from exchanging pertinent information in initiating, furthering, or completing an investigation.

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Any law enforcement agency may release confidential information to the public if the agency determines it will aid the law enforcement process, promote public safety, or dispel widespread rumor or unrest.

805.5.4 RESPONSIBLE AUTHORITY

The City employee responsible for the conformance with the Data Practices Act regarding the collection, use, and dissemination of all data in the City of Duluth is established by City Council resolution.

805.5.5 CRIMINAL AND CIVIL REMEDIES

(a) Any person who willfully violates the provisions of the Minnesota Government Data Practices Act (Chapter 13, M.S.A.) is guilty of a misdemeanor and constitutes just cause for suspension without pay or dismissal of the public employee.

(b) Any person or representative of a decedent who suffers any damage as a result of a violation of the Minnesota Data Practices Act may sue for civil damages.

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Protected Information

806.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Duluth Police Department. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the government data information covered in the Records Release and Security Policy.

806.1.1 DEFINITIONS

Definitions related to this policy include:

Protected information - Any information or data that is collected, stored or accessed by members of the Duluth Police Department and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

806.2 POLICY

Members of the Duluth Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

806.3 RESPONSIBILITIES

The Chief of Police shall select a member of the Department to coordinate the use of protected information (Minn. Stat. § 13.05, Subd. 13).

The responsibilities of this position include, but are not limited to:

(a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, the National Law Enforcement Telecommunications System (NLETS), Minnesota Division of Driver and Vehicle Services (DVS) records and the Minnesota Bureau of Criminal Apprehension (BCA).

(b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.

(c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.

(d) Developing procedures to ensure training and certification requirements are met.

(e) Resolving specific questions that arise regarding authorized recipients of protected information.

(f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

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(g) Ensuring a comprehensive security assessment of any personal information maintained by the Duluth Police Department is conducted at least annually (Minn. Stat. § 13.055, Subd. 6)

806.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Duluth Police Department policy or training (Minn. Stat. § 13.09). Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access (Minn. Stat. § 13.05).

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

806.4.1 DATA PRACTICES COMPLIANCE OFFICIAL

The Records Supervisor is the designated Data Practices Compliance Official for the Duluth Police Department. This supervisor is responsible for ensuring compliance with this procedure and with applicable records, security regulations and requirements imposed by federal and state law (Min. Stat. § 13.05 Subd. 13). The Data Practices Compliance Official will resolve specific questions that arise regarding authorized recipients of CHRI.

806.4.2 RELEASE OF CHRI

Only the persons listed below are authorized to release CHRI. Each authorized person releasing CHRI is responsible to ensure that each request granted appears legitimate and that the requester is an authorized recipient with a right and need to know.

(a) Records & Technology Manager

(b) Senior police records technicians, police records technician 2, and information technicians

(c) Personnel specifically designated in writing by Deputy Chiefs with the concurrence of the Data Practices Compliance Official

806.4.3 RELEASE OF CHRI TO FIELD PERSONNEL

Personnel shall not have access to CHRI until a background investigation has been completed and approved.

CHRI shall not generally be transmitted by radio, cellular telephone or through computer terminals to field personnel or to vehicles except for official purposes

806.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Supervisor for information regarding a formal request.

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Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Records Bureau to ensure proper documentation of the release (see the Records Release and Security Policy).

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of officers, other department members or the public is at risk.

Nothing in this policy is intended to prohibit broadcasting warrant information.

806.5.1 REVIEW OF CHRI

Members of this department shall refer individuals seeking access to CHRI to the Minnesota BCA (Minn. Stat. § 13.87, Subd. 1(b)).

806.6 SECURITY OF PROTECTED INFORMATION

The Chief of Police will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

(a) Developing and maintaining security practices, procedures and training.

(b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.

(c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.

(d) Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

806.6.1 MEMBER RESPONSIBILITIES

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

806.7 TRAINING

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies

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authorized access and use of protected information, as well as its proper handling and dissemination.

806.7.1 COMPUTER TERMINAL SECURITY
Computer terminal equipment capable of providing access to automated criminal history files (MN BCA, CCH) are managed by the Duluth Police Departments MN BCA TAC (Terminal Agency Coordinator).

No employee shall be authorized to operate computer terminal equipment with access to CHRI until the operator has completed the appropriate training.

806.7.2 DESTRUCTION OF CHRI
When any document providing CHRI has served the purpose for which it was obtained, it shall be destroyed by shredding at such time its destruction is permitted by the organization's records retention schedule.

Each employee shall be responsible for destroying the CHRI documents he/she receives.

806.8 TRAINING PROGRAM
All personnel authorized to process or release CHRI shall be required to complete a training program prescribed by the Data Practices Compliance Official and consistent with BCA requirements. The Personnel, Training, and Licensing Unit shall coordinate the course to provide training in the proper use, control and dissemination of CHRI.

806.9 PENALTIES FOR MISUSE OF RECORDS
It is a crime to obtain CHRI criminal history data in an unauthorized manner, to use the data for an unauthorized purpose, or to disclose the data to a person who is not entitled to the data (Minn. Stat. § 13.09).

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of the Conduct Policy.

Employees who obtain, or attempt to obtain, information from the Department files, other than that to which they are entitled in accordance with their official duties, is a violation of the Conduct Policy.

806.10 SECURITY BREACHES
In the event of an actual or potential breach of the security or other unauthorized acquisition of private or confidential information, the Chief of Police or designee shall ensure an investigation into the breach is made. Upon completion of the investigation and final disposition of any disciplinary action, a report containing the facts and result of the investigation shall be prepared. If the breach was conducted by an employee, contractor or agent of Duluth, the report must include a description of the type of data that was breached, the number of individuals whose information was breached, the disposition of any related disciplinary action, and the identity of the employee determined to be responsible for the breach (Minn. Stat. § 13.055).

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Written notice shall be given to any individual whose private or confidential data was, or is reasonably believed to have been, acquired by an unauthorized person as soon as reasonabley practicable. The notice shall include the following (Minn. Stat. § 13.055):

(a) Notification that an investigation will be conducted.

(b) Notification that a report containing the facts and results will be prepared.

(c) Information on how the person may obtain access to the report, including that he/she may request delivery of the report by mail or e-mail.

The notice may be delayed only so long as necessary to determine the scope of the breach and restore the reasonable security of the data or so long as it will impede an active criminal investigation. Notice shall be made by first class mail, electronic notice or substitute notice as provided in Minn. Stat. § 13.055, Subd. 4., If notification is required to be made to more than 1,000 individuals, notice to all consumer reporting agencies of the timing distribution and content of the notices must also be made (Minn. Stat. § 13.055, Subd. 5).

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Minnesota Comprehensive Incident Based Reporting System (CIBIRS) Usage Policy

807.1 PURPOSE

The purpose of the CIBRS policy is to comply with MSS 299C.40 as well as rules and policies prescribed by the Minnesota Department of Public Safety, Bureau of Criminal Apprehension (BCA), regarding the access and the use of the CIBRS database system.

807.2 DEFINITIONS

Audit - A process conducted by the staff of the Minnesota Department of Public Safety, Bureau of Criminal Apprehension whereby the Agency is assessed on their compliance with the rules specified in the user agreement.

CIBRS - The Comprehensive Incident Based Reporting System, a statewide repository of incident based data from Minnesota law enforcement agencies. This electronic data sharing program is designed to provide law enforcement access to data submitted by agencies, on a statewide level. The data is recorded by the local agency within their records management system. The data is owned and maintained by the local agency; however data that is public at the local agency will change to private data in CIBRS.

CIBRS Training Certification - Members of the Duluth Police Department authorized to access the CIBRS system will meet the training and certification requirements as prescribed in the user agreement and the CIBRS policy of the Minnesota Department of Public Safety.

Initial Certification - The BCA training program and successful completion of the examination.

Recertification - An examination which must be successfully completed every two years.

Confidential Data on Individuals - As defined in MSS 13.62, Subdivision 3, confidential data on individuals means the data which is made not public by statute or federal law applicable to the data and is inaccessible to the individual subject of the data.

Government Issued Photo ID - This includes a state issued driver's license or ID card, a certified passport, or military ID card issued by a recognized branch of the United States military.

Non-Public Data - As defined in MSS 13.02, Subdivision 9, non-public data means data not on individuals that is made by statute or federal law applicable to the data: (a) not accessible to the public; and (b) accessible to the subject, if any, of the data.

Private Data on Individuals - As defined in MSS 13.02, Subdivision 12, private data on individuals means data which is made by statute or federal law applicable to the data: (a) not public; and (b) accessible to the individual subject of the data.

Protected Non-Public Data - As defined in MSS 13.02, Subdivision 13, protected non-public data means data not on individuals which is made by statute or federal law applicable to the data: (a) not public; and (b) not accessible to the subject of the data.

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Responsible Agency - An agency that is responsible for the completeness and accuracy of a data record within the CIBRS system.

Submitting Agency - The entity responsible for ensuring the successful submission of a law enforcement agency's records to the CIBRS database.

User Agreement - A document entered into by the Minnesota Department of Public Safety and the Duluth Police Department which lists the requirements and responsibilities to be met by both entities.

807.3 ACCESS TO CIBRS BY DEPARTMENT MEMBERS

Only Department members who have completed the required training and certification and are current on their certification will be allowed to access the CIBRS system. Certification will be verified by the agency administrator for the CIBRS system.

Department members who have met the certification requirements will be allowed to access the CIBRS database solely for the purposes listed below:

(a) For the preparation of a case involving a criminal investigation being conducted by this agency.

(b) To serve process in a criminal case.

(c) To inform law enforcement of possible safety issues before service of process.

(d) To enforce no contact orders.

(e) To locate missing persons.

(f) For the purpose of conducting a pre-employment background check on a candidate for a sworn officer position.

(g) To access the data at the request of the data subject

807.4 ACCESS OF CIBRS DATA BY THE DATA SUBJECT

Individuals requesting CIBRS data on themselves must specifically ask for data contained within the CIBRS system. The individual will be given a "CIBRS Request by Data Subject" form to complete. Upon completion of the form the subject will be required to produce a government issued photo ID. The name and date of birth on the government issued photo ID must exactly match the name and date of birth listed on the CIBRS Request by Data Subject form. The exact name and date of birth will be used to query the CIBRS system. A report, which is automatically outputted to a printer, will be generated using the data subject information provided and the report will be given to the data subject. *NOTE* No record flagged as confidential within the CIBRS system shall be included in this report.

An individual may also request CIBRS data on themselves be forwarded to a third party. The subject will be given a "CIBRS Request by Data Subject for Informed Consent" form to complete. Upon completion of the form the subject will be required to produce a government issued photo ID. The name and date of birth on the government issued photo ID must exactly

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match the name and date of birth listed on the CIBRS Request by Data Subject Informed Consent Form. The exact name and date of birth will be used to query the CIBRS system. A report which is automatically outputted to a printer will be generated using the data subject information provided and given to the data subject who must then review and acknowledge the data contained within the report. To verify this, the data subject will be required to initial the CIBRSreport. If after reviewing the report, the data subject still chooses to have the report forwarded to the third party, the Duluth Police Department will assume responsibility for mailing the report to the address provided on the CIBRS Request by Data Subject Informed Consent Form.

A parent or legal guardian may also request data from the CIBRS database on their juvenile child. The steps to ensure the identity of the requesting party listed above will be followed; additionally some type of proof of parenthood should also be obtained (i.e. same address as parent on drivers license or ID, school issued ID, school records, court records, etc.)

807.5 CLASSIFICATION OF CIBRS DATA

No data contained within the CIBRS system is classified as public data, classification within the CIBRS system is as follows:

(a) Confidential/Protected Non-Public - This applies to data which relates to an active case. This data is non-public and is not accessible to the subject of the data.

(b) Private/Non-Public - This applies to data which relates to an inactive case or one which has not been updated in the CIBRS application for 120 days. This data is not accessible to the public, but is accessible to the data subject.

Only data which is Private/Non-Public will be released to the subject of the data or a third party at the request of the data subject. Data classified as Confidential/Protected Non-Public is related to an active case and will not be released to the subject of the data or a third party at their request. Requests for CIBRS data will be handled by the Chief of Police, CIBRS agency administrator, or the Support Services Supervisor.

807.6 CIBRS DATA NO LONGER NEEDED

Data which is no longer required for its intended purpose will be placed in the container to be shredded.

807.7 DATA VERIFICATION

Data obtained from the CIBRS database for the purposes of a criminal investigation and/or a pre-employment background check will be verified by contacting the responsible agency.

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807.8 CIBRS DATA CHALLENGE

Upon the Duluth Police Department's participation in the CIBRS program as a submitting agency, (Duluth PD is the responsible agency) an individual may file a data hallenge questioning the accuracy and/or completeness of the data. If a data challenge is received the following requirements must be met and actions taken:

(a) The request must be made in writing by the subject of the data and their identity must be verified through a government issued photo ID. The request must describe the nature of the inaccuracies.

(b) The challenge will be forwarded to the agency responsible authority (the Chief of Police or his/her designee.). The responsible authority will then ensure that the record(s) in question is flagged within the CIBRS database as initiated.

(c) Within 30 days the record challenge will be addressed and a determination will be made by the Chief of Police.

  (a) Sustained challenges will be corrected or deleted upon determination. A letter will be sent to the data subject informing them of the results of their challenge to the data. The Duluth Police Department Responsible Authority will then update the CIBRS database marking the record in question as having sustained that challenge.CIBRS will then automatically notify the responsible authorities of all agencies that have viewed the record in question within the last year.

  (b) If a challenge is not sustained and the data will not be altered, a letter will be sent to the data subject informing them of the results of their challenge.They will be informed that any appeal to this decision must be made to the Minnesota Department of Administration in St. Paul. The responsible authority will then see that the flag previously placed on data is changed to declined.

807.9 MISUSE OF THE CIBRS SYSTEM

Misuse of the CIBRS system is defined as:

(a) Deliberate or intentional access for purposes not authorized by MSS 299C.40.

(b) Repeated misuse whether intentional or unintentional.

(c) Intentional dissemination or failure to disseminate CIBRS data in accordance with the statute.

An employee of this department determined to have misused the CIBRS system will have their privilege to access the CIBRS system immediately revoked. The period of revocation will be determined by the Chief of Police. The employee may also be subject to additional discipline. The type of discipline and course of action will be determined by the Chief of Police.

Misuse of the CIBRS system may also carry sanctions for the employee or agency from the BCA. These sanctions will be honored and full cooperation will be given to the BCA audit staff. The BCA will conduct audits of the agency to ensure proper use of the CIBRS system. The Duluth Police Department will cooperate with the audit staff and provide the requested documents and verification.

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Computers and Digital Evidence

808.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

808.2 SEIZING COMPUTERS AND RELATED EVIDENCE

The collection, preservation, transportation, and storage of computers and related equipment requires specialized training and handling to preserve its value as evidence. If it is anticipated that computer evidence or equipment will be seized, officers should request that certified computer forensic examiners assist in seizing computers and related evidence. Officers should be aware of the potential to destroy information through careless or improper handling, and should utilize the most knowledgeable resources available. When seizing a computer and accessories the following steps should be taken:

(a) Photograph each item, front, back and surrounding desktop or office setup, specifically including cable connections to other items. Look for a telephone line or cable to a modem for Internet access.

(b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence and/or documents.

(c) If the computer is off, do not turn it on.

(d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.

    1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.

    2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery.

(e) Label each item with case number, evidence sheet number and item number.

(f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost. Items should be transported away from electromagnetic fields, (i.e., in the trunk next to police radios, etc.)

(g) Lodge all computer items into Property and Evidence. Do not store computers where normal room temperature and humidity is not maintained.

(h) At minimum, officers should document the following in related reports:

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1. Where the computer was located and whether it was in operation.
2. Who was using it at the time.
3. Who claimed ownership.
4. If it can be determined, how it was being used.

(i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (e.g., remote drives, hard drives, tape drives and disk drives) should be seized along with all media. Accessories (e.g., printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture or the equipment is proprietary (e.g., Apple keyboard and mouse) and necessary for examination of the associated media.

808.2.1 BUSINESS OR NETWORKED COMPUTERS
If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Officers should contact a forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should be done by someone specifically trained in processing computers for evidence.

