

# Fairmont Police Department

## Policy Manual

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### **EXPECTATIONS OF SERVICE AND ADHERENCE TO LAW AND POLICY**

This policy manual of the Fairmont Police Department provides guidance and expectations for our officers and staff in our duties, expectations, and responsibilities to those we serve. Not every incident our agency may handle or experience will be covered by a policy in this manual. It is our expectation that you will adhere to the principles and expectations of this manual, local, state, and federal law, as well as your Code of Ethics and the integrity of your position with our agency.

*Chief of Police Michael Hunter*

*Fairmont Police Department*

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### **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.

**MISSION STATEMENT OF THE FAIRMONT POLICE DEPARTMENT**

*The Fairmont Police Department is committed to protecting, serving, and safeguarding the Constitutional and Civil Rights of all citizens through impartial and professional law enforcement with integrity and respect. Our officers shall be **Fair**, **Professional**, and **Dedicated** in service to our community.*



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## **Chapter 1 - Law Enforcement Role and Authority**

## Law Enforcement Authority

### 100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Fairmont Police Department to perform their functions based on established legal authority.

### 100.2 POLICY

It is the policy of the Fairmont Police Department to limit its members to only exercise the authority granted to them by law.

While this department recognizes the power of peace officers to make arrests and take other enforcement action, officers are encouraged to use sound discretion in the enforcement of the law. This department does not tolerate abuse of law enforcement authority.

### 100.3 PEACE OFFICER POWERS

Licensed officers of this department are peace officers pursuant to Minn. Stat. § 626.84 Subd. 1.

#### 100.3.1 ARREST AUTHORITY WITHIN THE JURISDICTION OF THE FAIRMONT POLICE DEPARTMENT

Arrest authority of a full-time officer or part-time officer extends to any place within the jurisdiction of the department when (Minn. Stat. § 629.34, Subd. 1 and Minn. Stat. § 629.40):

- (a) Made pursuant to a warrant.
- (b) The person is being arrested for a felony.
- (c) The person is being arrested for a non-felony crime that was attempted or committed in the officer's presence.
- (d) The person is being arrested for a non-felony crime that was not attempted or committed in the officer's presence but an arrest is permitted by statute (e.g., domestic abuse, restraining order, and no contact order violations).
- (e) The person is a juvenile committed to the custody of the commissioner of corrections and committed a felony after he/she escaped from custody (Minn. Stat. § 609.485).
- (f) There is reasonable cause to believe that the person to be arrested has committed or attempted to commit theft from a merchant (Minn. Stat. § 629.366).

The arrest authority of a part-time peace officer is applicable only while on-duty (Minn. Stat. § 629.34, Subd. 1(b)).

#### 100.3.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE FAIRMONT POLICE DEPARTMENT

Full- and part-time, on-duty officers may make an arrest outside the jurisdiction of the Fairmont Police Department (Minn. Stat. § 629.40):

- (a) Anytime the officer may by law make an arrest for a criminal offense committed within the jurisdiction of the Fairmont Police Department, and the person to be arrested escapes from custody or flees out of the officer's jurisdiction.

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- (b) Whenever the officer is authorized by a court order.
- (c) Under the same conditions as if the officer was in the jurisdiction of the department, whenever the officer is acting in the course and scope of employment.

A full-time officer's warrantless arrest 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 (see the Use of Force Policy) (Minn. Stat. § 629.40, Subd. 4). Under any other circumstances, the full-time off-duty officer is limited to the same power as are members of the general public.

An officer making an arrest should, as soon as practicable after making the arrest, notify the agency having jurisdiction where the arrest was made.

#### 100.3.3 GRANTING AUTHORITY TO OTHERS

An officer may summon the aid of private persons when making an arrest pursuant to a warrant (Minn. Stat. § 629.30).

#### **100.4 CONSTITUTIONAL REQUIREMENTS**

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

#### **100.5 INTERSTATE PEACE OFFICER POWERS**

Peace officer powers may be extended within other states:

- (a) As applicable under interstate compacts and memorandums of understanding in compliance with the laws of each state.
- (b) When an officer enters Iowa or Wisconsin in fresh pursuit of a felony subject (Iowa Code § 806.1; Wis. Stat. § 976.04).
- (c) When an officer enters North Dakota or South Dakota in pursuit of a subject who committed any offense (N.D.C.C. § 29-06-05; SDCL 23A-3-9; SDCL 23A-3-10).

Whenever an officer makes an arrest in another state, the officer shall take the offender to a magistrate or judge in the county where the arrest occurred as soon as practicable (Iowa Code § 806.2; N.D.C.C. § 29-06-06; SDCL 23A-3-12; Wis. Stat. § 976.04).

## Chief Executive Officer

### 101.1 PURPOSE AND SCOPE

The Minnesota Legislature acting through the Minnesota Board of Peace Officer Standards and Training (POST Board) has mandated that all peace officers employed within the State of Minnesota shall hold a POST Board license (Minn. Stat. § 626.846).

#### 101.1.1 CHIEF LAW ENFORCEMENT OFFICER REQUIREMENTS

Any chief law enforcement officer of this department, as defined in Minn. R. 6700.0100, shall as a condition of employment hold a license as a peace officer with the POST Board (Minn. R. 6700.0800; Minn. R. 6700.0501). The peace officer license shall be renewed every three years as required by Minn. R. 6700.1000.



## Oath of Office

### 102.1 PURPOSE AND SCOPE

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

### 102.2 POLICY

It is the policy of the Fairmont Police Department that, when appropriate, department members affirm the oath of their office as an expression of commitment to the constitutional rights of those served by the Department and the dedication of its members to their duties (Minn. Stat. § 358.05).

### 102.3 OATH OF OFFICE

Upon employment, all licensed officers 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.

### 102.4 MAINTENANCE OF RECORDS

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

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# Policy Manual

## 103.1 PURPOSE AND SCOPE

The manual of the Fairmont Police Department is hereby established and shall be referred to as the Policy Manual or the manual. The manual is a statement of the current policies, rules and guidelines of this department. All members 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 rescinded, except to the extent that portions of existing manuals, procedures, orders and other regulations that have not been included herein shall remain in effect, provided that they do not conflict with the provisions of this manual.

## 103.2 POLICY

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized that the work of 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.

### 103.2.1 DISCLAIMER

The provisions contained in the 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 Fairmont 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 members. Violations of any provision of any policy contained within this manual shall only form the basis for department administrative action, training or discipline. The Fairmont Police Department reserves the right to revise any policy content, in whole or in part.

## 103.3 AUTHORITY

The Chief of Police shall be considered the ultimate authority for the content and adoption of the provisions of this manual and shall ensure compliance with all applicable federal, state and local laws. The Chief of Police or the authorized designee is authorized to issue Departmental Directives, which shall modify those provisions of the manual to which they pertain. Departmental Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

## 103.4 DEFINITIONS

The following words and terms shall have these assigned meanings throughout the Policy Manual, 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.

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**Child**- Any person under the age of 18 years.

**City** - The City of Fairmont.

**Civilian** - Employees and volunteers who are not licensed peace officers.

**Department/FPD** - The Fairmont 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.

**Manual** - The Fairmont Police Department Policy Manual.

**May** - Indicates a permissive, discretionary or conditional action.

**Member** - Any person employed or appointed by the Fairmont Police Department including:

- Full- and part-time employees
- Licensed peace officers
- Reserve, auxiliary officers
- Civilian employees
- Volunteers.

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

**On-duty** - A member's 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, Subd. 1 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 title of the classification held by an officer.

**Shall or will** - Indicates a mandatory action.

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

**Supervisor** - A person in a position of authority that may include responsibility for hiring, transfer, suspension, promotion, discharge, assignment, reward or discipline of other department members, directing the work of other members or having the authority to adjust grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

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The term "supervisor" may also include any person (e.g., officer-in-charge, lead or senior worker) given responsibility for the direction of the work of others without regard to a formal job title, rank or compensation.

When there is only one department member on-duty, that person may also be the supervisor, except when circumstances reasonably require the notification or involvement of the member's off-duty supervisor or an on-call supervisor.

**USC-** United States Code.

#### **103.5 ISSUING THE POLICY MANUAL**

An electronic version of the Policy Manual will be made available to all members on the department network for viewing and printing. No changes shall be made to the manual without authorization from the Chief of Police or the authorized designee.

Each member shall acknowledge that he/she has been provided access to, and has had the opportunity to review the Policy Manual and Departmental Directives. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

#### **103.6 PERIODIC REVIEW OF THE POLICY MANUAL**

The Chief of Police will ensure that the Policy Manual is periodically reviewed and updated as necessary.

#### **103.7 REVISIONS TO POLICIES**

All revisions to the Policy Manual will be provided to each member on or before the date the policy becomes effective. Each member will be required to acknowledge that he/she has reviewed the revisions and shall seek clarification from an appropriate supervisor as needed.

Members are responsible for keeping abreast of all Policy Manual revisions.

The Captain will ensure that members under his/her command are aware of any Policy Manual revision.

All department members suggesting revision of the contents of the Policy Manual shall forward their written suggestions to the Captain, who will consider the recommendations and forward them to the command staff as appropriate.

## **Chapter 2 - Organization and Administration**

## Organizational Structure and Responsibility

### 200.1 PURPOSE AND SCOPE

The organizational structure of the Department is designed to create an efficient means to accomplish the mission and goals and to provide for the best possible service to the public.

### 200.2 DIVISIONS

The Chief of Police is responsible for administering and managing the Fairmont Police Department. There are three divisions in the Police Department as follows:

- Administration Division
- Patrol Division
- Investigation Division

#### 200.2.1 ADMINISTRATION DIVISION

The Administration Division is commanded by the Chief of Police, whose primary responsibility is to provide general management, direction and control for the Administration Division, including management of the department budget. The Administration Division consists of Technical Services and Administrative Services.

#### 200.2.2 PATROL DIVISION

The Patrol Division is commanded by the Captain, whose primary responsibility is to provide general management, direction and control for the Patrol Division. The Patrol Division consists of Uniformed Patrol and Special Operations, which includes Traffic, Animal Control & Code Enforcement and Police Records/Evidence Techs.

#### 200.2.3 INVESTIGATION DIVISION

The Investigation Division is commanded by the Captain whose primary responsibility is to provide general management, direction and control for the Investigation Division. The Investigation Division consists of an investigator(s).

### 200.3 COMMAND PROTOCOL

#### 200.3.1 SUCCESSION OF COMMAND

The Chief of Police exercises command over all personnel in the Department. During planned absences the Captain shall act with the authority of the Chief of Police. For circumstances in which the Chief of Police is absent, the Chief of Police will designate the Captain or other supervisor to serve as the acting commander of the Police Department.