808.2.2 FORENSIC EXAMINATION OF COMPUTERS
If an examination of the contents of the computer's hard drive, external drives, compact discs or any other storage media is required, certain items should be forwarded to the Local Task Force, Minnesota State Crime Lab, or other computer forensic examiner. These include:

(a) Copy of report(s) involving the computer, including the Evidence/Property sheet.

(b) Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the evidence relating to investigation or other legal authority for examination.

(c) A listing of the items to search for (e.g., photographs, financial records, E-mail, documents).

(d) A forensic copy of the media will be made; the original should be preserved as evidence.

808.3 SEIZING DIGITAL STORAGE MEDIA
Digital storage media including hard drives, floppy discs, CDs, DVDs, tapes, memory cards or flash memory devices should be seized and stored in a manner that will protect them from damage.

(a) Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation request a Property and Evidence Technician copy the contents to an appropriate form of storage media.

(b) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.

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(c) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.

(d) Use plastic cases designed to protect the media, or other protective packaging, such as anti-static packaging, to prevent damage.

808.4 SEIZING PCDS

Personal communication devices (PCD), such as cellular telephones, Personal Data Assistants (PDA) or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

(a) Officers should not attempt to access, review or search the contents of such devices prior to examination by a forensic expert. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.

(b) In major cases (i.e. homicide, kidnapping, bank robbery, etc.) do not turn the device on or off; consult with a forensic examiner as soon as possible. If an expert is not readily available, the device should be wrapped in no less than six sheets of heavy duty aluminum foil, or placed in a solid metal container, such as a paint can or in a Faraday bag to prevent the device from sending or receiving information from its host network. This places the evidence in a time-sensitive mode, and a forensic expert must be involved as soon as possible to preserve evidence, prior to discharge of the battery.

(c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined. If the batteries go dead all the data may be lost.

(d) In routine cases, devices should be powered off and the battery removed, if possible. The device should be packaged properly and stored in evidence.

(e) It is common for cell phones and other devices to be password protected. Officers should ask the owner of the device for the passwords/passcodes for the device if the owner is available.

808.5 DIGITAL EVIDENCE RECORDED BY OFFICERS

Officers handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

808.5.1 COLLECTION OF DIGITAL EVIDENCE

The approved method of collecting digital images for use as evidence is with a department issued camera. Officers having personally owned cell phones and Smart phones are discouraged from taking evidentiary photographs with those devices. Officers with phone plans partially reimbursed by the City may use those cell phones and Smart phones to take evidentiary photographs. However, officers using cell phones and Smart phones to take evidentiary photographs should be aware that the cell phone or Smart phone may be subpoenaed into a Court proceeding involving

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evidence captured by that device. The cell phone or Smart phone becomes subject to MN Chapter 13 Data Practices Law and everything in the phone is subject to discovery.

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

808.5.2 SUBMISSION OF DIGITAL MEDIA

The following are required procedures for the submission of digital media used by cameras or other recorders:

(a) The recording media (e.g., smart card, compact flash card or any other media) shall be brought to the Evidence Packaging Room Processing locker #21 or CSI mailbox as soon as reasonably possible for submission into evidence.

(b) Officers are not authorized to review or copy memory cards. The evidence technicians are the only employees authorized to copy and/or distribute digital media made from the memory cards.

(c) As soon as reasonably possible following the collection of evidence, the camera operator is to remove the memory card from his/her digital camera and place the card into a manila envelope. The camera operator shall write their name and PIN number on the outside of the envelope before placing in the Evidence Packaging Room Processing locker #21 or the CSI mailbox along with the evidence form. A Digital Evidence Form will be filled out for each case submitted.

(d) CSI will make a copy of the memory card using appropriate storage media. Once they have verified that the images properly transferred to the storage media, CSI will erase the memory card for reuse. The storage media will be marked as the original.

808.5.3 DOWNLOADING OF DIGITAL FILES

Digital information such as video or audio files recorded on devices using internal memory, that is not your department issued digital recorder, must be downloaded to storage media. The following procedures are to be followed:

(a) Files should not be opened or reviewed prior to downloading and storage.

(b) As soon as reasonable the item shall be submitted to CSI along with a Digital Evidence Form. CSI will upload the video or audio file in the same manner as it does photos.

808.5.4 PRESERVATION OF DIGITAL EVIDENCE

(a) Only evidence technicians are authorized to copy original digital media related to case documentation that is held as evidence. Only digital forensic examiners are authorized to copy original media seized as evidence. The original digital media shall remain in evidence and shall remain unaltered.

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(b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.

(c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.

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Animal Control

809.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for Animal Control Officers (ACO) and Duluth Police Department personnel in dealing with calls related to animal control and to set forth procedures regarding animal control services, the handling of injured animals and the abatement of animal nuisances.

809.1.1 TRAINING

ACOs shall successfully complete the required basic and continuing education animal control courses as approved by the Department.

809.2 ANIMAL CONTROL OFFICER RESPONSIBILITIES

The ACO shall be responsible for enforcing local, state and federal laws relating to animals and for appropriately resolving or referring animal problems as outlined in this policy (Minn. Stat. § 343.20 Subd. 5. The ACO shall be under the operational control of the Administrative Division. The ACO's assigned working hours will be scheduled by the Administrative Deputy Chief.

During hours when the ACO is on-duty, requests for animal control services shall be assigned by the Communications Center or the Watch Commander.

Requests for assistance by the ACO shall be acknowledged and responded to promptly.

809.3 OFFICER RESPONSIBILITIES

During hours when the ACO is off-duty, or if the ACO is otherwise unavailable, the following animal-related calls for service will be handled by the appropriate on-duty officer.

Officers may be dispatched to animal-related calls and should take appropriate actions to control the following situations:

(a) When there is a threat to the public safety.

(b) When an animal has bitten someone, or is aggressive, officers should take measures to confine the animal at the Duluth Animal Shelter to prevent further injury.

(c) When an animal is creating a traffic hazard.

(d) When the owner/handler has been arrested and there is no other alternative placement for the animal.

(e) When an animal is gravely injured.

An officer may remove, shelter and care for any animal that is not properly sheltered from cold, heat or inclement weather, or any animal not properly fed and watered or provided with suitable food and drink, in circumstances that threaten the life of the animal (Minn. Stat. § 343.29 Subd. 1). The animal may be euthanized following a determination by a doctor of veterinary medicine

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that the animal is suffering and is beyond cure through reasonable care and treatment (Minn. Stat. § 343.29 Subd. 2).

809.3.1 ANIMAL CRUELTY COMPLAINTS

Officers shall investigate all reports of animal cruelty and forward the information to the ACO for follow-up, pursuant to Minn. Stat. § 343.12. Officers shall not hesitate to take any immediate actions deemed necessary. The assistance of an ACO may be requested to assist with the investigation when appropriate for the purpose of handling the disposition of any animal(s) associated with the case.

Following a court order, an officer or ACO shall search the place designated in a warrant and conduct an investigation in conjunction with a veterinary doctor (Minn. Stat. § 343.22 Subd. 2).

809.3.2 STRAY DOGS

If the animal has a license or can otherwise be identified, the owner should be contacted if reasonably possible (Minn. Stat. § 343.29 Subd. 1). If a dog is taken into custody, it shall be transported to the animal shelter making sure the animal has food, water and bedding.

The Kennel Form must be completely filled out including the ICR number, and if possible include a copy of the CAD comments, and attach them to the animal's cage. Release of impounded dogs requires a fee be paid.

Once an animal has been taken into custody, all releases should be handled by the animal shelter.

809.3.3 ANIMAL BITES TO HUMANS

Officers shall obtain as much information as possible for forwarding to the ACO for follow-up. Every reasonable effort shall be made to capture and impound the animal immediately.

The following actions and enforcement by local animal control and officers are required when an animal bites a human (Minn. R. 1705.1151 and Minn. R. 1705.1152):

(a) If a dog or cat bites a human, the animal must be confined and observed for signs suggestive of rabies for 10 days or euthanized and tested for rabies. If at any time during the 10-day observation the animal dies, it must be tested for rabies. If the animal shows signs suggestive of rabies, it must be euthanized and tested for rabies.

(b) If a farm or wild animal bites a human the situation must be evaluated on an individual basis by the animal control authority in consultation with the Minnesota Department of Health.

809.3.4 PUBLIC NUISANCE CALLS RELATING TO ANIMALS

Officers shall obtain and forward to the ACO as much information as possible regarding the nature of the complaint, the complaining person, owner information (if possible) and location of problem. Officers will also document any actions taken; citation(s) issued and related report numbers.

In the event responding officers cannot fulfill urgent requests for service because the animal is difficult or dangerous to handle the ACO may be called in to handle the animal.

All requests to call in the ACO must be approved by a field supervisor or the Watch Commander.

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809.4 DECEASED ANIMALS

Deceased dogs and cats on public property will be removed and properly disposed of by the ACO. Officers will remove deceased dogs and cats when the ACO is not on-duty. The deceased animals shall be put into a plastic bag and placed in the Animal Shelter freezer.

All other deceased animal, besides dogs and cats, the officer shall contact Public Works dispatch for removal.

809.5 INJURED ANIMALS

When any injured domesticated animal is brought to the attention of a member of this agency, all reasonable attempts shall be made to contact the owner or responsible handler. When the owner or responsible handler cannot be located and the animal is not an immediate danger to the community, it may be taken to a doctor of veterinary medicine as described below.

(a) During normal business hours, the animal may be taken to an authorized veterinary care clinic.

(b) If after normal business hours, the watch commander should be notified and they shall make the decision with consultation with the ACO if the animal should be taken to an authorized veterinary emergency services clinic.

(c) The only exception to the above is when the animal is an immediate danger to the community or the owner of the animal is identified and takes responsibility for the injured animal.

(d) When it is necessary to kill a seriously injured or dangerous animal the Firearms and Qualification Policy shall be followed. The decision to dispatch the seriously injured animal will rest with the on duty Watch Commander.

(e) Injured wildlife should be referred to the nearest rehabilitation center.

(f) When handling dead or injured animals, Department employees shall attempt to identify and notify the owner of the final disposition of the animal.

(g) Each incident shall be documented, at minimum, to include the name of the reporting party and the veterinary hospital and/or person to whom the animal is released. If the ACO is off-duty, the information will be forwarded for follow-up.

809.6 CITATIONS

It should be at the discretion of the handling officer or the field supervisor as to the need for, or advisability of, the issuance of a citation for a violation.

809.7 POST-ARREST PROCEDURES

The arresting officer should make a reasonable effort to ensure that animals or pets under a person's care will be provided with adequate care when that person is arrested. This is only required when there is no person to provide care and the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animals.

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Relatives or neighbors may be contacted with the owner's consent to care for the animals. If no persons can be found or the owner does not consent, the appropriate animal control authority should be notified.

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Chapter 9 - Custody

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Custodial Searches

900.1 PURPOSE AND SCOPE

The purpose of this policy is to establish consistent Department procedures regarding frisks (pat-down searches), searches incident to arrest, booking and strip searches of arrested persons. Officers must comply with all constitutional, statutory, and case law protections granted individuals concerning arrest, search and seizure.

900.2 DEFINITIONS OF SEARCHES

Frisk (Pat-Down Search) - This is a limited type of search used by officers in the field when an officer has a reasonable suspicion that an individual may be in possession of a weapon or other potentially dangerous item. Unlike a full search, a frisk is generally limited to a patting down of the outer clothing or the area immediately accessible to the individual to check for the possible presence of a potential weapon or dangerous items that could pose a danger to the officer or others.

Custodial Search - This search involves a thorough search of an arrested individual's clothing. All pockets, cuffs and folds on the clothing are checked to locate all personal property, contraband or weapons.

Strip Search or Visual Body Cavity Search - This is a search that requires a person to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks or genitalia of such person.

Physical Body Cavity Search - This is a search that includes physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of a person, and the vagina of a female person.

900.3 FRISKS (PAT-DOWN SEARCHES)

(a) When any officer has reasonable, articulable suspicion that a person is currently engaged in criminal behavior and has reasonable, articulable suspicion that the person is in possession of weapons or other dangerous items, or in such circumstances the officer reasonably believes that the individual may present a threat to officer safety, that officer may conduct a pat down search of that individual.

(b) Whenever reasonably practicable, a frisk of an individual should be conducted by an officer of the same gender as the person being frisked. Absent the availability of a same gender officer, it is recommended that a witness officer be present during any frisk of an individual of opposite sex as the officer conducting the frisk.

900.4 BOOKING SEARCHES

(a) A person arrested shall be searched incident to the arrest. The search shall be conducted as contemporaneously to the arrest as possible.

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(b) A search of the area that was immediately under the control (wingspan) of an arrested party prior to the arrest is also subject to a custodial search.

(c) If the desired search involves an area not under the immediate control of the arrested party, employees should attempt to obtain permission to search from the person in control of the property and complete a VOLUNTARY SEARCH CONSENT FORM. It is critical to document what steps were taken to ensure the individual has control of the property and is legally entitled to consent to the search. If unable to obtain voluntary consent, the area is to be secured and a search warrant obtained. Officers are encouraged to be thorough and diligent in obtaining evidence but must comply with all constitutional, statutory, and case law restrictions. Officers have a right to seize any evidence in "plain view" when they have a legal right to be there. The criminality of the evidence must be readily apparent.

(d) An area within a motor vehicle where an arrest has been made can only be searched if done contemporaneously to the arrest. If probable cause to search the vehicle for weapons, contraband, or other evidence exists, a warrantless search may be conducted (Carroll Doctrine). A person arrested shall have all dangerous weapons, contraband, and evidence taken from them. All seized items shall be logged into the property room pursuant to the guidelines in the Duluth Police Department Evidence Operations Manual. Reasonable diligence in maintaining the physical integrity of seized property is required.

(e) All prisoners shall be handcuffed and searched prior to being transported.

900.5 STRIP SEARCHES

No person held at any Duluth Police Department facility shall be subjected to a strip search unless there is probable cause based upon specific and articulable facts to believe the person has a health condition requiring immediate medical attention or is concealing a weapon or contraband, or other evidence. Factors to be considered in determining probable cause include, but are not limited to:

(a) The detection of an object during a pat-down search that may be a weapon or contraband and cannot be safely retrieved without a modified strip search or strip search.

(b) Circumstances of a current arrest that specifically indicate the person may be concealing a weapon or contraband, or other evidence. A felony arrest charge or being under the influence of a controlled substance should not suffice as probable cause absent other facts.

(c) Custody history (past possession of contraband while in custody, assaults on staff, escape attempts).

(d) The person's actions or demeanor.

(e) Criminal history (level of experience in a custody setting).

No transgender or intersex prisoner shall be searched or examined for the sole purpose of determining the prisoner's genital status. If the prisoner's genital status is unknown, it may be determined during conversations with the prisoner, by reviewing medical records, or, if necessary,

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as part of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

Strip searches of individuals may not be conducted without a search warrant or based solely on probable cause unless a warrantless search exception is identified. Warrantless search exceptions that may apply while conducting strip searches include:

(a) Incident to lawful arrest

(b) With valid, voluntary consent

(c) Exigent circumstances

900.5.1 STRIP SEARCH PROCEDURES

Strip searches at Duluth Police Department facilities shall be conducted as follows:

(a) Verbal authorization of the assigned supervisor shall be obtained prior to the strip search.

(b) All employees involved with the strip search shall be of the same sex as the person being searched, unless the search is conducted by authorized medical personnel (28 CFR 115.115).

(c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that the search cannot be observed by persons not participating in the search. The search shall not be reproduced through a visual or sound recording.

(d) Whenever possible, a second officer of the same sex should be present during the search for security and as a witness to the finding of evidence.

(e) Employees conducting a strip search shall conduct the search methodically. Employees shall assess the demeanor of the person being searched to ensure appropriate officer safety measures are met and if appropriate, the removal of garments should be conducted with as much aid from the suspect as possible. All clothing items should be searched as they are removed.

(f) Employees conducting a strip search shall not touch the breasts, buttocks or genitalia of the person being searched. Weapons, contraband, or evidence that is concealed on the person being searched may be seized immediately if they are in a location or condition that allows for removal of the item without touching the identified areas. Employees conducting a strip search shall make efforts to obtain assistance or cooperation from person being searched to remove concealed items from their persons.

(g) If Weapons, contraband, or evidence are concealed fully or partially inside a body cavity of the person being searched, the employee shall prepare a search warrant allowing for a cavity search and the employee shall follow steps outlined in 902.6 to remove such items.