Except when designated as above, the order of command authority in the absence or unavailability of the Chief of Police is as follows:

- (a) Captain
- (b) Shift Sergeant

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##### 200.3.2 UNITY OF COMMAND

The principles of unity of command ensure efficient supervision and control within the Department. Generally, each employee shall be accountable to one supervisor at any time for a given assignment or responsibility. Except where specifically delegated authority may exist by policy or special assignment (e.g., Canine, SWAT), any supervisor may temporarily direct any subordinate if an operational necessity exists.

##### 200.3.3 ORDERS

Members shall respond to and make a good faith and reasonable effort to comply with the lawful order of superior officers and other proper authority.

##### 200.3.4 UNLAWFUL AND CONFLICTING ORDERS

No member is required to obey any order that outwardly appears to be in direct conflict with any federal law, state law, local ordinance or department policy. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or confer with a higher authority. Responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with an order that is in conflict with a previous order, department policy or other directive, shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the order is intended to countermand the previous order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting order after having given the issuing supervisor the opportunity to correct the conflict are not held accountable for disobedience of the order or directive that was initially issued.

The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason therefore.

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## Departmental Directive and Special Orders

### 201.1 PURPOSE AND SCOPE

Departmental Directives and Special Orders 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. Departmental Directives will immediately modify or change and supersede sections of this manual to which they pertain.

#### 201.1.1 DEPARTMENTAL DIRECTIVES PROTOCOL

Departmental Directives will be incorporated into the manual as required upon approval of the Chief of Police. Departmental Directives will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the manual.

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

Any Departmental Directives 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 Departmental Directive for the year 2010.

#### 201.1.2 SPECIAL ORDERS PROTOCOL

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

### 201.2 RESPONSIBILITIES

#### 201.2.1 STAFF

The staff shall review and approve revisions of the Policy Manual, which will incorporate changes originally made by Departmental Directive.

#### 201.2.2 CHIEF OF POLICE

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

### 201.3 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES AND SPECIAL ORDERS

All employees are required to read and obtain any necessary clarification of all Departmental Directives or special orders. All employees are required to acknowledge in writing or electronically the receipt and review of any new Departmental Directive or special order.

Signed acknowledgement forms and/or e-mail receipts showing an employee's acknowledgement will be maintained by the Training Sergeant.



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## Emergency Operations Plan

### 202.1 PURPOSE AND SCOPE

The City has prepared, in compliance with the Minnesota Emergency Management Act of 1996 (Minn. Stat. § 12.09), an Emergency Operations Plan Manual. This manual is for the guidance and use by all employees in the event of a major disaster, civil disturbance, mass arrest or other emergency event. The manual provides for a strategic response by all employees and assigns specific responsibilities in the event the plan is activated.

### 202.2 ACTIVATING THE EMERGENCY OPERATIONS PLAN

The Emergency Operations Plan can be activated in a number of ways. For the Police Department, the Chief of Police, the highest ranking official on-duty or an on-scene responder may activate the Emergency Operations Plan in response to a major emergency.

#### 202.2.1 RECALL OF PERSONNEL

In the event that the Emergency Operations Plan is activated, all employees of the Fairmont Police Department are subject to immediate recall. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the Chief of Police or the authorized designee.

Failure to promptly respond to an order to report for duty may result in discipline.

### 202.3 LOCATION OF MANUALS

The manual for employees is available in Administration and the Shift Sergeant's office.

### 202.4 PLAN REVIEW

The Captain shall annually review the Emergency Operation Plan and recommend updates when applicable. The annual review, update, and approval of the plan and supporting documents must be in accord with the guidance provided by the Department of Public Safety, Division of Emergency Management and should incorporate a full or partial exercise, tabletop or command staff discussion (Minn. Stat. § 299J.10).

### 202.5 PLAN TRAINING

The Department shall provide training in the Emergency Operations Plan for all supervisors and other appropriate personnel. All supervisors should familiarize themselves with the Emergency Operations Plan and the roles police personnel will play when the plan is implemented.

## Training

### 203.1 PURPOSE AND SCOPE

It is the policy of this department to administer a training program that will meet the standards of POST continuing education and provide for the professional growth and continued development of its personnel. By doing so, the Department seeks to ensure its personnel possess the knowledge and skills necessary to provide a professional level of service that meets the needs of the public.

### 203.2 PHILOSOPHY

The Department seeks to provide ongoing training and encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels and legal mandates. Whenever reasonably possible, the Department will use courses certified by the Minnesota Board of Peace Officer Standards and Training (POST) or other regulatory or nationally recognized entities.

### 203.3 OBJECTIVES

The objectives of the Training Program are to:

- (a) Enhance the level of law enforcement service to the public.
- (b) Increase the technical expertise and overall effectiveness of Department personnel.
- (c) Provide for continued professional development of Department personnel.
- (d) Assist in compliance with POST rules and regulations concerning law enforcement training.

### 203.4 TRAINING PLAN

It is the responsibility of the Training Sergeant to develop, review, update and maintain a training plan and to ensure that mandated basic, in-service and Department-required training is completed by all employees. The plan shall include a systematic and detailed method for recording and logging of all training for all personnel. While updates and revisions may be made to any portion of the training plan at any time it is deemed necessary, the Training Sergeant shall review the entire training plan on an annual basis. The plan will include information on curriculum, training material, training facilities, course and student scheduling. The plan will address State required minimum mandated training for licensing of peace officers or hiring of non-licensed employees. The plan will also include training for volunteers that is determined to be relevant and helpful to their actions as volunteers for the Department.

Training listed may be provided in basic training programs. The Training Sergeant is responsible for ensuring members of the Department have been trained as required.

#### 203.4.1 STATE MANDATED TRAINING

State training requirements include, but are not limited to, 48 hours of POST-approved law enforcement related courses every three years.

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#### 203.4.2 TRAINING PROCEDURES

- (a) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to the following:
  - 1. Court appearances
  - 2. Previously approved vacation
  - 3. Sick leave
  - 4. Physical limitations preventing the employee's participation.
  - 5. Emergency situations
- (b) When an employee is unable to attend mandatory training, that employee shall:
  - 1. Notify his/her supervisor as soon as possible but no later than one hour prior to the start of training whenever possible.
  - 2. Document his/her absence in a memorandum to his/her supervisor.
  - 3. Make arrangements through his/her supervisor and the Training Sergeant to attend the required training on an alternate date.

#### **203.5 TRAINING NEEDS ASSESSMENT**

The Training Sergeant will conduct an annual training-needs assessment and complete a report of the training-needs assessment, including recommendations from staff. The training-needs assessment report will be provided to the Chief of Police, and supervisors. Upon review and approval by the Chief of Police, the needs assessment will form the basis for the training plan for the ensuing fiscal year.

#### **203.6 TRAINING COMMITTEE**

The Training Sergeant shall establish a Training Committee, which will serve to assist with identifying training needs for the Department.

The Training Committee shall be comprised of at least two members, with the senior ranking member of the committee acting as the chairperson. Members should be selected based on their abilities at post-incident evaluation and at assessing related training needs. The Training Sergeant may remove or replace members of the committee at his/her discretion.

The Training Committee should review certain incidents to determine whether training would likely improve future outcomes or reduce or prevent the recurrence of the undesirable issues related to the incident. Specific incidents the Training Committee should review include, but are not limited to:

- (a) Any incident involving the death or serious injury of an employee.
- (b) Incidents involving a high risk of death, serious injury or civil liability.
- (c) Incidents identified by a supervisor as appropriate to review to identify possible training needs.

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The Training Committee should convene on a regular basis as determined by the Training Sergeant to review the identified incidents. The committee shall determine by consensus whether a training need exists and then submit written recommendations of its findings to the Training Sergeant. The recommendation should not identify specific facts of any incidents, such as identities of employees involved or the date, time and location of the incident, but should focus on the type of training being recommended.

The Training Sergeant will consider the recommendations of the committee and determine what training should be addressed, taking into consideration the mission of the Department and available resources.

#### **203.7 TRAINING RECORDS**

The Training Sergeant is responsible for the creation, filing and storage of all training records in compliance with POST standards. Training records shall be retained as long as the employee's personnel file is retained.

#### **203.8 REPORTING TRAINING TO POST**

The POST Board distributes license renewals directly to licensed peace officers and requires the licensee to report completed continuing education courses from the previous license period. Officers are responsible for responding to these requests in a timely manner and otherwise maintaining their licensed status.

#### **203.9 DAILY TRAINING BULLETINS**

The Lexipol Daily Training Bulletins (DTBs) are contained in a web-accessed system that provides training on the Fairmont Police Department policy manual and other important topics. Generally, one training bulletin is available for each day of the month. However, the number of DTBs may be adjusted by the Captain.

Personnel assigned to participate in DTBs shall only use login credentials assigned to them by the Captain. Personnel should not share their password with others and should frequently change their password to protect the security of the system. After each session, employees should logoff the system to prevent unauthorized access. The content of the DTBs is copyrighted material and shall not be shared with others outside of the Department.

Employees who are assigned to participate in the DTB program should complete each DTB at the beginning of their shift, or as otherwise directed by a supervisor. Employees should not allow uncompleted DTBs to build up over time. Personnel may be required to complete DTBs missed during extended absences (e.g., vacation, medical leave) upon returning to duty. Although the DTB system can be accessed from any Internet active computer, employees shall only take DTBs as part of their on-duty assignment unless directed otherwise by a supervisor.

Supervisors will be responsible for monitoring the progress of personnel under their command to ensure compliance with this policy.

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### **203.10 CLASSROOM DISCRIMINATION**

The Training Sergeant shall ensure that procedures for the investigation and resolution of allegations of classroom discrimination are developed and implemented, and include the required elements (Minn. R. 6700.0900; Minn. R. 6700.0902).

## Electronic Mail

### 204.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the electronic mail (email) system provided by the Department. Email is a communication tool available to employees to enhance efficiency in the performance of job duties. It is to be used in accordance with generally accepted business practices and current law (e.g., Minnesota Data Practices Act).

### 204.2 EMAIL RIGHT OF PRIVACY

All email messages, including attachments, transmitted over the Department computer network or accessed through a web browser accessing the Department system are considered Department records and, therefore, are the property of the Department. The Department has the right to access, audit and disclose for whatever reason, all messages, including attachments, transmitted or received through its email system or placed into its storage.

Unless it is encrypted, the email system is not a confidential system since all communications transmitted on, to or from the system are the property of the Department. Therefore, the email system is not appropriate for confidential or personal communication. If a communication must be private, an alternative method to communicate the message should be used instead of email. Employees using the Department email system shall have no expectation of privacy concerning communications utilizing the system.