(h) The primary employee conducting the search shall prepare a written report to include:

1. The facts that led to the decision to perform a strip search.

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2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The name of the supervisor authorizing the search.
4. The name of the person who was searched.
5. The name(s) of the persons who conducted the search.
6. The name of any person present during the search.
7. The time and date of the search.
8. The place at which the search was conducted.
9. A list of the items, if any, recovered during the search.
10. The facts upon which the employee based his/her belief that the person searched was concealing a weapon, contraband, or other evidence.

(i) No employee should view a prisoner's private underclothing, buttocks, genitalia or female breasts while the prisoner is showering, performing bodily functions or changing clothes unless the prisoner otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the prisoner with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the prisoner's consent and/or otherwise protect the prisoner's privacy and dignity.

900.6 PHYSICAL BODY CAVITY SEARCH

(a) No person, absent exigent circumstances, shall be subjected to a physical body cavity search without a search warrant and approval of a supervisor.

(b) A copy of the search warrant and the results of any physical body cavity search shall be included with the related reports and made available, upon request, to the arrestee or authorized representative.

(c) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or intermediate or advanced Emergency Medical Technician (EMT) may conduct a physical body cavity search.

(d) Except for the above mentioned licensed medical personnel, persons present must be of the same gender as the person being searched. Privacy requirements, including the restricted touching of body parts, are the same as the strip search standard.

(e) If an arrested or detained person is believed to have swallowed or otherwise ingested evidence and said evidence is believed to be retained in the digestive system of the person, employees shall take immediate steps to provide first aid to the arrested person and to arrange for transportation to a medical facility. Employees shall brief the medical staff as to the circumstances of the ingestion. If required to do so, employees shall prepare a search warrant to enact medical procedures for the retrieval of the evidence. If an arrested or

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detained person ingests evidence, employees shall notify the involved supervisor as soon as practicable.

900.7 TRAINING

The Training Unit shall ensure members have training in, at a minimum (28 CFR 115.115):

- Conducting searches properly in a professional and respectful manner and in the least intrusive manner possible, consistent with security needs.
- Conducting cross-gender searches.
- Conducting searches of transgender and intersex prisoners.

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Chapter 10 - Personnel

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Reporting of Employee Convictions and Court Orders

1000.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

1000.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

Minnesota and federal law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Minn. Stat. § 518B.01).

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

1000.3 CRIMINAL CONVICTIONS

Any person convicted of a felony is prohibited from being a peace officer in the State of Minnesota. Any license of a peace officer convicted of a felony is automatically revoked (Minn. Stat. § 626.8431).

Even when legal restrictions are not imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by a member of this department may prohibit him/her from carrying out law enforcement duties.

Minn. Stat. § 624.713 prohibits ineligible persons from possessing a handgun or semi-automatic assault weapon.

1000.3.1 COURT ORDERS

All employees shall promptly notify the department if they are a party to, or have been served with, any court order from any jurisdiction.

1000.4 REPORTING PROCEDURE

All members of this department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing of any past or current criminal arrest or conviction regardless of whether the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired

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officers) in writing if the member or retiree becomes the subject of a domestic violence restraining court order or similar court order.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on administrative leave, reassignment and/or termination.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

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Police Officer Involved Domestic Abuse

1001.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for handling matters of domestic violence involving police officers. This policy will provide administrators and officers guidelines to be followed when one (or more) party to a possible domestic violence incident is an employee of the Duluth Police Department, whether sworn or civilian and of any rank, or an officer from an outside agency. The development and implementation of this policy underscores this law enforcement agency's commitment to thoughtfully and thoroughly investigating all incidences of domestic assault, and the recognition of the unique circumstances posed by police officer involved domestic violence incidents.

1001.2 POLICY

This policy takes a continuum approach, seeking first to educate, then prevent, or interdict, domestic abuse situations early on in order to reduce victimization of the partner and increase the opportunity for continued officer career stability. Where incidents of domestic violence are alleged to have occurred, the department will take immediate and thoughtful action to safeguard the victim(s), arrest the perpetrator, and conduct the appropriate parallel administrative and criminal investigations.

An officer of the Duluth Police Department convicted of a qualified domestic abuse related crime, becomes subject of a protective order, or found to be in violation of this policy is subject to departmental intervention which may include but is not limited to the following: referral to counseling services, remedial training, discipline up to and including termination.

1001.3 DEFINITIONS, CODES, AND STATUTES

1001.3.1 DOMESTIC ABUSE

Minnesota Statute §518B.01 Subd 2(a) defines domestic abuse, if committed against a family or household member by a family or household member, as follows:

- physical harm, bodily injury or assault; the infliction of fear of any of the following: imminent physical harm, bodily injury or assault;
- terroristic threats within the meaning of Minnesota Statute §609.713, Subd 1;
- criminal sexual conduct in the first, second, third, fourth, or fifth degree (Minnesota Statutes §609.342, §609.343, §609.344, §609.345, and §609.3451);
- interference with an emergency call within the meaning of Minnesota Statute §609.78, Subd. 2.

1001.3.2 FAMILY OR HOUSEHOLD MEMBERS

Family or household members are defined in Minnesota Statute §518b.01 Subd 2 as:

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- spouses and former spouses;
- parents and children;
- persons related by blood;
- 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;
- 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;
- persons involved in a significant romantic or sexual relationship. (In determining whether or not a significant romantic or sexual relationship exists, the court shall consider the length of time of their relationship, type of relationship, frequency of interaction between the persons, and if the relationship has terminated, the length of time since the termination).

1001.3.3 PROBABLE CAUSE
A belief, based on an officer's observations and reasonable judgment, and statements by parties and witnesses involved, that a crime occurred and the subject committed the crime.

1001.3.4 SELFE DEFENSE
Reasonable force used by any person in resisting or aiding another to resist an offense against the person (M.S. 609.06 Subd. 1(3). The use of force must be reasonable for that person given the nature of the threat. Reasonable force to defend oneself does not include seeking revenge or punishing the other party.

1001.3.5 PREDOMINANT AGGRESSOR
In the absence of self-defense, the family or household member who has engaged in the most immediate and significant aggression, by considering certain factors (Policy 320), including the comparative severity of injuries involved and the likelihood of future harm.

1001.3.6 US CODE, TITLE 18, PART I, CHAPTER 44, §922 (A) (1) (D) (8),
"It shall be unlawful""for any person"that "is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that €#

- (A) was issued after a hearing of which such person received actual notice, and at which such intimate partner of child; or
- (B) (i) includes a finding that such person represents a credible threat to the physical safety of intimate partner or child; or

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- (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
- (9) has been convicted in any court of a misdemeanor crime of domestic violence,
- "to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce".

1001.3.7 MN STATE STATUTE §624.713
Certain Persons Not to Possess Firearms, Subd. 1, Ineligible persons, (b), a person who has been convicted of a crime of violence."

1001.4 PROCEDURES
This policy is designed to address and/or provide the following:

- Prevention through hiring and training practices;
- Direction to supervisors for intervention when warning signs of domestic abuse are evident;
- A structured response to reported incidents of domestic abuse involving officers;
- Direction for conducting the subsequent administrative and criminal investigations.

1001.4.1 PREVENTION AND TRAINING
a. The department will adhere to a zero tolerance policy toward police officer domestic abuse. The department will provide training to officers on domestic abuse and this zero tolerance policy.

b. Additional training will be provided to supervisors and administrative personnel related to domestic abuse to include but not limited to:

- Departmental legal considerations and liability
- Media and Public Relations
- Conducting criminal investigation in incidents of domestic abuse when one or more person involved is a police officer

c. The department will establish ongoing relationships with local victim advocacy organizations to assist in prevention, training, and intervention in regard to domestic abuse issues.

1001.4.2 EARLY WARNING AND INTERVENTION
a. Pre-Hire Screening and Investigation:

- The Duluth Police Department shall conduct a thorough background investigation of all employee applicants. All candidates shall be questioned about their past to determine if any allegations, arrest and/or convictions for abuse or violence exist.
- The Department shall require as part of their psychological exam of all viable candidates a focus on indicators of violence or abusive tendencies.

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b. Department Responsibilities:

- The department shall, either in response to observed warning signs or at the request of an officer or other family member, provide non-punitive avenues of assistance to officers, their partners, and other family members before an act of domestic abuse occurs. This may include but is not limited to referral to the Employee Assistance Program. The department shall inform officers of the procedure for seeking confidential referrals to appropriate confidential counseling services.

c. Officers Responsibilities:

- Officers have a moral, ethical, and professional obligation to provide assistance to victims and to enforce the laws of the State of Minnesota. With this in mind, the department has an expectation that any officer who has knowledge of a domestic abuse incident involving a fellow officer will report that incident, fulfilling their obligation to the law and to the Duluth Police Department. A disclosure on the part of any officer, intimate partner, or family member to any member of the department that an officer, intimate partner, or family member has engaged in domestic abuse will be treated as an admission or report of a crime and shall be investigated. Officers who disclose to any member of the department that they have personally engaged in domestic violence are not entitled to confidentiality.

1001.5 SUPERVISOR RESPONSIBILITIES

a. Demonstrations of inappropriate aggressive behaviors while conducting law enforcement business shall be documented for consideration by Supervisors. These behaviors include the following: stalking and inappropriate surveillance activities, unusually high incidences of physical altercations, injuries or verbal disputes. Supervisors shall be cognizant of and document any pattern of abusive behavior potentially indicative of domestic abuse including but not limited to the following:

- excessive and/or increased use of force during arrests;
- alcohol and/or drug abuse;
- increase in controlling behaviors;
- stalking activity;
- citizen and fellow officer complaints of unwarranted aggression and/or verbal abuse;

b. When the supervisor notes a pattern of problematic behavior, the supervisor shall:

- Address the behaviors through coaching and/or progressive discipline when applicable documenting all contacts;
- Forward documented problematic behavior to the appropriate Deputy Chief through the chain of command in a timely manner.

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- If problematic behavior is observed that rises to a level where it is affecting the officer's ability to perform their job duties, the supervisor will prepare and submit a written report to their Lieutenant and the appropriate Deputy Chief requesting administrative intervention.

1001.6 DULUTH POLICE OFFICER RESPONSIBILITIES

a. Officers are encouraged and entitled to seek confidential assistance from the department and/or the Employee Assistance Program to prevent a problem from escalating to the level of criminal conduct.

b. Officers who engage in any of the following will be subject to an administrative and/or criminal investigation:

- Failure to fully document, report, or investigate an allegation of domestic abuse involving a police officer that is brought to their attention.
- Failure to cooperate with the investigation of a police officer involved domestic abuse incident.
- Interference with cases involving themselves or fellow officers.
- Intimidation/coercion of witnesses, victims, or investigating officer(s);
- Any employee who threatens harasses, or abuses someone using this department's resources such as work time, workplace telephones, fax machines, mail, e-mail, or any other means shall be subject to corrective or disciplinary action.

c. Officers who learn they are the subject of a criminal investigation regardless of jurisdiction are required to immediately notify their supervisor and provide copies of notice of the court date and time, appearances and proceedings.

d. Officers who learn they are the subject of a protective order, regardless of jurisdiction, shall immediately notify their supervisor and provide the department a current and complete copy of the order.

e. Employees of this Department will not accompany law enforcement officers or employee suspects to any domestic related court proceedings while on duty unless subpoenaed to appear or ordered to do so by their supervisor. If appearing while off duty they will neither carry nor display any department equipment, to include assigned firearms or insignias on their person, concealed or not. An officer's mere presence in domestic violence related actions may appear intimidating to a victim.

1001.7 VICTIMS OF DOMESTIC VIOLENCE WHO ARE OFFICERS

The department does not require any employees who are victims of domestic violence to report even if the abuser is an employee with this Department. However, they are strongly encouraged to make contact with the Employee Assistance Program and/or a domestic violence advocacy group for assistance. Officers who are victims of domestic violence may choose not to cooperate in an investigation in which they are the alleged victim.

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a. Officers and/or Department members are encouraged to notify their supervisor as soon as practical if they become the petitioner of a protective order:

- to have the ability to plan in advance for the protection of the employee at the work place, such as; coming to and leaving work and limiting access to the respondent of the secure areas of the work place;
- to ensure the safety of all Department employees.

1001.8 INCIDENT RESPONSE PROTOCOLS

1001.8.1 DEPARTMENTAL RESPONSE

(a) All reports of potential criminal activity implicating police officers in domestic abuse shall be documented in accordance with state statute and department policies governing the handling of any domestic abuse situation.

(b) A copy of the report detailing the potential criminal activity implicating an officer in domestic abuse shall be directed to that officer's Division Lieutenant and the appropriate Deputy Chief.

(c) All investigations shall be in accordance with the employee's labor contract and constitutional rights. Accused employees/officers will be treated with respect and in a manner that maintains the integrity of the administrative and criminal investigations. The Department will adhere to and observe all procedures to ensure the accused departmental, union, and legal rights are upheld during these investigations.

1001.8.2 PATROL RESPONSE

(a) Upon arrival on the scene of a domestic abuse incident involving a police officer, the arriving officers shall, as soon as practical, request that a supervisor be sent to the scene, regardless of whether the involved officer is a member of the Duluth Police Department or another law enforcement agency. In the case of involvement by a member of the Duluth Police Department, the responding supervisor will be of a rank superior to that of the involved officer.

- The responding officers shall perform all duties related to the investigation of Domestic Abuse as prescribed in Policy 320.
- Officers shall follow all necessary steps outlined in Policy 320 to ensure the victim's safety and protection.

1001.8.3 ON-SCENE SUPERVISOR RESPONSE

(a) A supervisor shall report to the scene of all police officer domestic abuse situations, regardless of the involved officer's jurisdiction and ensure the following:

- the responding supervisor shall ensure all guidelines regarding Policy 320 are followed;

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- in cases where probable cause is present the on-scene supervisor shall ensure an arrest is made;
- whenever a Duluth Police Officer is arrested, the supervisor shall relieve the accused officer of all service weapons;
- if the officer has left the scene prior to police arrival the supervisor will take possession of the officer's department issued duty weapon if the access to the weapon can be legally obtained;
- the supervisor shall leave a report of the incident and shall include whether or not the officer was arrested and shall include an explanation of that decision;
- the supervisor shall as soon as practical notify the involved officer's Lieutenant and the appropriate Deputy Chief of the incident.

(b) The on-scene supervisor shall ensure the victim is informed of or provided the following:

- availability of an on-scene advocate;
- confidential transportation to a shelter or other location for safety;
- procedures for obtaining an Order for Protection;
- judicial process and victim rights;
- written Information on community resources and local domestic violence victim advocacy organizations;
- all other notifications as required by law.

(c) Additional Critical Considerations:

1. When responding to a domestic abuse incident involving a police officer from another jurisdiction, the same procedures as those set out by this policy shall be followed. The supervisor shall notify the highest ranking member of the accused officer's department or their designee. All notifications and attempts to notify shall be fully documented.
    - In the event that the reportable domestic abuse incident involves a command staff member of the Duluth Police Department, or a supervisor for whom a supervisor of superior rank cannot be located for response to the scene, the supervisor shall request the St. Louis County Sheriff's Department for response to the scene.
    - In responding to domestic abuse situations where the victim is a police officer, standard domestic abuse response and investigation procedures should be followed.
    - In responding to domestic violence incidents where the parties involved are both police officers this policy will be followed. After probable cause

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and issues of self defense and/or the predominant aggressor have been determined, an arrest shall be made within statutory guidelines.

1001.8.4 DEPARTMENT FOLLOW-UP

(a) Given the circumstances of the incident and to prevent the appearance of a conflict of interest, the investigation may be turned over to an outside agency. This decision will be made by the Patrol Division Deputy Chief or designee.

(b) The Patrol Division Deputy Chief or designee shall ensure that officers who responded to a police officer domestic abuse call are debriefed in a timely manner. The debriefing shall include the following:

- A review of department confidentiality guidelines.
- A direct order prohibiting discussion of the incident outside of the official inquiry.
- A clear delineation of assignments.

1001.9 POST-INCIDENT ADMINISTRATIVE AND CRIMINAL DECISIONS

The department shall conduct separate administrative and criminal investigations of alleged incidents of police officer involved domestic abuse in a manner that maintains the integrity of both investigations. If the facts of the case indicate that domestic abuse has occurred or any departmental policies have been violated, administrative action may be taken separately and distinct from any criminal proceedings.

The department will adhere to all necessary protocols to ensure an accused officer's departmental, union and legal rights are upheld during the administrative and criminal investigations. Pending the administrative and criminal investigations for alleged acts of domestic abuse and/or violation of departmental policies, the department may assign the accused officer to administrative duties, or place them on paid administrative leave.

1001.9.1 ADMINISTRATIVE INVESTIGATION

(a) The responsibility to complete the administrative investigation of a police officer domestic abuse incident will be assigned by the Administrative/Investigative Deputy Chief or his/her designee. The Deputy Chief may also ask an outside agency to conduct the administrative investigation.

(b) When an investigation of an incident reveals officers who had knowledge of violence on the part of another officer but failed to notify the department or engaged in actions intended to interfere with the investigation, the department shall investigate the actions of those officers.

1001.9.2 CRIMINAL INVESTIGATIONS AND DECISIONS

(a) The Deputy Chief may request an independent agency to conduct the criminal investigation. If the investigation will be conducted by the Duluth Police Department the responsibility will be assigned by the Deputy Chief, or their designee.

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(b) If additional criminal activity is found to have occurred it shall be documented separately, assigned a case number, and investigated thoroughly.

(c) The department shall completely investigate the charges and where warranted, seek prosecution even if the victim recants or declines to cooperate.

1001.9.3 VICTIM SAFETY AND PROTECTION

(a) The Department shall work with community resources and advocacy agencies to provide families, and children with access to appropriate services;

(b) All victim information shall be kept confidential in accordance with data privacy laws (Chapter 13);

(c) As soon as possible following an officer involved domestic violence incident the electronic case file should be protected and only accessible to the investigative team.

1001.10 DISCIPLINARY PROCEDURES

(a) If there is just cause to discipline an officer, the appropriate Deputy Chief will do so in accordance with department practice and state law.

(b) Federal law prohibits the purchase and possession of firearms and ammunition by persons who have been convicted in any court of a "misdemeanor crime of domestic violence" and/or who are subject to certain domestic violence protective orders. 18 U.S.C. § 922(g) (8-9). The department shall ensure compliance with Federal law.

1001.11 REFERENCE

(a) Policies:

- 320

(b) Statutes:

- M.S. §518B.01; §609.06, Subd. 1; §609.2242; §609.2247; §609.341- 345; §609.713; §609.731; §609.78; §611A.36, Subd. 2; §243.166, §244.052, §344.053, §253B.18, §253B.185, Chapter 13, US Code, Title 18, Part I, Chapter 44, §922

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Peer Support

1002.1 PURPOSE AND SCOPE

The Duluth Police Department's most valuable resource is its members. The Duluth Police Department has recognized the value of providing a way for members to deal with personal and/or professional matters. This program offers a non-professional (peer) support program in addition to the current professional Employee Assistance Program (EAP). The Peer Counseling Program offers assistance and appropriate support resources to employees when personal or professional matters may negatively affect their work performance, family unit or self. This assistance is protected as private data consistent with MSS 13.43 subd. 9, 11 and is privileged in accordance with 181.973. The Peer Counseling Program's goal is to assist peers with stresses caused by personal and/or professional problems and help them to continue to be productive.

THE GOALS AND OBJECTIVES OF THIS PROGRAM ARE AS FOLLOWS:

- Provide personnel to **listen, assess, support** and whenever necessary, **refer** for professional assistance. Department members experiencing difficulty during or after personal or professional stressors.
- Promote trust, allow appropriate anonymity, and preserve confidentiality for persons using peer counselors within the guidelines of the program.
- Develop peer volunteers who can help identify personal conflicts and provide guidance or referrals to professional/alternate resources as required or requested.
- Support department members when requested, especially during times of tragedy or critical/traumatic incidents, and make appropriate referrals to professional resources as needed.

1002.2 DUTIES AND RESPONSIBILITIES

Peer counselors operate within the Peer Support Team and provide support and assistance to department members in a time of stress and crisis. Team members' responsibilities are as follows:

- Convey trust, anonymity and assure confidentiality to department members who seek assistance from the Peer Support Team.
- Attend the Peer Support Team 3-day training and periodic training thereafter.
- Provide assistance and support on a voluntary basis.
- Assist the department member by referring him/her to the Employee Assistance Program (EAP) or appropriate outside resources when necessary.
- Be available to the department member for additional follow up support as needed/requested.
- Maintain contact with the Peer Support Steering committee regarding program activities. The Peer Support Team Steering committee may gather or record the number of contacts the team makes.

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- Team members will agree to be contacted and, if practical, respond at any hour.
- Team members are encouraged to consult with the Peer Support Program Clinical Director/ Consultant for assistance in assessing presenting concerns of department members, discussing potential interventions, resources, referrals as well as self-care concerns.
- Team members must consult with the Peer Support Program Clinical Director/Consultant whenever they believe that privilege or confidentiality should be breached or if they are uncertain whether or not to do so. In the case of emergency matters or exigent circumstances the team member must contact the Peer Support Program Clinical Director/Consultant after they have made a mandated report.

1002.2.1 ROLE OF THE PEER SUPPORT TEAM STEERING COMMITTEE

The Peer Support Team Steering Committee acts as a liaison between the peer counselors, resource persons, Peer Support Program's Clinical Director/Consultant, department members and command staff. The Peer Support Team Steering Committee acts as the policy setting board for the team's operation and future direction, subject to review and approval by the Chief-of-Police. The committee serves as the link to ensure that the Peer Support Team is being managed by the members in accordance with the goals and the objectives established for the program.

Membership of the Peer Support Team Steering Committee consists of four Peer Counselors from the Duluth Police Department. The committee members should reflect gender, rank, and assignment diversity (sworn/non-sworn, patrol/ investigations/ administration/supervision, etc). The committee members shall be selected by current peer counselors and shall serve two year terms, two elected every year beginning in 2015. Steering Committee members may not serve more then three successive terms after 2015.

Major duties of the committee members include those of team members as well as those listed below:

- Work with the Clinical Director/Consultant in coordinating the peer support program.
- Recruiting and coordinating the screening of Peer Support Team applicants.
- Coordinating training for the team.
- Developing resources to assist individuals when problem areas are identified.
- Monitor and help insure that self-care remains paramount for peer support team members.
- Assist in maintaining only statistical data or reported contacts by peer support team members.

1002.2.2 ROLE OF THE PEER SUPPORT PROGRAM CLINICAL DIRECTOR/CONSULTANT

- Be a permanent member of the Peer Support Team Steering Committee.
- Be the primary liaison for matters regarding the Peer Support Program and the Duluth Police Department Employee Assistance Program.

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- Design peer support training curriculum and teach peer counselors basic and continuing (updated) curriculum.
- Coordinate follow-up care/response as needed.
- Be available to provide consultation and supervision to team members.

1002.3 REGULATIONS OF PEER SUPPORT COUNSELOR ASSIGNMENT:

- Peer counselors may voluntarily withdraw from participation at any time. They are, however, required to notify the steering committee.
- Peer support team members will be removed from participation in the program for conduct inconsistent with program policy and objectives.
- All peer counselors serve at the direction and discretion of the Peer Support Team Steering Committee and can be removed at any time for cause.
- Peer counselors will be removed from participation in the program if updated department sponsored or approved training is not attended at least once per year.
- Participation in the program is voluntary and no overtime or compensatory time will be authorized for time expended performing peer support duties- unless authorized by a Duluth Police Department supervisor.
- The peer support team is authorized to use department facilities to meet with department members as necessary.
- Team members are permitted to consult with employees on duty provided it does not infringe upon their assigned duties. If supervisor permission is needed, no names or personal identifiers will be given to the supervisor.

1002.4 REFERRALS/ACTIVATION OF SERVICES:

Referrals/Activation to the Peer Counseling Program can originate in a variety of ways. The primary goal of any referral is to assist department members in dealing with problems which are the result of domestic, financial, health, personal, or job related difficulties and to enable department members to recognize and resolve unfavorable reactions to negative situations or stress.

Referrals/Activation may occur as follow:

- A department member may personally contact any Peer Support Team member for referral to either professional counseling or a Peer Support Team member.
- Any department member aware of another member who may need assistance can initiate a referral by contacting any Peer Support Team member, or Duluth Police Department Supervisor. The referred employee will be contacted to assess their receptiveness to Peer Support intervention.
- Supervisory personnel are highly encouraged to recommend a Peer Support Team member to department members when appropriate. It must be understood that this support is

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voluntary and that a member cannot be ordered to participate. The department member shall be assured that the consultation has been arranged solely for his/her benefit and will be confidential.

- **Referrals to the Peer Counseling Program shall not be used as disciplinary sanction.**
- A family member or associate of a department member may make a referral, in which case, also, the member's participation is voluntary.

1002.5 CONFIDENTIALITY:

The acceptance and success of the Duluth Police Peer Counseling Program will be determined, in part, by observance of confidentiality. It is IMPERATIVE that each peer support team member maintains strict confidentiality of all information learned about an individual or their circumstance within the guidelines of this program.

Members must remain vigilant that anything they say, regardless of whether it was learned while acting as a peer counselor or not, may be construed as having originated during a peer support contact.

The policy of the Duluth Police Department Peer Counseling Program is to maintain the confidentiality of participants. Communication between a peer and a peer counselor is considered confidential (MSS 13.43 and 181.973) except for matters which involve the following

- Danger to self or others.
- Suspected abuse, neglect or exploitation of a child (MSS 626.556).
- Supsected abuse, neglect or exploitation of a vulnerable adult (MSS 626.557 and 626.5572)
- In cases where the law requires or mandates disclosure or reporting.
- Where divulgance is requested by the peer.

A general principle for peer counselors to follow is to inform the person (peer), prior to discussion, what the limitations and exceptions are regarding the information revealed. In cases where a question regarding confidentiality arises, the peer counselor must immediately contact the Peer Support Program Clinical Director/Consultant for direction. Peer Support Team members found violating privilege or confidentiality with respect to their duties as a peer counselor will be immediately removed from the team. Issues of mandatory reporting are not applicable to this section.

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Department Enrichment Exchange Program

1003.1 PURPOSE AND SCOPE

The purpose of the Department Enrichment Exchange Program (D.E.E.P. formerly P.E.P.) is to provide officers with an opportunity to become more familiar with investigative functions performed by units outside the Patrol Division. The Department Enrichment Exchange Program offers officers an opportunity to build their investigative skills and increase their confidence level.

Career enrichment increases organizational and employee productivity and proficiency, satisfying the needs of the employee and the department. Officers who possess a broader view of the department's mission will have a better understanding of their role in the organization, and of the importance of their role.

1003.2 PARTICIPATION AND ELIGIBILITY

Officers must have a minimum of two years experience with the Duluth Police Department to be eligible for D.E.E.P. Officers make application for a D.E.E.P. rotation by submitting a written request to their unit leader.

The affected patrol unit leaders and the divisional deputy chiefs will review the requests and select officers for a D.E.E.P. rotation. Field training officers and senior officers will be given first consideration.

1003.3 STRUCTURE

(a) Time Table

- D.E.E.P. rotations occur as Department staffing levels allow. D.E.E.P. rotations vary in length from 800 hours (20 weeks) to 1200 hours (30 weeks). Extensive leaves or time off during a D.E.E.P. assignment is discouraged.

(b) Training

- Prior to beginning their assignment, D.E.E.P. officers will receive a week of investigative orientation training. Training topics include: interview and interrogation, search warrants, search and seizure, and written statements.

(c) Assignments

- Officers may be assigned to the following units, for varying lengths of time, depending upon the goals and objectives of their D.E.E.P. assignment:
  - Violent Crimes Unit,
  - Property Crimes/Financial Crimes Unit,
  - Crime Scene Investigations,
  - Family Crimes Unit,

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- SIU/GSF, and
- Crash Investigations

(d) Scheduling

- Officers assigned to D.E.E.P. work a schedule consistent with the unit to which they are temporarily assigned.

(e) Attire

- D.E.E.P. officers are to observe the non-uniform dress code when rotating through a non-uniform unit (Policy 1046 - Uniform Regulations).

(f) Supervision

- Investigative unit leaders are responsible for supervising officers assigned to their unit on a temporary P.E.P. rotation. As appropriate, investigative unit leaders should assign a secondary investigator when a D.E.E.P. officer receives a case assignment which they may not have time to complete.
- The Officer Development Unit is responsible for overall coordination and implementation of the D.E.E.P.

1003.4 OBJECTIVES

D.E.E.P. officers will have opportunities to observe and conduct various investigative activities and duties. These experiences should lead to the achievement of the following objectives:

- understand the importance of complete, concise and accurate initial reports;
- have the ability to prepare detailed crime scene documentation;
- learn how to use photographic and in-person line-ups for suspect identification;
- demonstrate ability to obtain thorough written statements from victims, witnesses, and suspects;
- conduct suspect interrogations in a custodial and non-custodial setting;
- demonstrate proper evidence collection, packaging, processing and analysis routing;
- evaluate initial reports for continuing investigation;
- identify and utilize information and data resources used by investigators to develop or expand leads;
- demonstrate ability to complete thorough case notes and investigative reports;
- demonstrate knowledge of, and ability to, make necessary and appropriate referrals to other agencies (schools, social services, medical, etc.);

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- understand classes of data, which will enable them to make correct judgments when releasing data;
- developing understanding of specialized equipment used to support the investigative function;
- knowledge of search warrants, to include writing and execution of warrants; and
- demonstrate ability to complete a criminal investigation to include preparing a case for presentation to the prosecuting attorney and court testimony.

Investigative unit leaders should structure D.E.E.P. work assignments to ensure the unit rotation provides a meaningful work experience which supports the program objectives.

1003.5 EVALUATION AND DOCUMENTATION

Officers are required to complete an evaluation after each unit rotation. The evaluations should focus on the officer's work experiences and the learning value of the rotation; identifying how the rotation helped meet the program objectives and the officer's individual expectations and objectives.

The evaluations are not intended for evaluation of individual unit members, leaders or of the unit operations. The Officer Development Unit creates and retains the evaluations.

Officers are encouraged to also maintain a daily journal of activities and observations which can be used as a reference and resource after the D.E.E.P. rotation is completed.

1003.6 PROGRAM ASSESSMENT

The Officer Development Unit will meet twice a year, when D.E.E.P. is active, with unit leaders involved in D.E.E.P. An assessment meeting will be held after a D.E.E.P. rotation to assess the rotation; a planning meeting will be held prior to a D.E.E.P. rotation to facilitate program development.

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Internal Investigations

1004.1 PURPOSE AND SCOPE

This Order establishes a departmental procedure for the initiation and investigation of concerns and complaints involving any employee of the Duluth Police Department. The purpose of this policy is to provide citizens with a fair and effective avenue to voice their legitimate grievances against the actions of the Police Department, yet to protect Department employees from false charges of misconduct and wrongdoing.

It is the policy of this Department to investigate all concerns, allegations of crime, and misconduct concerning Department employees. Concerns, complaints and allegations will be accepted from any source including internal, external, and anonymous sources.

All information obtained must be treated confidentially. The release of information will be in accordance with the Minnesota Data Practices Act and other applicable statutes.

1004.1.1 OBJECTIVES

(a) Protection of the Employee: Every employee has an absolute right to be protected against false allegations of criminal activity or misconduct. This can only be accomplished by means of a structured, confidential investigation that is thorough and impartial. If a complaint made against an officer is knowingly false, the Department may seek criminal charges against the person(s) responsible for the false report. (MN SS 609.505 Subd. 2. Reporting police misconduct. (a) Whoever informs, or causes information to be communicated to, a peace officer, whose responsibilities include investigating or reporting police misconduct, that a peace officer, as defined in section 626.84, subdivision 1, paragraph (c), has committed an act of police misconduct, knowing that the information is false, is guilty of a crime and may be sentenced as follows: (1) up to the maximum provided for a misdemeanor if the false information does not allege a criminal act; or (2) up to the maximum provided for a gross misdemeanor if the false information alleges a criminal act. (b) The court shall order any person convicted of a violation of this subdivision to make full restitution of all reasonable expenses incurred in the investigation of the false allegation unless the court makes a specific written finding that restitution would be inappropriate under the circumstances. A restitution award may not exceed $3,000.)

(b) Protection of the Police Department: The Police Department is evaluated and judged by the conduct of its employees. It is imperative that the entire organization not be subjected to public censure because of an individual employee.

(c) Protection of the Public: The public has every right to expect efficient, impartial public service. Any misconduct by the Department or its employees must be detected, investigated, and appropriate measures taken to correct it.