### 204.3 PROHIBITED USE OF EMAIL

The Department email system shall be used in accordance to the Fairmont City Policy Handbook.

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive and harassing or any other inappropriate messages on the email system is prohibited, will constitute just cause for discipline, and will result in discipline, up to and including termination of employment

Email messages addressed to the entire department are only to be used for official business-related items that are of particular interest to all users. Personal advertisements or announcements are not permitted unless approved by the Chief of Police.

It is a violation of this policy to transmit a message under another user's name or email address or to use the password of another to log onto the system. Users are required to log off the network or lock the workstation when their computer is unattended. This added security measure would minimize the misuse of an individual's email, name and/or password.

### 204.4 EMAIL RECORD MANAGEMENT

Email may, depending upon the individual content, be a public record under the Minnesota Data Practices Act and must be managed in accordance with the established records retention schedule and in compliance with state law.

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The City Clerk shall ensure that email messages are retained and recoverable as outlined in the Records Maintenance and Release Policy.

## **Administrative Communications**

### **205.1 PURPOSE AND SCOPE**

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

### **205.2 MEMORANDUMS**

Memorandums 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.

### **205.3 CORRESPONDENCE**

In order to ensure that the letterhead and name of the Department are not misused, all official external correspondence shall be on Department letterhead. Department letterhead may not be used for personal use or purposes.

Internal correspondence should use appropriate memorandum forms or email. These may be from line employee to employee, supervisor to employee or any combination of employees.

### **205.4 SURVEYS**

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

### **205.5 OTHER COMMUNICATIONS**

Departmental Directives and other communications necessary to ensure the effective operation of the Department shall be promulgated by the Chief of Police, his/her designee or the Captain.



## Supervision Staffing Levels

### **206.1 PURPOSE AND SCOPE**

The purpose of this policy is to ensure that proper supervision is available for all shifts. The Department intends to balance the employee's needs against its need and inherent managerial right to have flexibility and discretion in using personnel to meet operational needs. While balance is desirable, the paramount concern is the need to meet operational requirements of the Department.

### **206.2 MINIMUM STAFFING LEVELS**

Minimum staffing levels should result in the scheduling of at least one, regular supervisor on-duty whenever possible. If there is an issue that arises with a need for immediacy to be addressed by a supervisor and one is currently not on duty, contacting an off-duty supervisor by phone is acceptable.

#### **206.2.1 SUPERVISION DEPLOYMENTS**

In order to accommodate training, scheduling, and other unforeseen circumstances, an officer may be designated as the officer in charge based on seniority in the absence of a supervisor on duty..

## Retiree Concealed Firearms

### 207.1 PURPOSE AND SCOPE

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

### 207.2 POLICY

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

### 207.3 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.

#### 207.3.1 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 Fairmont 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.

#### 207.3.2 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.

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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.

#### **207.4 FORMER OFFICER RESPONSIBILITIES**

A former officer with a card issued under this policy shall immediately notify the Chief of Police 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.

##### **207.4.1 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.

#### **207.5 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.

#### **207.6 FIREARM QUALIFICATIONS**

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

## Handgun Purchase and Transfer Permit

### 208.1 PURPOSE AND SCOPE

The Chief of Police 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.

### 208.2 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/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).

### 208.3 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, records, and warrants regarding the applicant through Minnesota crime information systems, the national criminal record repository, and the National Instant Criminal Background Check System.
- (b) A reasonable effort to check other available state and local record-keeping systems.
- (c) A check for any commitment history through the Minnesota Department of Human Services of the applicant.

### 208.4 GROUNDS FOR DISQUALIFICATION

The Chief of Police shall only deny a permit to an applicant when the applicant is prohibited by Minn. Stat. § 624.713 or under United States Code Title 18 section 922 from possessing a firearm.

### 208.5 GRANTING OR DENIAL OF PERMIT

The Chief of Police shall issue a transferee permit or deny the application within seven days of application for the permit. The Chief of Police 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).

A permit holder whose permit was denied 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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### **208.6 VOIDING 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).

## **Chapter 3 - General Operations**

## 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 (Minn. Stat. § 626.8452).

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Conducted Energy Device policies.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Bodily harm** - Physical pain or injury.

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

**Feasible** - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

**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.

**Great bodily harm** - Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

**Imminent** - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

**Totality of the circumstances** - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

### 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.

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The Fairmont Police 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 AND REPORT**

Any officer present and observing another law enforcement officer or a member 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 (Minn. Stat. § 626.8452; Minn. Stat. § 626.8475).

Any officer who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances shall report these observations to a supervisor as soon as feasible (Minn. Stat. § 626.8452; Minn. Stat. § 626.8475).

##### **300.2.2 ADDITIONAL REQUIREMENTS**

An officer reporting a use of force by another law enforcement officer or member pursuant to this policy shall also make the report in writing to the Chief of Police within 24 hours (Minn. Stat. § 626.8475).

##### **300.2.3 PERSPECTIVE**

When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

#### **300.3 USE OF FORCE**

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

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 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 this 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.



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While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, 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 with a mental illness or a person with a developmental disability 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.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness (Minn. Stat. § 626.8452).
- (j) Seriousness of the suspected offense or reason for contact with the individual.

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- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) 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 individual can comply with the direction or orders of the officer.
- (c) Whether the individual 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.

#### 300.3.4 CAROTID CONTROL HOLD

A carotid control hold is a technique designed to control an individual by applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries (Minn. Stat. § 609.06, Subd. 3). The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following (Minn. Stat. § 609.06; Minn. Stat. § 609.066):

- (a) At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.
- (b) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until such examination occurs.

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- (c) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the individual lost consciousness as a result.
- (d) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (e) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

#### **300.3.5 USE OF FORCE TO SEIZE EVIDENCE**

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted.

#### **300.3.6 ALTERNATIVE TACTICS - DE-ESCALATION**

When circumstances reasonably permit, officers should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

#### **300.3.7 STATE RESTRICTIONS ON THE USE OF OTHER RESTRAINTS**

Officers may not use any of the following restraints unless the use of deadly force is authorized (Minn. Stat. § 609.06; Minn. Stat. § 609.066):

- (a) A chokehold. For purposes of this policy, a chokehold only refers to the method of applying sufficient pressure to an individual to make breathing difficult or impossible, and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air.
  - 1. If applied, a chokehold is subject to the same guidelines and requirements as a carotid control hold.
- (b) Tying all of an individual's limbs together behind the person's back to render the person immobile.
- (c) Securing an individual in any way that results in transporting the person face down in a vehicle.

#### **300.4 DEADLY FORCE APPLICATIONS**

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

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Use of deadly force is justified only if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary (Minn. Stat. § 609.066):

- (a) To protect the officer or another from death or great bodily harm.
- (b) To effect the arrest or capture, or prevent the escape, of an individual whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person unless immediately apprehended.

In both scenarios, the use of deadly force is only authorized provided that the threat (Minn. Stat. § 609.066):

- Can be articulated with specificity.
- Is reasonably likely to occur absent action by the officer.
- Must be addressed through the use of deadly force without unreasonable delay.

An officer shall not use deadly force against an individual based on the danger the individual poses to self unless the use of deadly force is justified (Minn. Stat. § 609.066).

#### **300.4.1 MOVING VEHICLES**

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

When feasible, officers should take reasonable steps to 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 imminent 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 by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

#### **300.5.1 NOTIFICATIONS 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 the conducted energy device or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

#### **300.5.2 STATE REPORTING REQUIREMENTS**

The Chief of Police shall provide for the filing of a report with the Bureau of Criminal Apprehension (BCA) on a monthly basis and in the form required by BCA (Minn. Stat. § 626.5534).

There may be additional reporting requirements regarding misconduct (see the Standards of Conduct Policy) (Minn. Stat. § 626.8457).

#### **300.6 MEDICAL CONSIDERATIONS**

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or 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 the on-scene supervisor is not available, the primary handling 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).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain

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(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. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

#### **300.7 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, 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) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:
  1. The content of the interview should not be summarized or included in any related criminal charges.
  2. The fact that a recorded interview was conducted should be documented in a property or other report.
  3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
  1. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the individual may pursue civil litigation.
  1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

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In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

#### **300.7.1 SHIFT SERGEANT RESPONSIBILITY**

The Shift Sergeant 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.

#### **300.8 TRAINING**

Officers will receive training on this policy, including the learning objectives as provided by POST, at least annually (Minn. Stat. § 626.8452, Subd. 3).

Subject to available resources, officers should receive periodic training on:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.

#### **300.8.1 PROHIBITED TRAINING**

Warrior-style training, as defined in Minn. Stat. § 626.8434, whether provided directly by the Department or through a third party, is prohibited (Minn. Stat. § 626.8434).

#### **300.9 POLICY REVIEW**

The Chief of Police or the authorized designee should annually review and update this policy to reflect developing practices and procedures.

## Handcuffing and Restraints

### 301.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

### 301.2 POLICY

The Fairmont Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

### 301.3 USE OF RESTRAINTS

Only members who have successfully completed Fairmont Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include, but are not limited to:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

#### 301.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain an individual who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to assure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

#### 301.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety. Leg irons, waist chains, or handcuffs behind the body should not be used unless the officer has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.

No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when an officer makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers, or others.



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##### **301.3.3 RESTRAINT OF JUVENILES**

A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

##### **301.3.4 NOTIFICATIONS**

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the jail.

##### **301.4 HANDCUFFS OR PLASTIC CUFFS**

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although strongly recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.

In most situations handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the individual or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.

##### **301.5 SPIT HOODS**

Spit hoods/masks/socks are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual. Officers should avoid comingling individuals wearing spit hoods with other detainees.

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Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated including hair, head and clothing prior to application of a spit hood.

Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

#### **301.6 AUXILIARY RESTRAINT DEVICES**

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Any person in auxiliary restraints should be monitored as reasonably appears necessary.

#### **301.7 LEG RESTRAINT DEVICES**

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation.

In determining whether to use the leg restraint, officers should consider:

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.
- (b) Whether it is reasonably necessary to protect the suspect from his/her own actions (e.g., hitting his/her head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).

##### **301.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS**

When applying leg restraints the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device or if a supervisor is on duty, they shall be notified as soon as practicable after the application of the leg restraint device.
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.

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- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (f) When transported by ambulance/paramedic unit, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

#### **301.8 REQUIRED DOCUMENTATION**

If a person is restrained and released without an arrest, the officer shall note the reason for the detention and the use of handcuffs or other restraints.

If a person is arrested, the use of handcuffs or other restraints shall be documented in the related report.

Officers should document the following information in reports, as appropriate, when restraints other than handcuffs are used on a person:

- (a) The factors that led to the decision to use restraints.
- (b) Supervisor notification and approval of restraint use.
- (c) The types of restraint used.
- (d) The amount of time the person was restrained.
- (e) How the person was transported and the position of the person during transport.
- (f) Observations of the person's behavior and any signs of physiological problems.
- (g) Any known or suspected drug use or other medical problems.

#### **301.9 TRAINING**

Subject to available resources, the Training Sergeant should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.
- (b) Response to complaints of pain by restrained persons.
- (c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.
- (d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

## Control Devices

### 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 Fairmont 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, 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

#### 302.4.0 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices. Officers shall report any damaged or inoperative control devices to a supervisory to correct.

### 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 not be intentionally targeted except when the officer reasonably believes the use of deadly force is appropriate. See the Use of Force Policy for additional guidance.

When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt or vest carrier. 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 OLEORESIN CAPSICUM (OC) GUIDELINES

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##### 302.6.1 OC SPRAY

Uniformed personnel carrying OC spray shall carry the device in its holster on the equipment belt or vest carrier. 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.

##### 302.6.2 TREATMENT FOR OC SPRAY EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

#### **302.7 POST-APPLICATION NOTICE**

Whenever 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 that cleanup will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

#### **302.8 TRAINING FOR CONTROL DEVICES**

The Training Sergeant shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary. Officers will receive training on the use of issued control devices and this policy, including the learning objectives as provided by POST, at least annually (Minn. Stat. § 626.8452, Subd. 3).

- (a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.
- (b) All training and proficiency for control devices will be documented in the officer's training file.
- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

#### **302.9 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES**

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

## Conducted Energy Device

### 303.1 PURPOSE AND SCOPE

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

### 303.2 POLICY

The CED is used in an attempt to control a violent or potentially violent individual. The appropriate use of such a device may result in fewer serious injuries to officers and suspects.

### 303.3 ISSUANCE AND CARRYING CEDS

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

The Captain should keep a log of issued CED devices and the serial numbers issued to members.

CEDs are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department inventory.

Officers shall only use the CED and cartridges/magazines that have been issued by the Department. Expired cartridges/magazines should not be used and members shall advise a supervisor prior to a cartridge(s) expiration date to request a replacement cartridge.

Uniformed officers who have been issued the CED shall wear the device in an approved holster. Uniformed officer's may alternatively carry a department issued ASP instead of carrying a CED but must carry at least one of the two (CED and/or ASP).

Officers who carry the CED while in uniform shall carry it in a holster on the side opposite the duty weapon.

- (a) All CEDs shall be distinguishable to differentiate them from the duty weapon and any other device.
- (b) Officers should not hold a firearm and the CED at the same time.

Non-uniformed officers may secure the CED in a concealed, secure location in the driver's compartment of their work vehicles.

### 303.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the CED 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 CED may be deployed.

If, after a verbal warning, an individual fails to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, activate any warning on the device, which may include display of the electrical arc,

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an audible warning, or the laser in a further attempt to gain compliance prior to the application of the CED. The laser should not be intentionally directed into anyone's eyes.

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 CED in the related report.

#### **303.5 USE OF THE CED**

The CED has limitations and restrictions requiring consideration before its use. The CED should only be used when its operator can safely deploy the device within its operational range. Although the CED may be 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 CED**

The CED may be used when the circumstances reasonably perceived by the officer at the time indicate that such application reasonably appears necessary to control a person who:

- (a) Is violent or is physically resisting.
- (b) 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, themselves, or others.

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

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

##### **303.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS**

The use of the CED 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 potential 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 known to have been recently sprayed with a flammable chemical agent or who are otherwise known to be in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- (f) Individuals whose position or activity is likely to result in collateral injury (e.g., falls from height, located in water, operating vehicles).

Any CED capable of being applied in the drive-stun mode (i.e., direct contact without probes as a primary form of pain compliance) should be limited to supplementing the probe-mode to

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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.

#### 303.5.3 TARGETING CONSIDERATIONS

Recognizing that the dynamics of a situation and movement of the subject may affect target placement of probes, when practicable, officers should attempt to target the back, lower center mass, and upper legs of the subject, and avoid intentionally targeting the head, neck, area of the heart, or genitals. If circumstances result in one or more probes inadvertently striking an area outside of the preferred target zones, the individual should be closely monitored until examined by paramedics or other medical personnel.

#### 303.5.4 MULTIPLE APPLICATIONS OF THE CED

Once an officer has successfully deployed two probes on the subject, the officer should continually assess the subject to determine if additional probe deployments or cycles reasonably appear necessary. Additional factors officers may consider include but are not limited to:

- (a) Whether it is reasonable to believe that the need to control the individual outweighs the potentially increased risk posed by multiple applications.
- (b) Whether the probes are making proper contact.
- (c) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (d) Whether verbal commands or other options or tactics may be more effective.

Given that on certain devices (e.g., TASER 10™) each trigger pull deploys a single probe, the officer must pull the trigger twice to deploy two probes to create the possibility of neuro-muscular incapacitation.

#### 303.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers should take appropriate actions to control and restrain the individual as soon as reasonably practicable to minimize the need for longer or multiple exposures to the CED. As soon as practicable, officers shall notify a supervisor if one is on duty any time the CED has been discharged. If needed for evidentiary purposes, the expended cartridge, along with any probes and wire, should be submitted into evidence (including confetti tags, when equipped on the device). The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

#### 303.5.6 DANGEROUS ANIMALS

The CED may be deployed against an animal if the animal reasonably appears to pose an imminent threat to human safety.

#### 303.5.7 OFF-DUTY CONSIDERATIONS

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

Officers shall ensure that CEDs 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.



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### **303.6 DOCUMENTATION**

Officers shall document all CED discharges in the related arrest/crime reports and the CED report form (see attachment). Photographs should be taken of any obvious probe impact or drive-stun application sites and attached to the CED report form and iCrimeFighter digital case file. Notification (verbal or written) shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, audible warning, laser activation, and arcing the device, other than for testing purposes, will also be documented on the report form. Data downloads from the CED after use on a subject should be done by a department DEC instructor as soon as practicable using a department-approved process to preserve the data.

[See attachment: CED Use Report Form.pdf](#)

#### **303.6.1 CED REPORT FORM**

As applicable based on the device type, items that shall be included in the CED report form are:

- (a) The brand, model, and serial number of the CED and any cartridge/magazine.
- (b) Date, time, and location of the incident.
- (c) Whether any warning, display, laser, or arc deterred a subject and gained compliance.
- (d) The number of probes deployed, CED activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the CED was used.
- (f) The type of mode used (e.g., probe deployment, drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any officers sustained any injuries.

The CED Instructor(s) should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The CED Instructor(s) should also conduct audits of CED device data downloaded to an approved location and reconcile CED report forms with recorded activations. This should be done annually and a summary of the findings provided to the Captain for review.

#### **303.6.2 REPORTS**

The officer should include the following in the arrest/crime report:

- (a) Identification of all personnel firing CEDs
- (b) Identification of all witnesses
- (c) Medical care provided to the subject

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- (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**

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel or officers trained in probe removal and handling should remove CED probes from a person's body. Used CED probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by CED probes, who have been subjected to the electric discharge of the device, or who sustained direct exposure of the laser to the eyes shall be medically assessed 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 is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The CED probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications shall be transported to a medical facility for examination or medically evaluated 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/video 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 CED (see the Medical Aid and Response Policy).

#### **303.8 SUPERVISOR RESPONSIBILITIES**

When possible, on duty a supervisor should respond to calls when they reasonably believe there is a likelihood the CED may be used. If on duty, a supervisor should respond to all incidents where the CED was activated.

A supervisor should review each incident where a person has been exposed to a CED. The device's internal logs should be downloaded by a CED Instructor and saved with the related arrest/crime report.

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### **303.9 TRAINING**

Personnel who are authorized to carry the CED shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the CED as a part of their assignments for a period of twelve months or more shall be re-certified by a qualified CED instructor prior to again carrying or using the device.

Personnel who have been issued CEDs will receive training on this policy, including the learning objectives as provided by POST, at least annually (Minn. Stat. § 626.8452, Subd. 3).

A reassessment of an officer's knowledge and/or practical skills may be required at any time, if deemed appropriate, by a supervisor. All training and proficiency for CEDs will be documented in the officer's training files.

Command staff, supervisors, and investigators should receive CED training as appropriate for the investigations they conduct and review.

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

The Training Sergeant is responsible for ensuring that all members who carry CEDs have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of CEDs during training could result in injuries and should not be mandatory for certification.

The CED Instructor(s) should include the following training:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws until proficient to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes to the head, neck, area of the heart, and groin.
- (e) Scenario-based training, including virtual reality training when available.
- (f) Handcuffing a subject during the application of the CED and transitioning to other force options.
- (g) De-escalation techniques.
- (h) Restraint techniques that do not impair respiration following the application of the CED.
- (i) Proper use of cover and concealment during deployment of the CED for purposes of officer safety.
- (j) Proper tactics and techniques related to multiple applications of CEDs.

## Officer-Involved Shootings and Deaths

### 304.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of another action of an officer.

In other incidents not covered by this policy, the Chief of Police may decide that the investigation will follow the process provided in this policy.

### 304.2 POLICY

The policy of the Fairmont Police Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner.

### 304.3 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.

### 304.4 CONTROL OF INVESTIGATIONS

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths. This may include at least one investigator from the agency that employs the involved officer.

Jurisdiction is determined by the location of the shooting or death and the agency employing the involved officer. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings and deaths.

#### 304.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Fairmont Police Department would control the investigation if the suspect's crime occurred in Fairmont.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency.

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##### **304.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS**

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the employing agency's protocol. When an officer from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

Requests made of this department to investigate a shooting or death involving an outside agency's officer shall be referred to the Chief of Police or the authorized designee for approval.

##### **304.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION**

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

##### **304.4.4 POST ADMINISTRATIVE INVESTIGATIONS**

The Minnesota POST Board may require an administrative investigation based on a complaint alleging a violation of a statute or rule that the board is empowered to enforce. An officer-involved shooting may result in such an allegation. Any such complaint assigned to this department shall be completed and a written summary submitted to the POST executive director within 30 days of the order for inquiry (Minn. Stat. § 214.10, Subd. 10).

#### **304.5 INVESTIGATION PROCESS**

The following procedures are guidelines used in the investigation of an officer-involved shooting or death.

##### **304.5.1 UNINVOLVED OFFICER RESPONSIBILITIES**

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved FPD officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

##### **304.5.2 SUPERVISOR RESPONSIBILITIES**

Upon arrival at the scene, the first uninvolved FPD supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
  1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.