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(d) Responsibility to Accept Complaints: Every member of the Department has the responsibility, authority, and duty to accept citizen concerns/complaints concerning the Department or individual employees of the Department.

Any Department employee receiving a complaint must forward the complaining person's contact information to the involved person's unit leader or watch commander, along with any offered information, as soon as possible. It is not the responsibility of the employee receiving the complaint to gather further details. It is not appropriate to refer the complaining party to contact the unit leader or watch commander. Once the complaining individual has contacted the Department it is the Department's responsibility to contact the reporting party.

All employees are required to explain the complaint procedure to citizens upon request.

Employees receiving a complaint are prohibited from discussing the matter with anyone other than the individual to whom the complaint is referred and the person assigned to investigate the complaint.

1004.1.2 DEFINITIONS

(a) Non-disclosure Order: A written order prohibiting discussion of the incident under investigation with other Department employees, with the exception of Union representatives, clergy, attorneys, physicians, or counselors.

(b) Final Discipline: Final discipline occurs in accordance with MN SS 13.43, Subd. 2(b): A final disposition occurs when the government entity makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the government entity, or arbitrator. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. A disciplinary action does not become public data if an arbitrator sustains a grievance and reverses all aspects of any disciplinary action

(c) Concern: An allegation, even if sustained for which the employee will receive mentoring, counseling, training, or a verbal reprimand. Final disposition would not rise to the level of a written reprimand.

(d) Complaint: An allegation of misconduct on the part of an employee of the Police Department that violates Department policy and/or procedure.

(e) Misconduct: An action or omission by an employee that is not in conformance to laws, City/ Department policies, or union contracts.

(f) Disciplinary Action: Verbal reprimand reduced to writing, written reprimand, suspension, demotion, or termination.

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(g) Formal Statement: A recorded interview of an employee taken as part of an administrative investigation which could result in discipline regarding the employee.

(h) Administrative Hearing: (Loudermill hearing) A meeting involving the employee, union representation if desired, and the Lieutenant, Deputy Chief, or Chief who has been predetermined to review the summary of the administrative investigation, allow the employee to provide a voluntary statement, and determine a finding and final discipline (Section 1004.4).

(i) Finding: A determination that the allegation is unfounded, the employee is exonerated, the allegation is not sustained, the actions occurred but is the result of a policy failure, or the allegation is sustained (Section 1004.4.1).

(j) Disposition: The course of action taken at the conclusion of the administrative hearing after determining the finding. Dispositions, in order of severity, include advising, counseling, training, verbal reprimand, written reprimand, suspension, demotion, termination.

(k) Administrative Leave: Paid leave which does not indicate an employee is guilty of misconduct.

1004.2 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

Concerns are defined as an allegation, even if sustained for which an employee would only receive advising, counseling, training, or a verbal reprimand. A sustained finding of a concern would not rise to the level of a written reprimand. Per contract discipline begins at verbal reprimand reduced to writing so concerns would be up to and including verbal reprimands not reduced to writing.

ARTICLE 35 - DISCIPLINARY ACTION

35.1 Employees shall have the right to a Union representative present during all disciplinary proceedings or hearings conducted by the Chief or his or hers authorized representative which may result in any disciplinary action.

Concerns alleging rudeness or violations of Department policy which do not constitute a crime, a breach of civil rights, serious or repeated infractions may be handled by the employee's unit leader. The unit leader advises the employee's lieutenant. The unit leader must gather sufficient information to determine the facts and determine a finding and an appropriate course of action (Section 1004.4.1). All sustained concerns are documented in writing and placed in the employees file maintained by the unit leader. Sustained concerns are then incorporated into the employee's next regular evaluation. The separate written concerns are then discarded. Concerns which can not be sustained (unfounded, exonerated, not sustained, policy failure), are forwarded to the Officer Development Unit, without the officer's name, for compilation of statistics. The Officer Development Unit will initiate efforts to revise policies if the finding is a policy failure.

1004.3 INITIAL SUPERVISOR RESPONSIBILITIES

Once the decision has been made to initiate an internal investigation, a determination must be made whether the investigation is criminal or strictly an administrative investigation. It is generally

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advisable to conduct and complete a criminal investigation prior to beginning an administrative investigation. An infraction which cannot be handled under Section 1004.2 yet does not constitute a potential crime, requires an administrative investigation. **All criminal investigations are followed by an administrative investigation.**

The conduct and disposition of the investigation depends on its classification. Information gained in an administrative investigation cannot be used in criminal proceedings. Information gathered in a criminal investigation can be used in an administrative investigation. Therefore the criminal investigation is conducted first, followed by the required administrative investigation.

Any complaint that could result in disciplinary action requires that the unit leader complete an EMPLOYEE PERFORMANCE REPORT (EPR). The EPR is referred through the chain of command to the Administrative Lieutenant In the absence of the Administrative Lieutenant the EPR goes to the Administrative Lieutenant's unit leader. The Administrative Lieutenant is responsible for supervising and directing the investigation.

The Administrative Lieutenant advises the Deputy Chief of the involved division. The Deputy Chief is responsible for notifying the Chief on a timely basis. If an immediate action such as placing the employee on administrative leave is necessary the decision is made by a member of the Command Staff.

The administrative lieutenant, or administrative secretary, issues a control number. Control numbers are maintained by the Chief's office. The administrative lieutenant assigns an investigator. The investigator may be a Department employee, including the employees unit leader or lieutenant, the Administrative Lieutenant, or an investigator from outside the Department. Control numbers consist of the year the complaint was received followed by a four digit date (YEAR/MM/DD).

The administrative lieutenant notifies the complainant in writing that the complaint has been received and is being investigated. If the investigation is protracted the lieutenant will contact the complainant on an appropriate basis.

All documents related to the investigation are stored by the administrative lieutenant. They are released only in accordance with Data Practices. (This does not preclude the assigned investigator of having necessary copies of documents, which must be securely filed at all times).

1004.3.1 GUIDELINES FOR CRIMINAL INVESTIGATIONS

It is the responsibility of the investigator to notify the affected employee in writing that he is the subject of an internal criminal investigation. Out of consideration for the employee, notification, in person, will be attempted prior to the employee receiving written notification. Due to the confidentiality of the investigation phone messages are not allowed. Written notification must consist of a statement of the allegations and the employee's rights. Notification may be delayed if it will compromise the investigation.

Guidelines:

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(a) If there is probable cause to make a custodial arrest serious consideration must be given to placing the employee on administrative leave, regardless of whether or not an arrest is made. Allegations of a serious nature where probable cause to arrest does not exist may still require that the employee be placed on administrative leave. The decision to place an employee on administrative leave rests with a member of the Command Staff.

(b) In order to protect the accused, all internal criminal investigations should be conducted promptly and as confidentially as reasonably possible. The Administrative Lieutenant is routinely advised of progress and developments in the investigation.

(c) The investigation must be conducted within the same Constitutional parameters as any other criminal investigation. The employee is presumed innocent until evidence proves otherwise.

- Prior to questioning, if the employee is being detained he must be advised of his Miranda rights. If the employee is not being detained he must be advised that he is free to leave and that no disciplinary action will result from his refusal to answer questions. If the employee under investigation is ordered to complete a report on the incident, it is not a voluntary statement and cannot be used in a criminal proceeding. The employee has the right to be represented by counsel, but has no right to union or other representation.
- Any search or seizure of evidence must be in accordance with current case law. Search warrants should be seriously considered to ensure the admissibility of the evidence seized. Consideration should be given to sealing the search warrant when it is filed. Exception: Perishable evidence that is to be used later in an administrative investigation can be seized from the employee or from City property. Evidence obtained in this manner cannot be used for criminal prosecution.
- Unless the employee initiates the request, no polygraph can be administered, requested, or suggested.
- Physical and photo lineups may be conducted within current court guidelines. Caution should be taken to avoid using other police officers, uniformed or plain clothes, in a lineup with a Department employee.

(a) If a delay would harm the investigation, the watch commander or the employee's unit leader should begin the investigation.

(b) All statements must be recorded on the appropriate report forms. Written statements should be taken whenever possible, if the employee is not being detained. Audio and/or video taping is left to the discretion of the investigator but must meet the Scales requirement. DWI cases require the employee to be video taped as per Department policy. The employee is not prohibited from taping the interview.

(c) In all instances of alleged criminal activity where charges may result, the investigator must inform and frequently consult with the appropriate prosecuting authority. The need to inform and consult with the prosecution takes precedence over confidentiality.

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(d) Upon completion of the investigation the case is reviewed by the appropriate prosecutor. The charging decision, or decision not to charge, is made by the prosecutor. If it is discovered that the investigation was the result of an intentional false report of a crime the reporting person should be criminally charged, if possible.

All criminal investigations are followed by an administrative investigation.

1004.3.2 GUIDELINES FOR ADMINISTRATIVE INVESTIGATIONS

Administrative investigations are conducted for alleged non-criminal misconduct which can not be handled under Section 1004.2 of this chapter, and subsequent to criminal prosecutions, or the decision not to prosecute. At the beginning of an administrative investigation the Deputy Chief of the involved employee(s) determines who (Lt., Deputy Chief, or Chief) will conduct the administrative hearing. The person conducting the administrative hearing is not involved in the day to day discussions and decisions necessary to conduct the investigation. The purpose of this is to maintain the integrity of the process. This prevents them from learning information that is not pertinent to the investigation, or improperly obtained. The person conducting the administrative hearing is given a summary at the conclusion of the investigation to make the determination of findings and disposition (Section 1004.4).

It is the responsibility of the assigned investigator to notify the affected employee in writing that he is the subject of an internal criminal investigation. Out of consideration for the employee, notification, in person, will be attempted prior to the employee receiving written notification. Due to the confidentiality of the investigation phone messages are not allowed. Notification must include a notice of the investigation, identity of the assigned investigator, notice of the employee's right to representation, a reference to the employee's labor contract, the rule, law, policy, etc. that is alleged to have been violated and a non-disclosure order. The notification must be made before the employee's formal statement can be taken. Notification may be delayed if it will compromise the investigation.

Guidelines:

(a) In order to protect the accused, all administrative investigations must be conducted as confidentially as possible.

(b) The Department must receive a written, signed complaint prior to taking an employee's formal statement. Any Department member can sign the complaint. An investigation need not be delayed awaiting a signed complaint. The only delay necessary is in the taking of the subject employee's formal statement.

(c) Constitutional guarantees associated with criminal investigations do not generally apply to administrative investigations. The employee is presumed innocent until a preponderance of evidence proves otherwise. All employees must be treated with respect and dignity.

- Notification of a formal interview shall be in writing from someone in the involved employee's chain of command, this "Order to Appear," notifies the employee of the date, time and location of the interview. Notification will advise the employee of their right to union or legal

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representation. Prior to interviewing the employee, the employee must read and be read the Garrity/Tennessen Advisory in its entirety. The Garrity portion of the advisory notifies the employee that they are required to provide all job-related information requested and that the information from the interview cannot be used in a criminal proceeding. (The statement is not voluntary which prevents it from being used in a criminal proceeding.) Failure to answer the questions is considered gross insubordination and may result in disciplinary action up to, and including, termination. The Tennessen portion of the advisory informs the employee of the persons that may have access to the information provided during this compelled interview. The investigator is required to audio tape any formal statement taken.

- An employee's formal statement should be taken at a Department facility whenever possible. When not taken at a Department facility the location must be agreed upon by both the investigator and the employee.
- When possible, an employee's formal statement should be taken during scheduled work hours. The session at which the statement is taken should be of reasonable duration and provide the officer with reasonable periods of rest and personal necessity.
- Rules of evidence generally do not apply to administrative investigations. The employee must provide all germane evidence requested. Refusal to do so constitutes gross insubordination and may result in disciplinary action up to, and including, termination. While the investigator has a right to seize evidence from the employee on City property, such action is rarely necessary and should be employed with caution and reason.
- The employee can be ordered to participate in a lineup. Photo lineups may also be used. Other Department employees should not be used in physical or photo lineups, unless absolutely necessary.

(a) A polygraph examination cannot be suggested, requested, or administered unless the employee initiates the request.

(b) No disciplinary order or written reprimand may be included in the employee's personnel file unless the employee has been given a copy and the appeals process has been exhausted or expired.

(c) If the misconduct is serious enough, the employee may be placed on administrative leave by a member of the command staff.

(d) The administrative lieutenant must be continually informed on the progress of the investigation by the investigator.

(e) Upon completion of the investigation a summary is provided to the person pre-determined to conduct the administrative hearing.(Section 1004.4) The file is stored by the administrative secretary and access to it is controlled by Data Practices.

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1004.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE

Criminal and Administrative Investigations (Section 1004.3) require a finding and disposition by the person designated to conduct the administrative hearing (Loudermil Hearing). The person conducting the administrative hearing reviews the summary of the investigation, prior discipline, and the Employee Development Reports concerning the employee. Subsequent to determining a finding the employee is offered an opportunity to make a voluntary statement. A finding is made after the opportunity to make a statement is offered to the employee, or if the information provided by the employee warrants, the person conducting the hearing directs more investigation into the information provided by the employee. The finding and disposition are documented in the employee's file. The information and its release are controlled by Data Practices.

1004.4.1 ADMINISTRATIVE LEAVE

Findings

(a) Unfounded - The allegation is false or not factual.

(b) Exonerated - The allegation is true, but was consistent with policy.

(c) Not Sustained - there is insufficient evidence to prove or disprove the allegation.

(d) Policy Failure - The action is not a violation of policy but the policy is not adequate.

(e) Sustained - The allegation is supported by sufficient evidence.

Dispositions

Generally, disciplinary action should be progressive in nature; however, depending on the conduct, circumstances, and need for corrective action, one or more of the following courses of action should be taken. Disciplinary action taken should be accompanied by appropriate training.

Dispositions in ascending order:

a. Advising

Unit leaders have the responsibility and authority to immediately correct improper behavior by verbally informing the employee and explaining the proper behavior.

b. Counseling

Unit leaders have the responsibility and authority to counsel an employee when a more serious or ongoing performance problem is encountered. Counseling information should be documented and retained by the unit leader.

c. Training

Unit leaders have the responsibility and authority to recommend and/or arrange training to correct more serious or ongoing employee performance problems. Arrangements for training should be made by the unit leader through Officer Development.

d. Verbal Reprimand

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Unit leaders have the responsibility and authority to issue a verbal reprimand, reduced to writing, for a more serious breach of conduct or after counseling and training have failed to correct a performance or behavioral problem.

A. Written Reprimand

Unit leaders have the responsibility and authority to recommend a written reprimand for a serious breach of conduct or after counseling, training, or verbal reprimand have failed to correct a performance or behavioral problem. Unit leaders have the authority to issue a written reprimand. Written reprimands are summarized on Personnel Orders and posted at the completion, or expiration of the grievance process..

B. Suspensions

Lieutenants and above have the right to suspend employees for up to 240 working hours (aggregated during one calendar year, Police Contract Section 34.2) for serious breaches or when other actions have failed. Suspensions are summarized on Personnel Orders and posted at the completion, or expiration of the grievance process.

C. Demotions

The Deputy Chiefs and Chief have the ability to demote employees if warranted. Demotions are in accordance with Civil Service Rules, labor contracts, and current case law. Demotions are summarized on Personnel Orders and posted at the completion, or expiration of the grievance process..

D. Terminations

The Chief has the ability to terminate employees if warranted. Terminations are in accordance with Civil Service Rules, labor contracts, and current case law. Terminations are summarized on Personnel Orders and posted at the completion, or expiration of the grievance process..

1004.5 ALLEGATIONS OF CRIMINAL CONDUCT

The Chief has the responsibility to review all disciplinary actions. For the protection of the employee the Chief will only be privy to the information contained in the summary provided by the Administrative Lieutenant, prior discipline, and the Employee Development Reports. The Chief has the authority to amend any disciplinary action.

1004.6 ADMINISTRATIVE INVESTIGATION WITH THE EMPLOYEE

Employees may appeal any disciplinary action. Appeals must be in accordance with current labor contracts.

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Seat Belts

1005.1 PURPOSE AND SCOPE

The use of seat belts and other safety restraints significantly reduces the chance of death or injury in case of a traffic collision. This policy establishes guidelines for seat belt and child safety seat use to promote maximum operator and passenger safety, thus reducing the possibility of death or injury as the result of a motor vehicle collision. This policy will apply to all employees operating or riding in Department vehicles or aircraft (Minn. Stat. § 169.686).