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- (b) If necessary, the supervisor may administratively order any FPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
  1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
  2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Shift Sergeant and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional FPD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
  1. Each involved FPD officer should be given an administrative order not to discuss the incident with other involved officers or FPD members pending further direction from a supervisor.
  2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

#### 304.5.3 SHIFT SERGEANT RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Shift Sergeant shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief of Police or the Captain.

All outside inquiries about the incident shall be directed to the Shift Sergeant.

#### 304.5.4 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Chief of Police
- Investigation Captain
- officer-involved shooting rollout team
- Outside agency investigators (if appropriate)
- Professional Standards Division supervisor
- Civil liability response team
- Psychological/peer support personnel
- Chaplain
- Medical Examiner (if necessary)

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- Involved officer's agency representative (if requested)
- Public Information Officer

#### 304.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
  1. Involved FPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
  2. Requests from involved non-FPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information.
- (d) A licensed psychotherapist shall be provided by the Department to each involved FPD officer. A licensed psychotherapist may also be provided to any other affected FPD members, upon request.
  1. Interviews with a licensed psychotherapist will be considered privileged.
  2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, the involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
  3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Communications between the involved officer and a peer support member, peer support counselors, and critical incident stress management team members are addressed in the Wellness Program Policy.

Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

Each involved FPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Shift Sergeant to make schedule adjustments to accommodate such leave.

#### **304.6 CRIMINAL INVESTIGATION**

The Prosecuting Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting involving injury or death.

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If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the Prosecuting Attorney's Office to avoid duplicating efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) FPD supervisors and Professional Standards Division personnel should not participate directly in any voluntary interview of FPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of the officer's choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally, or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

#### 304.6.1 REPORTS BY INVOLVED FPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved FPD officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved FPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

Nothing in this section shall be construed to deprive an involved FPD officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures but should also be included for reference in the investigation of the officer-involved shooting or death.



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##### **304.6.2 WITNESS IDENTIFICATION AND INTERVIEWS**

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available law enforcement personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.
  - 1. When 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, attempts to identify the witness prior to his/her departure should be made whenever feasible.
- (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 a member of the Department.
  - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

##### **304.6.3 INVESTIGATIVE PERSONNEL**

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Investigations supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with investigators from the Prosecuting Attorney's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the Prosecuting Attorney's Office.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Investigations supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Captain.

##### **304.7 ADMINISTRATIVE INVESTIGATION**

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of involved FPD officers to determine conformance with department policy. This investigation will be conducted under the supervision of the Captain and will be considered a confidential officer personnel file.

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Interviews of members shall be subject to department policies and applicable laws (Personnel Complaints Policy; Minn. Stat. § 626.89).

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening in accordance with the drug and alcohol testing guidelines in the Drug- and Alcohol-Free Workplace Policy adopted under the authority of Minn. Stat. § 181.950 to Minn. Stat. § 181.957. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
  1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information (Minn. Stat. § 626.89).
  1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
  2. The interview must be taken at the FPD or at a place agreed to by the interviewer and the involved officer.
  3. The interview must be of reasonable duration and provide the involved officer reasonable periods for rest and personal necessities. When practicable, the interview must be held during the involved officer's regularly scheduled work shift. If not, the involved officer must be compensated at his/her current pay rate.
  4. If requested, the officer shall have the opportunity to select an uninvolved representative or an attorney, or both, to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative collectively or in groups prior to being interviewed.
  5. Administrative interviews shall be recorded electronically or otherwise by the investigator. The officer may also record the interview. A complete copy or transcript of the interview must be provided to the involved officer upon written request without charge or undue delay.
  6. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed in writing or on the record that the interview will be for administrative purposes only and that the statement cannot be used criminally.

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7. The Professional Standards Division shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
8. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
9. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

#### **304.8 CIVIL LIABILITY RESPONSE**

A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

All materials generated in this capacity shall be considered attorney work product and may not be used for any other purpose. The civil liability response is not intended to interfere with any other investigation but shall be given reasonable access to all other investigations.

#### **304.9 AUDIO AND VIDEO RECORDINGS**

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV, body-worn video, or other video or audio recordings with the approval of assigned investigators or a supervisor.

Any MAV, body-worn video, and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or City Attorney's Office, as appropriate.

#### **304.10 DEBRIEFING**

Following an officer-involved shooting or death, the Fairmont Police Department should conduct both a Critical Incident Stress Debriefing and a tactical debriefing. See the Wellness Program Policy for guidance on Critical Incident Stress Debriefings.

##### **304.10.2 TACTICAL DEBRIEFING**

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

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##### **304.11 MEDIA RELATIONS**

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Chief of Police, Captain, Supervisors, and Dispatch in the event of inquiries from the media.

No involved FPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Captain.

Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

##### **304.12 REPORTING**

If an officer discharges a firearm in the course of duty, the Chief of Police shall notify the Commissioner of Public Safety within 30 days of the reason for and the circumstances surrounding the discharge of the firearm (Minn. Stat. § 626.553).

## Firearms

### 305.1 PURPOSE AND SCOPE

This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance and firearms training.

This policy does not apply to issues related to the use of firearms that are addressed in the Use of Force or Officer-Involved Shootings and Deaths policies.

This policy only applies to those members who are authorized to carry firearms.

#### 305.1.1 AUTHORIZATION TO CARRY FIREARMS

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, Subd. 3; Minn. Stat. § 626.8463).

### 305.2 POLICY

The Fairmont Police Department will equip its members with firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons. The Department will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

### 305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by a department armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm. All department owned firearm(s) issued to an officer will be secured at all times by the officer to avoid unauthorized access or use, both while on and off duty.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the Chief of Police or designee. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

#### 305.3.1 HANDGUNS

The authorized department-issued handgun is the Glock Model 45 9mm.

#### 305.3.2 PATROL RIFLES

The authorized department-issued patrol rifle is the Colt LE 6920 AR-15 5.56.

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Members may deploy the patrol rifle in any circumstance where the member 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:

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- (a) Situations where the member reasonably anticipates an armed encounter.
- (b) When a member is faced with a situation that may require accurate and effective fire at long range.
- (c) Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.
- (d) When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- (e) When a member reasonably believes that a suspect may be wearing body armor.
- (f) When authorized or requested by a supervisor.
- (g) When needed to euthanize an animal.

When not deployed, the patrol rifle shall be properly secured consistent with department training in a locking weapons rack in the patrol vehicle.

#### 305.3.3 PERSONALLY OWNED DUTY FIREARMS

Members desiring to carry a non-department owned firearm must receive written approval from the Chief of Police or authorized designee. Once approved, personally owned duty firearms are subject to the following restrictions:

- (a) The firearm shall be in good working order.
- (b) The firearm may be inspected by a department armorer prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (c) Prior to carrying the firearm, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the firearm functions properly.
- (d) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Firearms Instructor, who will maintain a list of the information.

#### 305.3.4 AUTHORIZED SECONDARY HANDGUN

Members desiring to carry department or personally owned secondary handguns are subject to the following restrictions:

- (a) The handgun shall be in good working order and on the department list of approved firearms listed in 305.3.5 g.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the Department.
- (d) The handgun shall be carried concealed at all times to avoid causing alarm to the public and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.

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- (e) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the department's annual qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.
- (f) Members shall provide written notice of the make, model, serial number and caliber of a secondary handgun to the Firearms Instructor, who will maintain a list of the information. [See attachment: Firearm Authorization Form.pdf](#)
- (g) Off duty or secondary firearms shall be a .38, .357, or .44 caliber double action revolver or a 9mm, .380, .40, or .45 caliber semi-automatic pistol. No other caliber of handgun is authorized or permitted.

#### 305.3.5 AUTHORIZED OFF-DUTY FIREARMS

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

- (a) A personally owned firearm shall be used, carried and inspected in accordance with the Personally Owned Firearms requirements in this policy.
  - 1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.
- (b) 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.
- (c) Prior to carrying any off-duty firearm, the member shall demonstrate to the Firearms Instructor that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (d) The member will successfully qualify with the firearm prior to it being carried.
- (e) Members shall provide written notice of the make, model, serial number and caliber of the firearm to the Firearms Instructor, who will maintain a list of the information.
- (f) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (g) When armed, officers shall display their badge next to the firearm and a Fairmont Police Department identification card under circumstances requiring possession of such identification.

#### 305.3.6 AMMUNITION

Members shall carry only department-authorized ammunition when on duty. Members shall be issued fresh duty ammunition in the specified quantity for all department-issued firearms during the member's firearms qualification as necessary. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Captain or Firearms Instructor when needed, in accordance with established policy.

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Members carrying personally owned authorized firearms of a caliber differing from department-issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense.

#### **305.4 EQUIPMENT**

Firearms carried on- or off-duty shall be maintained in a clean, serviceable condition. Maintenance and repair of authorized personally owned firearms are the responsibility of the individual member.

##### **305.4.1 REPAIRS OR MODIFICATIONS**

Each member shall be responsible for promptly reporting any damage or malfunction of an assigned firearm to a supervisor or the department armorer.

Firearms that are the property of the Department may be repaired or modified only by a person who is department-approved and certified as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance by the department armorer.

No officer shall in any material way modify or alter an approved firearm with the following exceptions:

- 1) Factory Grips may be replaced.
- 2) Night sights or "red dot" style sights shall be approved, installed or inspected by the department armorer.
- 3) External lighting devices attached to the firearm's accessory rail(s).

Any repairs or modifications to the member's personally owned firearm shall be done at his/her expense and must be approved by the Firearms Instructor.

##### **305.4.2 HOLSTERS**

Only department-approved holsters shall be used and worn by members. Members shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun.

##### **305.4.3 TACTICAL LIGHTS**

Tactical lights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by a department armorer. Once the approved tactical lights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

##### **305.4.4 OPTICS OR LASER SIGHTS**

Optics or RDS sights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the department armorer. Any approved sight shall only be installed in strict accordance with manufacturer specifications. Once approved sights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.



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RDS (Red Dot Sights) sights area authorized to be used on a duty handgun if all of the following conditions are met:

- 1) RDS sights will be purchased by the officer and must be on the list of approved RDS sights for duty use. The current approved RDS sights are: a) Leupold Delta Point Pro. b) Trijicon RMR.
- 2) The officer shall be responsible for maintenance and up keep of the RDS sight including sighting in the RDS sight and battery rotation to avoid a power failure.
- 3) The officer shall complete a POST approved training and initial qualification conducted by a firearms instructor. If the officer fails to qualify with the RDS sight, the sight will be removed from the handgun and the officer will be required to complete the qualification with traditional sights.

Except in an approved training situation, a member may only sight in on a target when the member would otherwise be justified in pointing a firearm at the target.

#### **305.5 SAFE HANDLING, INSPECTION AND STORAGE**

Members shall maintain the highest level of safety when handling firearms and shall consider the following:

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall not remove a firearm from its holster, vehicle, or storage cabinet/safe except for the following reasons. 1) For repair, inspection, cleaning, training, or at an authorized range for practice purposes; 2) For safekeeping in a "lock box" or other secure area; or 3) When necessary in the performance of authorized police duties.
- (c) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Firearms Instructor. Members shall not dry fire or practice quick draws except as instructed by the Firearms Instructor or other firearms training staff.
- (d) Members shall not place or store any firearm or other weapon on department premises except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when securing or processing an arrestee, but shall place all firearms in a secured location. Members providing access to the jail section to persons from outside agencies are responsible for ensuring firearms are not brought into the jail section.
- (e) Members shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.
- (f) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Department armorer approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Firearms Instructor or armorer will be immediately removed from service. If the firearm is the member's primary duty firearm, a department owned replacement firearm will be issued to the member until the duty firearm is serviceable.

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### 305.5.1 INSPECTION AND STORAGE

Handguns shall be inspected by officers regularly and upon access or possession by another person. Shotguns and rifles shall be inspected at the beginning of the shift by the member using the squad where the weapon(s) are stored. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Inspection of the shotgun and rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction or into clearing barrels.

Personally owned firearms may be safely stored in lockers at the end of the shift. Department-owned firearms shall be stored in the appropriate equipment storage room. Handguns may remain loaded if they are secured in an appropriate holster. Shotguns and rifles shall be stored in the appropriate secure safe or arms room.

### 305.5.2 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Members should be aware that negligent storage of a firearm could result in civil and criminal liability (Minn. Stat. § 609.666; Minn. Stat. § 609.378).

### 305.5.3 ALCOHOL AND DRUGS

Firearms shall not be carried by any member, either on- or off-duty, who has consumed an amount of an alcoholic beverage, taken any drugs or medication (including prescribed medication), or has taken any combination thereof that would tend to adversely affect the member's senses or judgment.

## **305.6 FIREARMS TRAINING AND QUALIFICATIONS**

All members who carry a firearm while on-duty are required to successfully complete training with their duty firearms. All members will qualify at least twice annually with their duty firearms (Minn. Stat. § 626.8452). Officers will also receive training on this policy, including the learning objectives as provided by POST, at least annually (Minn. Stat. § 626.8452, Subd. 3).

Members will qualify with off-duty and secondary firearms at least once a year.

Training and qualifications must be on an approved range course.

At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

### 305.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

If any member fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, that member shall submit a memorandum to his/her immediate supervisor prior to the end of the required training or qualification period.

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Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- (a) Additional range assignments may be scheduled to assist the member in demonstrating consistent firearm proficiency.

Members who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

#### **305.7 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 Shootings and Deaths 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.

In all other cases, 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 Captain or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- (b) If off-duty at the time of the incident, a written report shall be submitted or recorded statement provided no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

##### **305.7.1 DESTRUCTION OF ANIMALS**

Members 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 where there is sufficient advance notice that a potentially dangerous animal may be encountered, department members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, conducted energy device, oleoresin capsicum (OC) spray). Nothing in this policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed, becomes impractical, or if the animal reasonably appears to pose an imminent threat to human safety.

##### **305.7.2 INJURED ANIMALS**

A member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical.

##### **305.7.3 WARNING AND OTHER SHOTS**

Generally, warning shots or shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the member reasonably believes that they appear necessary, effective and reasonably safe.

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#### **305.7.4 REPORTING FIREARMS DISCHARGE**

The Chief of Police shall notify the Commissioner of Public Safety within 30 days of an on-duty firearm discharge, except when the discharge is in the course of training or destruction of animals (described in this policy). The notification shall contain information concerning the reason for and circumstances surrounding the discharge (Minn. Stat. § 626.553).

#### **305.8 FIREARMS INSTRUCTOR DUTIES**

The range will be under the exclusive control of the Firearms Instructor. All members attending will follow the directions of the Firearms Instructor. The Firearms Instructor will maintain a roster of all members attending the range and will submit the roster to the Training Sergeant after each range date. Failure of any member to sign in with the Firearms Instructor may result in non-participation or non-qualification.

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

The department armorer has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by members of this department to verify proper operation. The Firearms Instructor has the authority to deem any department-issued or privately owned firearm unfit for service. The member will be responsible for all repairs to his/her personally owned firearm; it will not be returned to service until inspected and approved by the Department armorer.

The Firearms Instructor has the responsibility for ensuring each member meets the minimum requirements during training shoots and, on at least a yearly basis, can demonstrate proficiency in the care, cleaning and safety of all firearms the member is authorized to carry.

The Firearms Instructor shall complete and submit to the Training Sergeant documentation of the courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been approved by the MN POST Board, a list of each member who completes the training. The Firearms Instructor should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Training Sergeant.

#### **305.9 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 and must have a need to have the firearm accessible, as determined by the Department based on the law and published TSA rules.
- (b) Officers must carry their Fairmont Police Department identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature and the signature of the Chief of Police or the official seal of the Department and must

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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) The Fairmont Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Fairmont Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary and include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.
- (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) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.
- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer 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.
- (i) Officers should resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
- (j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

#### **305.10 CARRYING FIREARMS OUT OF STATE**

Qualified, active, full-time officers of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC § 926B):

- (a) The officer shall carry the officer's Fairmont Police Department identification card whenever carrying such weapon.
- (b) The officer is not the subject of any current disciplinary action.
- (c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.

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- (d) The officer will remain subject to this and all other department policies (including qualifying and training).

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.

Active law enforcement officers from other states are subject to all requirements set forth in 18 USC § 926B.

## Vehicle Pursuits

### 306.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide officers with guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law. Another purpose of this policy is to minimize the potential for pursuit-related collisions. Vehicular pursuits require officers to exhibit a high degree of common sense and sound judgment. Officers must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing officers (Minn. Stat. § 626.8458 Subd. 1).

#### 306.1.1 PHILOSOPHY

Deciding whether to pursue a motor vehicle is a critical decision that must be made quickly and under difficult and unpredictable circumstances. In recognizing the risk to public safety created by vehicle pursuits, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a vehicle pursuit due to the risk involved. This includes circumstances where Department policy would permit the initiation or continuation of the pursuit. It is recognized that vehicle pursuits are not always predictable and decisions made pursuant to this policy will be evaluated according to the totality of the circumstances reasonably available at the time of the pursuit (Minn. Stat. § 626.8458 Subd. 1).

Officers must remember that the most important factors to the successful conclusion of a pursuit are proper self-discipline and sound professional judgment. Officers conduct during the course of a pursuit must be objectively reasonable; that is, what a reasonable officer would do under the circumstances. An individual's unreasonable desire to apprehend a fleeing suspect at all costs has no place in professional law enforcement pursuit (Minn. Stat. § 626.8458 Subd. 2 (2)).

### 306.2 DEFINITIONS

Definitions related to this policy include:

**Blocking or vehicle intercept** - A slow-speed coordinated maneuver where two or more law enforcement vehicles simultaneously intercept and block the movement of a suspect vehicle, the driver of which may be unaware of the impending enforcement stop, with the goal of containment and preventing a pursuit. Blocking is not a moving or stationary road block.

**Boxing-in** - A tactic designed to stop a violator's vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

**Pursuit Intervention Technique (PIT)** - A low-speed maneuver intended to terminate the pursuit by causing the violator's vehicle to spin out and come to a stop.

**Ramming** - The deliberate act of impacting a violator's vehicle with another vehicle to functionally damage or otherwise force the violator's vehicle to stop.

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**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.

**Spikes or tack strips** - A device that extends across the roadway and is designed to puncture the tires of the pursued 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.

### **306.3 OFFICER RESPONSIBILITIES**

It is the policy of this department that a vehicle pursuit shall be conducted with at least one flashing red warning lamp visible from the front and a siren that is sounded when necessary to warn pedestrians or other drivers (Minn. Stat. § 169.17 and Minn. Stat. § 169.68).

Operating an emergency vehicle in a pursuit with emergency lights 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 a reckless disregard for the safety of others.

#### **306.3.1 WHEN TO INITIATE A PURSUIT**

Officers are authorized to initiate a pursuit when it is reasonable to believe that a suspect is attempting to evade arrest or detention by fleeing in a vehicle that has been given a signal to stop by a peace officer.

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); Minn. R. § 6700.2701):

- (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.



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- (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.
- (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 unless exigent circumstances exist, and then only after the need to apprehend the suspect is weighed against the safety of the prisoner in transport. A unit containing more than a single prisoner should not participate in a pursuit.

#### 306.3.2 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 suspect's escape.

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); Minn. R. § 6700.2701):

- (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) Extended pursuits of violators for misdemeanors not involving abuse or risk of serious harm (independent of the pursuit) are discouraged.

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- (f) Hazards to uninvolved bystanders or motorists.
- (g) 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.
- (h) When directed to terminate the pursuit by a supervisor.
- (i) When radio communications are broken or inadequate.
- (j) When the danger that the continued pursuit poses to the public, the officers or the suspect is too great, balanced against the risk of allowing the suspect to remain at large.

#### **306.3.3 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.

#### **306.4 PURSUIT UNITS**

Pursuit units should be limited to three vehicles (two units and a supervisor). However, the number of units involved will vary with the circumstances (Minn. R. § 6700.2701 (B)).

An officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would be insufficient to safely arrest the suspect(s). All other officers shall stay out of the pursuit but should remain alert to its progress and location.

Distinctively marked patrol vehicles should replace unmarked vehicles involved in a pursuit whenever practicable.

#### **306.4.1 VEHICLES WITHOUT EMERGENCY EQUIPMENT**

Vehicles not equipped with red light and siren are prohibited from initiating or joining in any pursuit.

#### **306.4.2 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

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suspect(s) without unreasonable danger to him/herself or other persons (Minn. Stat. § 626.8458 Subd. 2 (4)).

The primary unit should notify Dispatch, 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:

- (a) Reason for the pursuit.
- (b) Location and direction of travel.
- (c) Speed of the fleeing vehicle.
- (d) Description of the fleeing vehicle and license number, if known.
- (e) Number of occupants.
- (f) The identity or description of the known occupants.
- (g) Weather, road and traffic conditions.
- (h) Identity of other agencies involved in the pursuit.
- (i) Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.
- (j) Request for medical assistance for any person injured in the course of the pursuit (Minn. Stat. § 626.8458 Subd. 2 (6); Minn. R. § 6700.2701).

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 (Minn. R. § 6700.2701).