1005.1.1 DEFINITIONS

Child Passenger Safety Seat System - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards set forth in 49 CFR Part 571 (Minn. Stat. § 169.685 Subd. 5 (e)).

1005.2 WEARING OF SAFETY RESTRAINTS

All employees shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle or aircraft owned, leased or rented by this department, while on- or off-duty, or in any privately owned vehicle or aircraft while on-duty. The employee operating such a vehicle or aircraft shall ensure that all other occupants, including non-employees, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Employees must be prepared to justify any deviation from this requirement.

1005.2.1 TRANSPORTING CHILDREN

An approved child passenger safety seat system should be used for all children younger than 8 years of age and shorter than 4 feet 9 inches tall (Minn. Stat. § 169.685 Subd. 5 (b)).

However, if a child passenger restraint is not available, an officer may transport the child using the standard seat belt (Minn. Stat. § 169.685 Subd. 6 (a) (2)).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance which requires careful seating and positioning of seat belts. Due to this reduced clearance, children and the child passenger safety seat system or booster seat should be secured properly in the front seat of these vehicles, provided this positioning meets the vehicle and the child passenger safety seat system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the passenger side air bag should be deactivated. If this is not possible, officers should consider arranging alternative transportation.

1005.3 TRANSPORTING PRISONERS

Prisoners should be secured in the prisoner restraint system in the rear seat of the patrol vehicle or by seat belts when a prisoner restraint system is not available. The prisoner should be in a

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seating position for which seat belts have been provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

1005.4 INOPERABLE SEAT BELTS

No Department vehicle shall be operated if the seat belt in the driver's position is inoperable. No person shall be transported in a seating position in which the seat belt is inoperable.

No person shall modify, remove, deactivate or otherwise tamper with the vehicle safety belts, except for vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Employees who discover an inoperable restraint system shall promptly report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

1005.5 VEHICLES MANUFACTURED WITHOUT SEAT BELTS

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

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Body Armor

1006.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

1006.2 POLICY

It is the policy of the Duluth Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

1006.3 ISSUANCE OF BODY ARMOR

The Training Lieutenant shall ensure that body armor is issued to all officers when the officer begins service at the Duluth Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Training Lieutenant shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

1006.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

(a) Officers shall only wear agency-approved body armor.

(b) Officers shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.

(c) Officers may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.

(d) Body armor shall be worn when an officer is working in uniform or taking part in Department range training.

(e) An officer may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

1006.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness and signs of damage, abuse and wear.

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1006.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

1006.4 USE OF FORCE COORDINATOR RESPONSIBILITIES

The Use of Force Coordinator should:

(a) Monitor technological advances in the body armor industry for any appropriate changes to Department approved body armor.

(b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.

(c) Provide training that educates officers about the safety benefits of wearing body armor.

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Commendations and Awards

1007.1 PURPOSE AND SCOPE

This General Order establishes guidelines for the acknowledgment of noteworthy and exceptional service in the performance of an employee's duties. Given the fact that the Duluth Police Department maintains a high level of professional and performance standards, recognition should be given to those police personnel that have performed their duties under remarkable conditions or in a manner that rises above department expectations.

1007.2 MERIT COMMENDATIONS

Commendation award procedures have been established to ensure proper recognition is given to Department personnel who perform their duties or services recognizably over that which is normally expected.

A. Whenever an incident warranting recognition or a written recommendation is received, the named employee's supervisor will forward the recommendation, along with details of the incident, to the Chief of Police through the chain of command.

B. A Commendation Board shall exist consisting of the Chief of Police, Deputy Chiefs, and others as assigned.

C. The Commendation Board will examine the facts and upon determining that recognition is warranted will recommend the presentation of an award in one or more of the following categories:

1. The Purple Heart

The Purple Heart medal is awarded to a member, or to a deceased member's family on behalf of a member, of the Department having been critically injured or killed, in the line-of-duty. The action stemming from the incident must have been related to a criminal suspect or while engaged in other laws enforcement duties posing a significant risk of injury or death to the officer. This award recognizes the pain and suffering of such injury or death.

2. Medal of Valor

The Medal of Valor is the department's highest honor and is awarded to a member, or a deceased member's family, who has distinguished themselves by bravery above and beyond the normal demands of law enforcement duty.

To be awarded the Medal of Valor an officer must have performed an act displaying exceptional courage and extraordinary heroism while faced with imminent or potentially imminent peril without regard to personal risk.

3. Meritorious Service Ribbon

The Meritorious Service Ribbon is awarded to any police department employee who distinguishes themselves, not by police combat, but rather through professional skill, dedication to duty/

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community or exceptional initiative or contribution to the law enforcement profession and/or agency mission.

This award may be presented to an officer or employee of another law enforcement agency qualifying under the aforementioned conditions and while aiding, assisting or working with any officer of the Duluth Police Department.

The Meritorious Service Ribbon should not be awarded in conjunction with a higher award for the same service or conduct.

4. Life Saving Ribbon

The Life Saving Ribbon is awarded to any employee of the Duluth Police Department who through their direct actions, while on or off-duty was instrumental in saving the life of another person.

This award may be presented in conjunction with a higher award.

5. Chief's Service Ribbon

The Chief's Service Ribbon is awarded to any employee of the Duluth Police Department who demonstrates exceptional skill and service in policing and/or dedication to community service which significantly promotes the mission and professional image of the Duluth Police Department.

Selection for the award is made by the Chief of Police and is awarded once annually.

6. Chief's Police-Citizen Partnership Award

This award is presented to a citizen for providing significant aid and/or assistance to law enforcement, which was demonstrated in one of the following ways:

Aided in the identification, apprehension and/or prosecution of an offender posing significant danger to the community;

Directly aided a police officer(s) who in the performance of their official duties was injured or faced an imminent potential for injury or death without regard to personal injury;

Provided substantial assistance in the resolution of a significant investigation where without such assistance, resolution would have been difficult or unlikely;

Demonstrated a significant role and partnership with the Duluth Police Department in community problem solving and promoting and improving quality of life in the community.

7. Unit Citation Award

The Unit Citation Award is presented to any distinct work group or unit of the police department who has demonstrated an ability to work as a team and resulting in an exceptional accomplishment or successful completion of a difficult project, program or investigation with the highest degree of skill and professionalism.

8. Office Commendation

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The Office Commendation may be awarded to any employee for an act of exceptional law enforcement service or significant accomplishment or achievement which brings credit to the agency and promotes professional image, above and beyond normal expectations of the employee or their required assignment and duties.

Other considerations for this award may include; recognition of excellent performance of self-initiated law enforcement duties, displaying unusual thoroughness, conscientiousness and determination.

This award generally recognizes commendable acts, proficiencies and behaviors that may not rise to the lever of higher awards but are deserving of official recognition.

D. Noteworthy Activities

Any noteworthy activity, which may not constitute a merit commendation award, should be recorded on an EMPLOYEE PERFORMANCE REPORT by the employee's unit leader.

Copies of the EMPLOYEE PERFORMANCE REPORT may be posted and distributed to the employee(s).

E. Employee of the Month

The Police Department, in conjunction with the City of Duluth Outstanding Employee Recognition Program, may nominate an Employee of the Month.

1. Nomination Any regular employee may nominate any other employee. Written nominations must be submitted to a Deputy Chief.

- Criteria for nomination shall include the following attributes:
- communication skills;
- courtesy; dedication;
- dependability;
- enthusiasm;
- flexibility;
- initiative;
- productivity;
- team player;
- versatility;
- vision.

2. Selection

An appropriate committee will be appointed by the Chief to review submissions. Approved submissions will be forwarded to the City- wide committee.

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F. Letters of Commendation and Expressions of Gratitude

Recognition of quality service by other criminal justice agencies and the public are important measures of excellence.

Any time a letter of recognition, expression of gratitude, or thank you is received, a copy will be given to the employee(s) named and included in their personnel file. Copies may be posted within the Police Department.

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Physical Fitness

1008.1 PURPOSE AND SCOPE

Physical fitness is the responsibility of each employee. All officers are mandated to maintain body weight proportionate to their height, and which allows them to perform their normal duties.

Civilian employees are also encouraged to maintain physical fitness to improve their health and morale, reduce sick leave and increase job productivity.

The following information is provided for employees to evaluate their own fitness level and voluntarily take appropriate steps to improve their overall health and fitness.

1008.2 POLICY

To carry out the Department's responsibility to provide the best possible police service to the citizens of Duluth and minimize the risk of injury or illness, all officers are encouraged to maintain a level of physical fitness that will enable them to carry out any task they may be called upon to perform.

1008.3 MEDICAL EXAMINATIONS - FREQUENCY/TYPE

Officers are required to take a medical exam prior to employment. The medical exam is provided by the City physician at the City's expense.

1008.4 USE OF EXERCISE FACILITIES

In an effort to encourage physical fitness, a fitness reimbursement plan is established by contract for sworn personnel at approved facilities. Department officers who participate in exercise programs a minimum of twice weekly are eligible for reimbursement. Officers submit documentation for reimbursement in a manner determined by the Department.

1008.5 ON-DUTY EXERCISE

The Department allows participating employees one hour of on-duty time per week for exercise. The on-duty activity must be conducted within the City limits. Exercise during work hours must be pre-arranged through the unit leader and is dependent on workload and staffing levels. Exercise may be at a facility, at the Police Exercise Facility, or an independent activity. On-duty exercise activities are not allowed during the first or last hour of an employee's shift.

1008.6 POLICE EXERCISE FACILITY

The purpose of the Police Exercise Facility is to provide police department employee's with an opportunity to maintain good physical condition, relieve stress, and be in better condition to perform their duties. Space for the facility is provided by the Department and managed by an informal committee to oversee the facility's use. Voluntary funds to provide maintenance, cleaning and additional equipment for the facility are maintained in the Duluth Police Credit Union and are

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governed by the committee. Quarterly accounts of the fund are provided to the committee and to the Administrative Lieutenant.

1008.6.1 HOURS OF OPERATION
The facility is open for use 24/hrs a day 7 days a week by any Department employee.

1008.6.2 USE OF FACILITY

(a) The weights and other items used while in the weight room are to be wiped down and put away when finished.

(b) No one shall leave any items in the weight room, (decorative items, work out equipment, personal items, etc unless it is approved by the committee.

(c) The room will be cleaned by Building Maintenance.

(d) Employees must use the facility in a safe manner and a spotter is recommended.

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Shift Exchange

1009.1 PURPOSE AND SCOPE

Police work requires 24 hours per day, 7 days per week coverage. This necessitates a work schedule that often creates an inconvenience for officers and their families. Allowing personnel to exchange shifts or portions of shifts permits more freedom for off-the-job activities, improving morale, and enabling a more normal and satisfying life.

1009.2 POLICY

Officers are allowed to exchange shifts or portions of a shift. The replacement officer must be capable of performing the duties of the officer he is replacing. The unit leader affected by the exchange must approve of the substitution.

1009.3 PROCEDURE

Officers that have arranged for a shift exchange must complete a Shift Exchange Card. The unit leader for whom the replacement officer will be working approves the exchange and records the information in the police scheduler. The Shift Exchange Card is retained by the unit leader of the affected unit. This procedure allows the unit leader to ensure that the replacement officer is appropriate for the assignment. Notification of the affected unit leader should be done as soon as possible to ensure the exchange meets the approval of the unit leader.

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Meal Periods and Breaks

1010.1 PURPOSE AND SCOPE

The Department relies upon the judgment of officers to be conscious of the image they project when taking a break. The number of officers together at a break, and the length of time taken on a break can make a very negative impression upon the public.

Certain restrictions are imposed on breaks to assist officers in maintaining a professional image and to avoid abuses of the privileges. These guidelines apply to all officers on duty outside headquarters.

Breaks will not be taken during the first hour of a shift. During a break, an officer is considered to be available for service and must be prepared to respond to any request for police service.

1010.1.1 MEAL PERIODS

Breaks

Breaks are limited to one per four hours worked (two for eight-hour employees, three for 12-hour employees). Breaks should not exceed 15 minutes and may be taken only as conditions permit.

Food Breaks

Food breaks are limited to one per eight-hour shift, two per 12-hour shift. Food breaks should not exceed 30 minutes. Officers are permitted to eat on City time, as conditions permit.

1010.1.2 RESPONSIBILITIES

Officers are required to enter a sub-status on their MDC, or phone the Communications Center whenever stopping for a break, whether at a restaurant or private home. The Communications Center is notified upon completion of breaks.

On-duty uniformed officers, outside of headquarters need to be in possession of a portable radio.

Off-duty employees appearing in court are encouraged, but not required, to carry all their duty gear, for safety reasons. Due to delays in court appearances off-duty officers may have occasion to be outside the court house for a break and are strongly encouraged to have a portable radio and all their duty gear at that time.

Plainclothes officers shall maintain radio contact with the Communications Center when taking a break outside of headquarters.

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Outside Employment

1011.1 PURPOSE AND SCOPE

This policy authorizes and regulates extra-duty employment for police officers. The Department necessarily places limits on, and prohibits some, outside employment. These requirements are essential for the efficient operation of the Police Department and for the protection of the community.

The Duluth Police Department maintains status as primary employer to all full-time sworn officers. The Department has the duty to determine if extra-duty assignments are detrimental, hinder, or conflict with the mission, operations, or image of the Department. If such circumstances exist, or there is a substantial likelihood of them arising, the Department retains the absolute right to regulate the assignments on a case-by-case basis. Nothing in this policy is intended to regulate military duty.

1011.1.1 DEFINITIONS

Extra-duty Employment: involves officers working for an employer other than the City of Duluth which involves the potential use of law enforcement powers.

Outside Employment: involves officers working for another governmental agency in a law enforcement capacity.

Non-duty Employment: involves any employment that will not require the use or potential use of law enforcement powers.

1011.2 OBTAINING APPROVAL

Extra-duty Employment

All extra-duty employment is managed by the department. Officers may engage in approved extra-duty employment involving (see Section 1040.2.1):

- traffic control;
- crowd control;
- security; and
- other functions approved by a Deputy Chief, or their designee.

Police officers are prohibited from working extra-duty under the following conditions:

For any business that is not compatible with police work; i.e., bar tending, repossession work, any establishment that on a regular basis provides adult entertainment in the form of nude, semi-nude or topless exhibitions, or any other business the police administration deem to be not compatible with police work.

Outside Agency Employment

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Officers may engage in outside employment for other law enforcement agencies only after the following conditions are met:

- The part-time, extra-duty employment is approved by the employee's Deputy Chief, or their designee.
- The officer obtains from the part-time employing agency a HOLD HARMLESS AGREEMENT on behalf of the City of Duluth (as outlined by the Duluth City Attorney's Office.)

Non-duty Employment

Officers may not engage in any non-duty employment involving an industry, business, or commercial concern of any kind that is regulated or licensed by the Duluth Police Department. Additionally officers may not engage in any non-duty employment involving:

- Process serving, bail bond agencies, collection agencies, or repossessions;
- Personnel investigations;
- Private guard companies;
- Security services (uniform or plainclothes);
- Any investigations which might require the officer to have access to confidential or private information he could obtain through the color of his authority;
- Investigations or assistance in the preparation for criminal proceedings;
- Investigations or assistance in the preparation of civil proceedings (officers may provide statements to attorneys or investigators, if the officer was involved in the Department's investigation of the incident)

1011.2.1 ELIGIBILITY

Officers are eligible for extra-duty employment provided they comply with all of the following:

a) completion of field training and certified for solo patrol (entry-level positions only), except with prior approval of the Chief or his/her designee;

b) must not be on light duty assignment, leave of absence, sick leave, administrative leave, long term disability, or disciplinary leave;

c) must be current with ALL mandatory department wide training;

d) approval of unit leader if involved in a performance improvement plan; and

e) must not work in any capacity more than 84 hours total (on-duty, overtime and extra-duty) within seven (7) consecutive days; and no more than eighteen (18) hours in any twenty-four (24) hour period.

Officers who are currently the subject of an internal or administrative investigation may have their extra-duty privileges suspended by the Administrative Lieutenant, as outlined in Policy 1020.

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Officers are responsible for monitoring their eligibility for extra-duty employment.

Extra-duty employment must be scheduled so that it does not conflict with, or adversely affect, an officer's regularly scheduled duty.

1011.2.2 CONDUCT AND PERFORMANCE

Extra-duty officers will be held to the standard of on-duty officers. All sworn personnel are subject to all policies and procedures of the Department and retain the same sworn duties as if assigned to a regular duty assignment. No officer shall use sick leave to work an extra-duty assignment.

Officers are at all times subject to the policies of the Duluth Police Department and the rules and regulations governing employees of the Duluth Police Department. A contracting agency has no authority over police personnel and is restricted to providing only general assignment of duties to be performed by the officer. Those rules never supersede Duluth Police Department policy or procedures and employers of extra duty officers should be so advised.

Extra duty officers remain under the exclusive control of the department and are accountable for strict adherence to department rules and regulations. Any conflicting rules of employers of extra duty officers should be disregarded. The officer shall refuse to perform any duties deemed to be in conflict with the guidelines established by the Duluth Police Department. Officers are prohibited from barring an individual's entrance to an establishment based exclusively on knowledge or experience obtained through their regular police duties.

As determined by the Department, officers may be recalled from extra-duty to on duty status.

If a complaint is received about an extra-duty officer working in this capacity, the supervisor who received the complaint will follow policy and procedure in investigating the complaint. On-duty supervisors may do periodic inspections at extra-duty employment locations.

1011.2.3 RATE OF PAY

Sworn police employees below the rank of lieutenant shall be paid at their contractual overtime rate (four hour minimum) with no eligibility to convert the hours worked under this policy to compensatory leave time.

1011.2.4 SELECTION AND ASSIGNMENT OF PERSONNEL

Overtime assignments shall be made on the basis of lowest accumulated hours. Overtime for extra-duty events shall be posted on a sign-up sheet in the overtime book. Selection is by lowest accumulated overtime hours, or seniority when no overtime or equal amounts of overtime, have been logged.

Unit leaders making overtime selections use the police scheduler to determine the amount of accumulated overtime of officers that have signed up for an extra-duty overtime opportunity.

The Extra Duty Coordinator will attempt to schedule extra-duty contractual police services two weeks in advance of scheduled events. Officers shall be notified of any assignment changes or cancellation as soon possible.

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1011.2.5 RESPONSIBILITY FOR EVENTS ONCE ASSIGNED

Once an officer is assigned an extra-duty overtime assignment, that officer is scheduled as working and it shall be the officer's responsibility to complete the assignment. Assignments made to extra-duty events are duty assignments. Employees are not excused from these assignments unless they have arranged a replacement or received supervisory authorization to not appear as scheduled.

If for some reason an officer is unable to cover an extra-duty assignment for which the officer has been assigned, the officer must fill the job with any available officer.

In cases of an emergency, please notify the on-duty watch commander. If the assignment is deemed to be in the interest of public safety, the on-duty watch commander will attempt to fill the assignment through call-in. Re-allocation of personnel from another extra-duty site or from an on-duty assignment is strongly discouraged.

If the shift will not be filled, the on-duty watch commander will notify the contracting employer for which the officer is scheduled to work, and advise them of the vacancy. The Extra Duty Coordinator must also be advised of the staffing change.

1011.2.6 SUPERVISION

Extra-duty events that do not have a supervisor assigned are supervised by the on-duty patrol supervisor. Some events may require the assignment of a working supervisor, which will be indicated on the posting for the detail. Events that require four or more officers will normally have a supervisor assigned as the fourth officer. The department may increase or decrease the officer/supervisor ratio if appropriate for specific events.

1011.2.7 USE OF SQUADS AND DEPARTMENT EQUIPMENT

Only marked squads will be allowed for extra-duty employment. Use of a marked squad must be requested in advance by the employer. The Extra Duty Coordinator will determine if the marked squad is reasonably required to adequately complete the job the officer(s) are hired to perform. There will be no additional fee for the use of a marked squad when approved.

Officers who are assigned a take-home marked squad are prohibited from using the squad for transportation to and from extra-duty assignments unless the use of the marked squad has been approved.

Extra-duty officers are authorized to use other department equipment (ie, Tasers, PBT) provided it doesn't conflict with equipment availability for primary officers.

1011.2.8 RADIO COMMUNICATIONS

Immediately prior to working an extra-duty assignment, each officer will notify dispatch of:

- the location,
- hours of assignment, and
- Officer PIN number.

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It is the responsibility of the Extra Duty Coordinator to ensure that extra-duty officers are entered on the work card. When working an extra-duty assignment, officers will maintain radio contact in accordance with Departmental guidelines. Officers are encouraged to conduct routine communications with dispatch by phone as much as possible.

If a violent in-progress call is dispatched which is in close proximity to a police extra-duty assignment, officers will respond as appropriate and notify dispatch of the response.

1011.2.9 PRISONER TRANSPORT

On-duty primary personnel are responsible for assisting extra-duty officers with prisoner transports.

1011.2.10 REPORTS

Officers working extra-duty assignments are required to complete incident and other Departmental reports, as required by policy, on actions taken by them during the extra-duty assignment. If additional time beyond the scheduled shift is required to complete custodial or rush reports from an extra-duty incident, supervisory approval is required.

1011.2.11 PROGRAM COORDINATION

Operation of extra-duty assignments will be the responsibility of the Extra Duty Coordinator. They are responsible for processing applications and contracts, receiving requests for Contractual Police Services, posting assignments, scheduling personnel, providing operational details, and preparing payroll information. In the absence of the Extra Duty Coordinator, their designee will perform these duties.

1011.2.12 APPROVAL OF CONTRACTING EMPLOYERS

The prospective contracting employer will describe the nature of the police services requested, number of officers, etc. The contracting employer must be able to provide the City with their federal tax ID number, and any other information that the Police Chief deems necessary in order to make a determination as to whether or not any police services will be provided and/or if approved, to what extent they will be provided. The Police Chief will have sole discretion to determine whether to provide contractual police services.

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On-Duty Injuries

1012.1 PURPOSE AND SCOPE

See the City of Duluth Policy and Proceadures On-The-Job Injuries/Illnesses(click here) section of the City Policy Manual for details.

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Personal Appearance Standards

1013.1 PURPOSE AND SCOPE

All department personnel shall present a professional appearance, as their appearance reflects on the image of the Police Department. This section is included to provide guidelines relating to appearance.

1013.2 GROOMING STANDARDS

The following standards apply to general appearance: uniforms, when worn, will be in compliance with the uniform regulations; all clothing items and uniform items will be kept neat, clean, and well pressed; leather and equipment items will be kept clean, polished and in good working order; personal hygiene will ensure personnel are clean and presentable so as not to be offensive to others.

1013.3 CLOTHING REGULATIONS

A. Sworn Personnel

Sworn personnel assigned to the Investigative-Administrative Division wear 5.11 brand tactical pants (Khaki); 5.11 brand performance polo shirts (Black, Dark Navy, or Charcoal) with approved Department logo (Please see appendix at end of this order); and black closed-toe footwear capable of accepting polish. Short-sleeved shirts are worn during Central Daylight Time and long-sleeved shirts are worn during Cen

Personnel assigned to the Investigative-Administrative Division have the option to also wear business attire. Business attire is defined as the following:

Men (Central Standard Time) ,“ During Central Standard Time, male officers assigned to the Administrative-Investigative Division may choose from the following:

- collared shirt and tie; or -
- collared shirt and sweater or sport coat (tie optional);
- and dress slacks;
- and dress style shoe, oxford, or loafer.

Men (Central Daylight Time) ,“ During Central Daylight Time, officers assigned to the Administrative-Investigative Division may choose from the following:

- Central Standard Time options; or
- short-sleeve collared shirt (tucked in, no tie);
- and dress slacks or khakis;
- and dress style shoe, oxford, or loafer.

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Female (Central Standard Time) ,“ During Central Standard Time, female officers assigned to the Administrative-Investigative Division may choose from the following:

- blouse;
- sweater;
- blazer;
- and dress slacks;
- and closed toe dress style shoe, oxford, or loafer.

Female (Central Daylight Time) ,“ During Central Daylight Time, female officers assigned to the Administrative-Investigative Division may choose from the following:

- Central Standard Time options; or
- blouse;
- shell;
- nd dress slacks or khakis;
- and closed toe dress style shoe, oxford, or loafer.

Mandatory Court dress ,“ All officers assigned to the Administrative-Investigative Division, when appearing in a court proceeding must be in a suit or sport coat and creased pant and dress shoes. Male officers must wear a tie.

B. All Personnel

All employees should report to work clean and neat in appearance and dressed in reasonable and tasteful business attire. Jeans, backless dresses, tank tops, halters, shorts, and garments made of transparent materials or designed to expose the midriff are prohibited.

C. Exceptions

On the 1st Friday of every month, casual attire is acceptable. Casual attire must be clean and without holes. Exceptions to this policy may be made for specific needs or assignments and require the approval of the unit leader. Unit leaders are responsible for monitoring these exceptions.

1013.4 HAIR REGULATIONS

The following guidelines apply to hair of the scalp and facial hair.

A. Hair of the Scalp Hair must be neat, clean, trimmed, and present a well-groomed appearance.

MALES

Male's hair is cut and styled in a manner so that hair does not:

- cover the entire ear;
- extend over the eyebrows;

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- extend beyond the top of the shirt collar;
- interfere with the wearing of headgear.

FEMALES

For safety reasons, female uniform officers' hair must be pulled back, if the length of the hair permits. Hair must not obstruct vision and not interfere with the wearing of headgear.

Wigs, when worn, shall be in conformity with the standards for natural hair.

B. Facial Hair

Mustaches shall be neatly trimmed.

Mustaches shall not:

- extend below the top of the upper lip;
- extend below the corners of the mouth;
- be worn in "handlebar" or drooping type of style.

Generally, beards and goatees are not acceptable. The Chief may authorize exceptions for medical reasons. When authorized, beards and goatees shall be neatly trimmed.

C. Sideburns

Sideburns shall be neatly trimmed and equal to each other in width and length and shall not extend below the ear lobe. Sideburns shall not be flared.

1013.5 TATTOOS

No personnel shall have any tattoos, body art, branding or intentional scarification (referred to hereinafter as" markings") visible on any part of their body while on-duty. Those with markings must be kept covered with department authorized uniform or attire.

A. Exemption

Personnel who requested in writing prior to June 2011 to be exempt from this requirement, and were approved, may disregard this regulation as long as the approved marking has not been altered and new markings added.

1013.6 JEWELRY - SWORN PERSONNEL

Watches, rings and medical alert jewelry are the only visible jewelry items sworn personnel are permitted to wear on duty.

Only female officers may wear earrings while on duty. Earrings must be the "post" or "stud" type with no hanging ornamentation. In addition, no personnel shall have "body piercing" visible on any part of their body while on-duty, with the exception of those earring types and conditions listed previously.

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1013.7 FINGERNAILS - SWORN PERSONNEL

Nails shall be trimmed to not extend more than 1/8" beyond the end of the finger.

1013.8 CLOTHING SPECIFICATION APPENDIX

CLOTHING APPENDIX:

Pants:

Men - #74251 ,# khaki

Women - #64355 ,# khaki

Shirts:

Long Sleeve - #72049 ,# black

Short Sleeve - #71049 (Men) / #61165 (Women) ,# black

Logo:

1½ inch high by 3 inch wide

Thread color "1110 Golden Rod"

Letter Style "Goudy OS 1" or similar

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Uniform Regulations

1014.1 PURPOSE AND SCOPE

All sworn officers, unless otherwise approved by the chief, are required to maintain a uniform and necessary equipment in serviceable condition.

All sworn officers assigned to, or working in, the Uniform Division will wear the authorized uniform when on duty. The Chief, Deputy Chief, Area Commanders, and lieutenants have the option of uniform or plain clothes attire. Shift lieutenants are expected to wear uniforms when their patrol crew is on-duty.

Additionally, Uniform Division officers may be directed to wear alternative clothing for the purpose of a specialized or a specific assignment. Officers assigned to the Uniform Division are not required to wear their uniform when assigned to special duty training unless otherwise directed.

1014.1.1 UNIFORM CLOTHING

The Police Labor Contract has established a Clothing Committee. All items of uniform clothing are approved by the committee. Clothing not approved by the Committee may not be worn. The Committee may authorize specific officers to utilize experimental items in order to evaluate their performance and effectiveness.

a. UNIFORM SHIRTS

Officers wear shirts approved by the Clothing Committee.

The following regulations apply to the wearing of uniform shifts:

- Department patch is worn on both sleeves, centered two inches below the shoulder seam on all uniform shirts;
- Collars will be buttoned when wearing a tie.

b. RANK INSIGNIA

Sergeants

- Sergeant stripes are worn on both sleeves and centered below the Department patch.

Lieutenants

- Lieutenants rank insignia is worn on the collar and positioned parallel to each other and one inch from the vertical edges of the collar, centered on the collar.

Deputy Chief

- Gold maple leaf is worn centered on each collar point, with the centerline of the insignia bisecting the point of the collar, one inch up from the collar point.

Chief

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- Five point star is worn centered on each collar point with the centerline of the insignia bisecting the point of the collar, one inch up from the collar point.

c. POLICE BADGE

All officers are issued a police badge to be worn on either the shirt or outer garment. A hat badge is issued for either the garrison cap or trooper cap. Police officers and sergeants are issued silver badges. Lieutenants and above ranking officers are issued gold badges. Badges are worn above the left pocket, on the outer garment, when outside headquarters. Plain clothes officers must have an appropriate means of displaying their badge, when necessary. The method is dependent upon the officer's assignment and duties in which they are engaged at the time.

d. TROUSERS

Officers wear trousers approved by the Clothing Committee. The hemline on shorts is established as one inch above the kneecap.

e. UNIFORM OUTER GARMENTS

Outer garments are designed for wear over the basic police uniform. The following outer garments are worn by Department personnel.

1. Jackets

- Jackets of dark blue cloth, fleece, or dark blue leather, lined or unlined, of a style or cut as approved by the Deputy Chief and Clothing Committee.

2. Blouse Coat

- The approved blouse coat is always worn with a tie and is used for formal occasions. The blouse coat is approved for use by the honor guard and the command staff.

3. Raincoat

- Raincoats must be a high visibility color.

4. Windbreaker

- The approved windbreaker may be worn. The Department patch will be worn on both sleeves of all outer garments, two inches below the shoulder seam. Patches are not worn on the raincoat. Patches are worn centered below the shoulder seam. Sergeants stripes shall be worn on both sleeves, centered below the Department patch. Lieutenants, Deputy Chief, and Chief insignia shall be worn on the epaulet next to the seam.

f. TIES

- Dark navy clip on ties must be worn in the absence of a black T-shirt, black dickie, or black mock turtle neck. Turtle necks and dickies may be monogrammed with "DPD". Tie clips, if worn, must match the color of the insignias and badges worn by the officer. Tie clips must represent professional decorum.

g. BODY ARMOR

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- Body armor must be worn by uniformed officers unless they are assigned to administrative duties. Body armor must be worn by officers participating in the execution of search or arrest warrants.

h. NAME TAGS

- Uniformed officers must wear either a metal name plate, or have their name embroidered above their pockets as outlined below.
- Name plates consisting of the first and last name are worn by uniformed officers. The plate is centered immediately above the top seam of the right pocket of the shirt and outer garment. Name plates are the same color as the officer's badge with black lettering; officers have the option of affixing a "Serving Since (year)" rocker below the name plate.
- Embroidered name patches are in 8mm. block letters, centered one half inch above the right shirt and jacket pocket. They consist of the first and middle initials, and full last name. The thread color is determined by the Uniform Committee.

i. HEADGEAR

The Department has authorized two styles of headgear for different seasonal use. However, officers are not restricted from wearing the garrison cap on a year-round basis.

- Garrison Cap: The approved garrison cap is a dark blue air force style (round) cap. During inclement weather the cap may be covered with an optional blue, yellow or clear plastic cover to protect it from the elements. The grommets should not be removed from the cap.
- Watch Cap: Black watch caps may be worn. The only adornment allowed on watch caps are the "DPD" logo, officer's PIN, or Department patch.
- Cap Badge: Silver for patrol officers and sergeants; Gold for lieutenants and above ranking officers.
- Cap Band: Black band with silver fastener for patrol officers; Silver band with silver fastener for sergeants; Gold band with gold fastener for lieutenants and above ranking officers.

j. FOOTWEAR

1. Shoes and Boots:

- Outer footwear worn by uniform officers must be black and of a smooth or scotch grain leather or man-made substitute. An oxford style lace-up shoe may be worn. Footwear must have either plain or capped toes and allow for the trouser legs to fall naturally outside the boot. When wearing shorts footwear must be black with black socks. Boots cannot have buckles or other adornment.
- Shoes and boots should be kept clean, polished and in good repair.
- Unusual footwear such as sandals, moccasins, canvas shoes, or clogs are prohibited.