#### 306.4.3 SECONDARY UNITS RESPONSIBILITIES

The second officer in the pursuit is responsible for the following (Minn. R. § 6700.2701):

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

#### 306.4.4 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. Stat. § 626.8458 Subd. 2 (3)):

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- (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 and utilizing a flashing red lamp or siren as may be necessary for safe operation (Minn. Stat. § 169.03, Subd. 2).
- (c) As a general rule, officers should not pursue a vehicle driving the wrong way on a roadway, highway, or freeway (Minn. Stat. § 169.03). 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 suspects.
- (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.

#### 306.4.5 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, unless directed otherwise by a supervisor.

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

#### 306.4.6 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.

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##### **306.4.7 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. Stat. § 626.8458 Subd. 2 (4)).

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.

##### **306.5 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. Stat. § 626.8458 Subd. 2 (4); Minn. R. § 6700.2701).

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

- (a) Upon becoming aware of a pursuit, immediately notify involved officers and Dispatch 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 FPD units when a pursuit enters another jurisdiction.
- (j) Prepare a post-pursuit critique and analysis of the pursuit for training purposes.

##### **306.5.1 SHIFT SERGEANT RESPONSIBILITIES**

Upon becoming aware that a pursuit has been initiated, the Shift Sergeant should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and

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requirements of this policy. The Shift Sergeant has the final responsibility for the coordination, control and termination of a vehicle pursuit and shall be in overall command (Minn. Stat. § 626.8458 Subd. 2 (4); Minn. R. § 6700.2701).

The Shift Sergeant shall review all pertinent reports for content and forward them to the Captain.

### **306.6 COMMUNICATIONS**

If the pursuit is confined within the City limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or communications dispatcher. If the pursuit leaves the jurisdiction of this department or such is imminent, involved units should, whenever available, switch radio communications to an emergency channel most accessible by participating agencies and units (Minn. R. § 6700.2701).

#### **306.6.1 LOSS OF PURSUED VEHICLE**

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

### **306.7 INTER-JURISDICTIONAL CONSIDERATIONS**

When a pursuit enters another agency's jurisdiction, the primary officer or supervisor, taking into consideration distance traveled, unfamiliarity with the area and other pertinent facts, should determine whether to request the other agency to assume the pursuit. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary officer or supervisor ensure that notification is provided to the dispatcher and to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether such jurisdiction is expected to assist (Minn. Stat. § 626.8458 Subd. 2 (5); Minn. R. § 6700.2701).

If a pursuit from another agency enters the Department's jurisdiction, Dispatch should update the on-duty supervisor.

#### **306.7.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY**

Fairmont Police Department officers will discontinue the pursuit when another agency has assumed the pursuit unless continued assistance of the Fairmont Police Department is requested by the agency assuming the pursuit. Upon discontinuing the pursuit, the primary unit may proceed upon request, with or at the direction of a supervisor, to the termination point to assist in the investigation.

The role and responsibilities of officers at the termination of a pursuit initiated by this department shall be coordinated with appropriate consideration of the units from the agency assuming the pursuit.

Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific. Because of communication limitations between local agencies, a request for another agency's assistance will mean that its personnel will assume responsibilities for the pursuit. For the same reasons, when

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a pursuit leaves another jurisdiction and a request for assistance is made to this department, the other agency should relinquish control.

#### **306.7.2 PURSUITS EXTENDING INTO THIS JURISDICTION**

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Units from this department should not join a pursuit unless specifically requested to do so by the agency whose peace officers are in pursuit. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a unit from this department may join the pursuit until sufficient units from the initiating agency join the pursuit.

When a request is made for this department to assist or take over a pursuit from another agency that has entered this jurisdiction, the supervisor should consider these additional following factors:

- (a) Ability to maintain the pursuit.
- (b) Circumstances serious enough to continue the pursuit.
- (c) Adequate staffing to continue the pursuit.
- (d) The public's safety within this jurisdiction.
- (e) Safety of the pursuing officers.

As soon as practicable, a supervisor or the Shift Sergeant should review a request for assistance from another agency. The Shift Sergeant or supervisor, after consideration of the above factors, may decline to assist in or assume the other agency's pursuit.

Assistance to a pursuing outside agency by officers of this department will terminate at the City limits provided that the pursuing peace officers have sufficient assistance from other sources. Ongoing participation from this department may continue only until sufficient assistance is present.

In the event that a pursuit from another agency terminates within this jurisdiction, officers shall provide appropriate assistance to peace officers from the outside agency including, but not limited to, scene control, coordination and completion of supplemental reports and any other assistance requested or needed.

#### **306.8 PURSUIT INTERVENTION**

Pursuit intervention is an attempt to terminate the ability of a suspect to continue to flee in a motor vehicle through tactical application of technology, road spikes, blocking, boxing, PIT (Pursuit Intervention Technique), ramming or roadblock procedures.

##### **306.8.1 WHEN USE AUTHORIZED**

Use of pursuit intervention tactics should be employed only after approval of a supervisor. In deciding whether to use intervention tactics, officers/supervisors should balance the risks of allowing the pursuit to continue with the potential hazards arising from the use of each tactic to the public, the officers and persons in or on the pursued vehicle. With these risks in mind, the decision to use any intervention tactic should be reasonable in light of the circumstances apparent to the officer at the time of the decision (Minn. Stat. § 626.8458 Subd. 2; Minn. R. § 6700.2701).

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It is imperative that officers act within legal bounds using good judgment and accepted practices.

#### 306.8.2 USE OF FIREARMS

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances meet the requirements authorizing the use of deadly force. Nothing in this section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

#### 306.8.3 INTERVENTION STANDARDS

Any pursuit intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of force, including deadly force, and are subject to Department policies guiding such use. Officers who have not received Department-approved training in the application and use of any intervention tactic or equipment shall consider these facts and requirements prior to deciding how, when, where and if an intervention tactic should be employed.

- (a) Blocking or vehicle intercept should only be considered in cases involving felony suspects or impaired drivers who pose a threat to public safety when officers reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. Because of the potential risks involved, this technique should only be employed by officers who have received training in such tactics and after giving consideration to the following:
  - 1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risks of injury or death to occupants of the suspect vehicle, officers or other members of the public.
  - 2. All other reasonable intervention techniques have failed or reasonably appear ineffective.
  - 3. Employing the blocking maneuver does not unreasonably increase the risk to officer safety.
  - 4. The target vehicle is stopped or traveling at a low speed.
  - 5. At no time should civilian non-emergency vehicles be used to deploy this technique.
- (b) Only those officers trained in the use of the PIT will be authorized to use this procedure and only then with approval of a supervisor upon consideration of the circumstances and conditions presented at the time, including the potential for risk of injury to officers, the public and occupants of the pursued vehicle.
- (c) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the officer's disposal have been exhausted. This tactic should be reserved for situations where there does not appear to be another reasonable alternative method. This policy is an administrative guide to direct officers in their decision-making process



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before ramming another vehicle. When ramming is used as a means to stop a fleeing vehicle, the following factors should be present:

1. The suspect is an actual or suspected felon, who reasonably appears to represent a serious threat to the public if not apprehended.
  2. The suspect is driving with willful or wanton disregard for the safety of other persons or is driving in a reckless and life-endangering manner.
  3. If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized.
- (d) As with all intervention techniques, pursuing officers should obtain supervisor approval before attempting to box a suspect vehicle during a pursuit. The use of such a technique must be carefully coordinated with all involved units, taking into consideration the circumstances and conditions apparent at the time, as well as the potential risk of injury to officers, the public and occupants of the pursued vehicle.
- (e) Spike strips should be deployed only when it is reasonably apparent that only the pursued vehicle will be affected by their use. Prior to the deployment of spike strips, the officer shall notify pursuing units and the supervisor of the intent and location. Officers should carefully consider the limitations of such devices as well as the potential risks to officers, the public and occupants of the pursued vehicle. If the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials or a school bus transporting children officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.
- (f) Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in the direct path of a pursued vehicle is generally discouraged and should not be deployed without prior approval of a supervisor, and only then under extraordinary conditions when all other reasonable intervention techniques have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risks of injury or death to occupants of the pursued vehicle, officers or other members of the public.

#### **306.8.4 CAPTURE OF SUSPECTS**

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Officers shall use only that amount of force that reasonably appears necessary under the circumstances to properly perform their lawful duties.

Unless relieved by a supervisor, the primary officer should coordinate efforts to apprehend the suspect(s) following the pursuit. Officers should consider safety of the public and the involved officers when formulating plans to contain and capture the suspect.

#### **306.9 REPORTING AND REVIEW REQUIREMENTS**

All appropriate reports shall be completed to comply with appropriate local and state regulations. The Captain shall ensure the appropriate forms are filed with the Department of Public Safety within 30 days (Minn. Stat. § 626.5532):

- (a) The primary officer shall complete appropriate crime/arrest reports.

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- (b) The primary officer or supervisor shall complete the appropriate pursuit report.
- (c) After first obtaining available information, the on-duty field supervisor shall promptly complete an interoffice memorandum, briefly summarizing the pursuit to the Chief of Police or designee. This memo should minimally contain the following information (Minn. Stat. § 626.5532):
  - 1. Date and time of pursuit.
  - 2. Length of pursuit in distance and time.
  - 3. Involved units and officers.
  - 4. Initial reason and circumstances surrounding the pursuit.
  - 5. Starting and termination points.
  - 6. Alleged offense, charges filed or disposition: arrest, citation or other release.
  - 7. Arrestee information should be provided if applicable.
  - 8. Injuries and/or property damage.
  - 9. Medical treatment.
  - 10. The outcome of the pursuit.
  - 11. Name of supervisor handling or at the scene.
  - 12. A preliminary determination that the pursuit appears to be in compliance with this policy or additional review and/or follow-up is warranted.
- (d) After receiving copies of reports, logs and other pertinent information, the Chief of Police or designee shall conduct or assign the completion of a post-pursuit review as appropriate to the circumstances.
- (e) Annually, the Chief of Police should direct a documented review and analysis of Department vehicle pursuits to minimally include policy suitability, policy compliance and training needs.

#### 306.9.1 REGULAR AND PERIODIC PURSUIT TRAINING

In addition to initial and supplementary training on pursuits, all licensed non-exempt employees will participate, no less than annually, in regular and periodic training on this policy and the importance of vehicle safety and protecting the public at all times. Training will include a recognition of the need to balance the known offense and the need for immediate capture against the risks to officers and others.

The Training Sergeant shall ensure the frequency and content of emergency vehicle operations and vehicle pursuit training meets or exceeds that required by law (Minn. Stat. § 626.8458 Subd. 5; Minn. R. § 6700.2702).