2. Overshoes:

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- Black overshoes and rubbers may be worn. Ice cleats (e.g. Yaktraks) may be worn and must be black.

3. Socks:

- Socks which are visible must be solid color, dark blue or black. Officers required to wear socks of another color due to medical purposes should present medical certification to the Deputy Chief prior to doing so.

k. SPECIALIZED UNIFORMS

Specialized units may be authorized to wear uniform items other than those described above to compliment the unique nature of the assignment. Unit leaders of specialized units submit a proposal of their clothing/equipment standards to the Deputy Chief of their Division. The proposal must contain an explanation of the need to depart from standards set forth by this order. The proposal will then be submitted to the Clothing Committee along with the recommendation of the Deputy Chief. Subsequent to approval the written standards are distributed to unit members.

l. ADDITIONAL CLOTHING ITEMS

Officers at times may opt for additional clothing items to be worn with the basic police uniform. The following are guidelines for additional clothing worn with the police uniform.

1. Vests (non body armor)

- Dark blue or black vests may be worn with the police uniform under an outer garment.

2. Sweaters

- Sweaters as approved by the Clothing Committee may be worn with the basic police uniform during winter months. Sweaters must be equipped with Department patches on the sleeves. A badge must be displayed if the sweater is worn as an outer garment.

3. Gloves

- Gloves may be worn by uniform personnel and must be black. Black mittens may also be worn during periods of extended exposure to inclement weather.

4. Additional Extreme Weather Clothing

Officers may wish to carry and utilize additional clothing for extreme winter weather. Officers are expected to exercise good judgment in the selection and use of these items. Officers must be readily identifiable as Duluth Police Officers. These additional items must allow access to police equipment carried by the officer. The unit leader has the ultimate authority to allow or prohibit an item's use. Extreme winter weather clothing:

- Must be navy blue or black;
- Must be clean and presentable in appearance; and
- Must not interfere with the wearing, or use of, leather gear and equipment; and

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- Boots must be dark and of a conservative color.

1014.1.2 MOURNING BADGE

Uniformed employees may wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

- An officer of this department - From the time of death until midnight on the 14th day after the death.
- An officer from this state - From the time of death until midnight on the day of the funeral.
- Funeral attendee - While attending the funeral of a fallen officer.
- National Peace Officers Memorial Day (May 15) - From midnight through the following midnight.
- As directed by the Chief of Police or designee.

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Nepotism and Conflicting Relationships

1015.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

1015.1.1 DEFINITIONS

Business relationship - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder or investor in an outside business, company, partnership, corporation, venture or other transaction where the Department employee's annual interest, compensation, investment or obligation is greater than $250.

Conflict of interest - Any actual, perceived or potential conflict of interest in which it reasonably appears that a Department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

Nepotism - The practice of showing favoritism to relatives in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

Personal relationship - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

Public official - A supervisor, officer or employee vested with authority by law, rule or regulation, or to whom authority has been delegated.

Relative - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

Subordinate - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

Supervisor - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

1015.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following restrictions apply:

(a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

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1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.

(b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.

(c) Whenever reasonably possible Field Training Officers (FTOs) and other trainers will not be assigned to train relatives. FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.

(d) To avoid actual or perceived conflicts of interest members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of, or as a direct result of, any official contact.

(e) Except as required in the performance of official duties or in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive, or registered predatory offender or who engages in intentional violations of state or federal laws.

1015.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance that the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide other official information or services to any relative or other individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

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1015.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever reasonably possible. Supervisors shall also promptly notify the Chief of Police of such actual or potential violations through the chain of command.

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Personnel Early Warning System

1016.1 PURPOSE AND SCOPE

This policy is intended to address and outline the purpose, policy and procedures relative to the organization, management, and utilization of the Duluth Police Department Early Warning System, (EWS).

It is the policy of this Department to establish an Early Warning System (EWS) for tracking and reviewing incidents of risk to this agency and the involved employees. The EWS is intended to assist identifying officers and other employees whose performance warrants review and, where appropriate, intervention in circumstances that may have negative consequences for the employee, fellow employees, this Department, and/or the general public. The Department recognizes that each employee is responsible for their performance and behavior. The establishment of the EWS does not preclude the Department from imposing alternative administrative action should an employee's actions warrant it.

1016.2 GENERAL INFORMATION

The EWS offers a non-disciplinary avenue to address problems and/or performance deficiencies for an employee who may benefit from intervention.

The EWS includes options and reviews already available through use of force reporting, the disciplinary system, the performance evaluation system, and the administrative review function. The EWS ties information from these sources together in a single tracking system designed to alert supervisors to significant deviations from acceptable performance.

The system will:

1. Compile statistical information regarding citizen complaints/administrative investigations, on-duty traffic collisions, vehicular pursuits, and use of force incidents.

2. Provide a means to identify patterns of behavior to enable supervisors to address training or other needs at an early stage and improve employee performance

1016.3 EWS ACTIVATION

The EWS will be implemented with Department-wide thresholds set for each criteria entered. The system will be activated whenever:

1. Four (4) or more citizen complaints/administrative investigations within a twelve- month period.

2. Three (3) or more on-duty traffic collisions within a twelve-month period.

3. An employee has six (6) or more documented uses of force (those incidents requiring the completion of a Subject Resistance Form within a twelve-month period.

4. A combination of (6) or more of any of the above incidents in a twelve-month period.

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As data regarding EWS incident information is entered into the LEA Administrative Data Base, Department norms will develop and those numbers, regarding each type of incident that requires EWS activation, will eventually be considered when updating the thresholds.

The EWS does not relieve the supervisor of their normal responsibility to monitor and initiate a review and remedial action as warranted, of their assigned employees' performance related issues.

1016.4 ADMINISTRATION RESPONSIBLITY

Each Deputy Chief will, at minimum, conduct a semi-annual review of the early warning indicators of all employees in their division and submit an analysis of Departmental trends to the Chief of Police, along with recommendations for changes to the EWS if necessary.

When data brings the early warning indicators to the level set for a supervisory review, the appropriate Deputy Chief will notify the Officer's immediate supervisor through the chain of command and request that a review be performed. That supervisor will review the factors that prompted the EWS alert and interview the employee. The purpose of the interview will be to determine if the employee is experiencing problems that are affecting his or her work performance, what those problems are, and to explore courses of action that can be undertaken to help the employee with those problems.

The supervisor will report back to the appropriate Deputy Chief in writing with the results of the employee meeting.

1016.5 SUPERVISOR RESPONSIBILITIES

First level supervisors in all Department units are a key element in the early identification of employees with potential problems. First level supervisors will familiarize themselves with their subordinates by direct observation, review, and documentation of demeanor. Appearance and conduct on a daily basis.

Lieutenants in all Department units will have access to the EWS computer database and are responsible for the data entry of the EWS criteria. Overall evaluation of the data results is the responsibility of the appropriate Deputy Chief. If at the time of data entry the lieutenant identifies an employee who has exceeded the threshold set for the review process due to EWS indicators, they should immediately notify the appropriate Deputy Chief. At that time the review process will commence.

1016.6 REVIEW PROCESS

When a report indicates that an officer has exceeded the threshold established by this agency requiring a supervisory review, the subject's Deputy Chief, Lieutenant, and direct Supervisor shall meet to discuss the report and other relevant information and determine if corrective actions are warranted.

Reports and other relevant information may include, but are not limited to:

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1. Use of force including Discharge of Weapon reports;

2. Vehicle pursuits -- both in and out of policy;

3. Vehicle collisions;

4. Job performance, including report writing and traffic & parking enforcement;

5. Sick time usage (number of incidents, not number of days);

6. Punctuality;

7. Assaults on the officer (i.e., officer as victim);

8. Complaints lodged against employees in accordance with provisions of this agency's policy on investigation of employee misconduct, to include the following:

- Complaints lodged by one employee against another;
- Summary disciplinary actions taken against an employee by a supervisor to identify behaviors influencing complaints and actions inconsistent with Department policy and mission;
- Complaints lodged by citizens against agency personnel.

This meeting may lead to the conclusion that the officer's actions do not warrant immediate need for corrective action. The employee's supervisor will notify the employee of the EWS review and the results of the meeting.

When the EWS review of a Departmental member indicates that intervention is appropriate and/or when a supervisor makes such a determination because of routine observations, the employees' lieutenant and direct supervisor shall arrange a meeting with the Department member. Supervisors should review the report with the subject officer and encourage the subject to provide insight to the itemized incident and problems identified in the report. The affected employee shall have an opportunity to respond (the employee may choose not to respond).

1016.7 CORRECTIVE ACTION/INTERVENTION

When a EWS report indicates that an officer has exceeded the threshold established by this Department and after the supervisory review and employee meeting have taken place and Department intervention has been found to be appropriate, the Department may make recommendations that may include but are not limited to the following, or a combination of the following:

- Supervisory counseling;
- Participation in agency-authorized training, targeting personal or professional problems that the officer may be facing (e.g., communications, cultural awareness, coping with stress, anger management, report writing);

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- Field monitoring with evaluations at regular intervals set by the supervisors, not to exceed bi-monthly (every two months);
- Referral to the City Employee Assistance Program;
- Temporary reassignment or transfer;
- Physical examination;
- Psychological fitness for duty examination.

When formulating a plan for an Officer, the Officer should have input in the design of the plan. Department supervisors may use informal counseling but should document this counseling if a repeated behavior cannot be corrected. Counseling reports should be forwarded through the chain-of-command.

1016.7.1 APPROVAL OF/ADHERING TO PLAN

A report of action recommendations and justification for those recommendations shall be forwarded through the Lieutenant to the appropriate Deputy Chief, then to the Chief of Police for approval.

Once approved, the employee shall follow the plan to completion. The employee's progress shall be monitored and formally reported to the Chief at intervals prescribed by this agency. Indications of employee compliance or non-compliance, to include evidence on completion of the agreed upon plan should be forwarded to the Chief of Police for inclusion in the employee's EWS folder for future reference.

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Employee Speech, Expression and Social Networking

1017.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balance of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

1017.1.1 APPLICABILITY

This policy applies to all forms of communication including but not limited to film, video, print media, public or private speech, use of all Internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, wikis, video and other file sharing sites.

1017.2 POLICY

Because public employees occupy a trusted position in the community their statements have the potential to contravene the policies and performance of this department. Due to the nature of the work and influence associated with the law enforcement profession it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public the Duluth Police Department will carefully balance the individual employee's rights against the organization's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

1017.3 SAFETY

Employees should carefully consider the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of Duluth Police Department employees such as posting personal information in a public forum can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be expected to compromise the safety of any employee, employee's family or associates or persons that this agency has had professional contact with such as crime victims or staff of

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other organizations. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an employee.
- Disclosing the address, telephone number or email address of an employee.
- Otherwise disclosing where another employee can be located off-duty.

1017.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT

To meet the organization's safety, performance and public-trust needs the following are prohibited unless the speech is otherwise protected (for example an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

(a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Duluth Police Department or its employees.

(b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to or related to the Duluth Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Duluth Police Department or its employees.

(c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example posting statements or expressions to a website that glorify or endorse dishonesty or illegal behavior.

(d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen to jeopardize employees by informing criminals of details that could facilitate an escape or attempted escape.

(e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Duluth Police Department.

(f) Use or disclosure, through whatever means, of any not public data, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain or data classified as not public by state or federal law or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.

(g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Duluth Police

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Department on any personal or social networking or other website or web page without the express authorization of the Chief of Police.

(h) Accessing websites for non-authorized purposes or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty except in the following circumstances:

1. When brief personal communications may be warranted by the circumstances (e.g., inform family of extended hours).
2. During authorized breaks; such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

1017.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the Duluth Police Department or identify themselves in any way that could be reasonably perceived as representing the Duluth Police Department in order to do any of the following, unless specifically authorized by the Chief of Police:

(a) Endorse, support, oppose or contradict any political campaign or initiative.

(b) Endorse, support, oppose or contradict any social issue, cause or religion.

(c) Endorse, support, or oppose any product, service, company or other commercial entity.

(d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or any website.

Additionally, when it can reasonably be construed that an employee acting in his/her individual capacity or through an outside group or organization (e.g. bargaining group) is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Duluth Police Department.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off-duty. However employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

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1017.5 PRIVACY EXPECTATION

Employees forfeit any expectation of privacy with regard to e-mails, texts, or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any department technology system.

The Department reserves the right to access, audit and disclose for whatever reason any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department, including the Department e-mail system, computer network, radio or other communication system or medium or any information placed into storage on any Department system or device.

This includes records of all key strokes or web-browsing history made at any Department computer or over any Department network. The fact that access to a database, service or website requires a user name or password does not create an expectation of privacy if accessed through department computers or networks.

1017.6 TRAINING

Subject to available resources the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

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POST Licensing

1018.1 PURPOSE AND SCOPE

Maintaining a valid POST license is a critical element of an officer's ability to continue their employment and is their sole professional responsibility. Every officer and every part-time officer is required to complete the continuing education requirements to maintain a valid license every three years (Minn. R. § 6700.0900).

1018.2 RENEWAL SCHEDULE

Any officer whose license expires is not authorized to work as a peace officer until the license status is valid. Officers renew their POST licenses according to the following schedule (Minn. R. 6700.1000):

- Last name starting with A-G will renew in 2007 and every third year thereafter.
- Last name starting with H-M will renew in 2008 and every third year thereafter.
- Last name starting with N-Z will renew in 2009 and every third year thereafter.

1018.2.1 LICENSE RENEWAL CREDITS

A peace officer license may be renewed only upon the licensee or the licensee's appointing authority providing the POST board proof the licensee has successfully completed board-approved continuing education and posting of fees on or before June 30 of the year a license is due for renewal. Licensee required hours of continuing credit are (Minn. R. 6700.1000 Subd. 3):

- 6 hours for a peace officer or a part-time peace officer who has been licensed for at least six months but less than 18 months.
- 32 hours for a peace officer or a part-time peace officer who has been licensed for at least 18 months but less than 30 months.
- 48 hours for a peace officer or a part-time peace officer who has been licensed for at least 30 months.

1018.3 LICENSE PROCESS

A general schedule for the license renewal process is:

- February - The Department or officer will receive employment verification.
- March - The Department or officers are sent a license renewal application.
- June - A final notice will be sent from POST for those who have not renewed.
- June 30 - The deadline date for license renewal after which officers whose license expires will no longer be authorized to practice law enforcement or carry a firearm.

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1018.4 INACTIVE LICENSE

Officers who fail to complete the requirements will have their license placed in the #Inactive# status. The employee may then be placed in a temporary administrative assignment until their license is #Valid#. Those employees may also face administrative discipline up to and including termination.

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Locker Room Assignments

1019.1 PURPOSE AND SCOPE

To provide guidelines for the use and control of lockers assigned to City of Duluth Police Department employees. Failure to comply with this policy may result in loss of access to the Police Department locker rooms and more severe disciplinary action.

1019.2 POLICY

Each Duluth Police employee will be issued a locker. The lockers are the sole property of the City of Duluth Police Department and not the private property of employees. The employee will sign an acknowledgment for the locker, acknowledging that they are subject to the following conditions:

- Locker is provided at the discretion of the department and locker use/assignment can be terminated based on the needs of the department or at the discretion of the chief
- Duluth Police Department lockers are provided with no expectation of privacy
- All lockers are subject to inspection at the direction of the Chief of Police, or his/her designee, at any time
- Lockers shall not be marked, modified, or otherwise altered without approval of the Chief of Police, or his/her designee
- Per Policy 312, firearms stored at Headquarters must be in a secured locker
- The City of Duluth Police Department shall not be responsible for the loss of personal items contained within any locker
- Lockers shall be kept clean and in their original condition
- No stickers may be attached to the lockers.

1019.3 PROCEDURE

Any damage or unauthorized access shall be reported to a supervisor immediately.

The Chief of Police, or his/her designee, shall maintain a master list of lockers issued.

Employees are prohibited from using lockers not assigned to them.

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Attachments

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