#### 306.9.2 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.

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##### 306.9.3 YEARLY CERTIFICATION

This policy shall be reviewed and certified to the state annually that it complies with requirements of any new or revised model policy adopted by the state (Minn. Stat. § 626.8458 Subd. 3).

##### 306.9.4 PUBLIC DISCLOSURE

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

## Officer Response to Calls

### 307.1 PURPOSE AND SCOPE

The State of Minnesota finds that emergency vehicle operations are an integral part of law enforcement's commitment to public safety. This policy provides for the safe and appropriate response to all emergency and nonemergency situations (Minn. Stat. § 626.8458, Subd. 1).

### 307.2 POLICY

It is the policy of this department to appropriately respond to emergency and nonemergency calls for service or requests for assistance, whether these are dispatched or self-initiated.

### 307.3 RESPONSE TO CALLS

#### 307.3.1 RESPONSE TO EMERGENCY CALLS

Officers responding to an emergency call shall proceed immediately as appropriate. Officers responding to an emergency call shall sound the siren or display at least one lighted red light to the front of the vehicle. Whenever practicable, during an emergency call response the officer should continuously operate emergency lighting equipment and sound the siren (Minn. Stat. § 169.03 et seq.; Minn. Stat. § 169.17).

Responding with a red light, emergency lighting and/or siren does not relieve the operator of an authorized emergency vehicle or a law enforcement 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. The use of any other warning equipment without emergency lights and siren does not provide an exemption under Minnesota law (Minn. Stat. § 169.17).

Officers should only respond with a red light, emergency lights and/or siren when so dispatched or when circumstances reasonably indicate an emergency response is appropriate. Officers not responding with a red light, emergency lights and/or siren shall observe all traffic laws.

#### 307.3.2 LIGHTING EXEMPTION OF LAW ENFORCEMENT VEHICLES

An officer may operate a vehicle without lights as otherwise required while performing law enforcement duties when the officer reasonably believes that operating the vehicle without lights is necessary to investigate a criminal violation or suspected criminal violation of state laws, rules or orders, or local laws, ordinances or regulations. The operation of a vehicle without lights must be consistent with the standards adopted by Minnesota Peace officer Standards and Training Board (POST) (Minn. Stat. § 169.541).

### 307.4 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an imminent threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen. Where a situation has stabilized and emergency response is not required, the requesting officer shall promptly notify Dispatch.

If circumstances permit, the requesting officer should give the following information:

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- The unit number
- The location
- The reason for the request and type of emergency
- The number of units required

#### **307.4.1 NUMBER OF UNITS PARTICIPATING**

Normally, only those units reasonably necessary should respond to an emergency as an emergency call response. The Shift Sergeant should monitor all emergency responses and reduce or enhance the response as warranted.

#### **307.5 INITIATING EMERGENCY CALL RESPONSE**

If an officer believes an emergency call response to any call is appropriate, the officer shall immediately notify Dispatch. Emergency responses of more than one unit should include, if circumstances reasonably permit, coordination of the response of the second responding unit by Dispatch to avoid unanticipated intersecting of response routes.

#### **307.6 RESPONSIBILITIES OF RESPONDING OFFICERS**

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. During a response to an emergency call officers may (Minn. Stat. § 169.03; Minn. Stat. § 169.17):

- (a) Proceed cautiously past a red or stop signal or stop sign but only after slowing down and utilizing a red light or siren as may be necessary for safe operation.
- (b) Exceed any speed limits, provided this does not endanger life or property.
- (c) Disregard regulations governing direction of movement or turning in specified directions as authorized by law.
- (d) Disregard regulations governing parking or standing when using a warning lamp.

The decision to continue an emergency call response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify Dispatch. An officer shall also discontinue an emergency call response when directed by a supervisor or as otherwise appropriate.

Upon determining that an emergency call response is appropriate, an officer shall immediately give the location from which he/she is responding.

When emergency vehicles are on the scene of an emergency and pose any hazard, or when the vehicle operators seek exemption to park, stop or stand contrary to any law or ordinance pursuant to Minn. Stat. § 169.541, adequate warning lights shall be operated whenever practicable.

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#### **307.7 SUPERVISORY RESPONSIBILITIES**

Upon being notified that an emergency response has been initiated, the Shift Sergeants shall verify the following:

- (a) The proper response has been initiated.
- (b) No more than those units reasonably necessary under the circumstances are involved in the response.
- (c) Affected outside jurisdictions are being notified as practicable.

The on duty supervisor shall, whenever practicable, monitor the response until it has been stabilized or terminated and assert control by directing units into or out of the response if necessary. If, in the supervisor's judgment, the circumstances require additional units to be assigned an emergency response, the supervisor may do so.

It is the supervisor's responsibility to terminate an emergency response that, in his/her judgment, is inappropriate due to the circumstances.

When making the decision to authorize an emergency call response, the Shift Sergeants should consider the following:

- The type of call or crime involved.
- The necessity of a timely response.
- Traffic and roadway conditions.
- The location of the responding units.

#### **307.8 FAILURE OF EMERGENCY EQUIPMENT**

If the emergency equipment on the vehicle should fail to operate, the officer must terminate the emergency call response and respond accordingly. The officer shall notify the Shift Sergeant or Dispatch of the equipment failure so that another unit may be assigned to the emergency response.

#### **307.9 TRAINING**

The Training Sergeant shall ensure the frequency and content of emergency vehicle operations training meets or exceeds that required by law (Minn. Stat. § 626.8458).

## Domestic Abuse

### 308.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent, and reduce domestic abuse through vigorous enforcement and to address domestic abuse as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic abuse.

#### 308.1.1 DEFINITIONS

Definitions related to this policy include:

**Court order** - All forms of orders related to domestic abuse, that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

**Domestic abuse** - Commission of any of the following if committed against a family or household member by another family or household member (Minn. Stat. § 518B.01, Subd. 2):

- (a) Actual or fear of imminent physical harm, bodily injury, or assault
- (b) Threats of violence with intent to terrorize as specified by Minn. Stat. § 609.713, Subd.1.
- (c) Criminal sexual conduct (Minn. Stat. § 609.342 to Minn. Stat. § 609.3451)
- (d) Interference with an emergency call as specified by Minn. Stat. § 609.78, Subd.2.

### 308.2 POLICY

The Fairmont Police Department's response to incidents of domestic abuse and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic abuse is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

### 308.3 OFFICER SAFETY

The investigation of domestic abuse cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

### 308.4 INVESTIGATIONS

The following guidelines should be followed by officers when investigating domestic abuse cases:

- (a) Calls of reported, threatened, imminent, or ongoing domestic abuse and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.

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- (b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex if intimate areas must be photographed. Victims whose injuries are not visible at the time of the incident should be asked to contact an Investigator in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.
- (j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
  - 1. Whether the suspect lives on the premises with the victim.
  - 2. Claims by the suspect that the victim provoked or perpetuated the violence.
  - 3. The potential financial or child custody consequences of arrest.
  - 4. The physical or emotional state of either party.
  - 5. Use of drugs or alcohol by either party.
  - 6. Denial that the abuse occurred where evidence indicates otherwise.
  - 7. A request by the victim not to arrest the suspect.
  - 8. Location of the incident (public/private).
  - 9. Speculation that the complainant may not follow through with the prosecution.



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10. The social status, community status, or professional position of the victim or suspect.

#### **308.4.1 IF A SUSPECT IS ARRESTED**

If a suspect is arrested, officers should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail (Minn. Stat. § 629.72 Subd. 6).
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail if known.

#### **308.4.2 IF NO ARREST IS MADE**

If no arrest is made, the officer should:

- (a) Advise the parties of any options, including but not limited to:
  1. Voluntary separation of the parties.
  2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).
- (b) Document the resolution in a report or detailed IBR update.

#### **308.5 VICTIM ASSISTANCE**

Because victims may be traumatized or confused, officers should be aware that a victim's behavior and actions may be affected.

- (a) Victims should be provided with the department's domestic abuse information handout, even if the incident may not rise to the level of a crime.
- (b) Victims should be alerted to any available victim advocates, shelters, and community resources.
- (c) When an involved person requests law enforcement assistance while removing essential items of personal property, officers should stand by for a reasonable amount of time.
- (d) If the victim has sustained injury or complains of pain, officers should seek medical assistance as soon as practicable.
- (e) Officers should ask the victim whether he/she has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.
- (f) Officers should make reasonable efforts to ensure that any children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (g) If appropriate, officers should seek or assist the victim in obtaining an emergency order.

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### **308.6 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.

#### **308.6.1 CANADIAN ORDERS FOR PROTECTION**

An order for protection issued by Canada or a Canadian province shall be enforced as if it were the order of a court in this state and afforded the same consideration as foreign court orders with respect to proper issuance and registration (Minn. Stat. § 518F.03).

### **308.7 VERIFICATION OF COURT ORDERS**

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and, where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
- (b) Check available records or databases that may show the status or conditions of the order.
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

### **308.8 LEGAL MANDATES AND RELEVANT LAWS**

Minnesota law provides for the following:

#### **308.8.1 STANDARDS FOR ARRESTS**

Officers investigating a domestic abuse report should consider the following:

- (a) An officer has the authority to arrest a person without a warrant, including at the person's residence, if the peace officer has probable cause to believe that the person has, within the preceding 72 hours, exclusive of the day probable cause was established, assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm any person covered by the "family or household member" definition, even if the assault did not rise to the level of a felony or did not take place in the presence of the peace officer (Minn. Stat. § 629.34; Minn. Stat. § 629.341).

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- (b) Officers should generally not make dual arrests but may make an arrest of a primary aggressor. Where there are allegations that each party assaulted the other, the officer shall determine whether there is sufficient evidence to conclude that one of the parties was the primary aggressor based on the following criteria and the officer's judgment (Minn. Stat. § 629.342, Subd. 2):
  - 1. Comparative extent of any injuries inflicted
  - 2. Fear of physical injury because of past or present threats
  - 3. Actions taken in self-defense or to protect oneself
  - 4. History of domestic abuse perpetrated by one party against the other
  - 5. Existence or previous existence of an order for protection
- (c) An officer shall not issue a citation in lieu of arrest and detention to an individual charged with any of the following offenses (Minn. Stat. § 629.72):
  - 1. Stalking
  - 2. Domestic abuse
  - 3. Violation of an order for protection
  - 4. Violation of a domestic abuse no contact order
- (d) The Shift Sergeant will determine whether a person arrested on a charge of stalking any person, domestic abuse, violation of an order for protection, violation of a domestic abuse no contact order, or violation of a court-ordered transfer of firearms will be held in custody or be issued a citation in lieu of continued detention and released after booking. The person shall be held in custody whenever the Shift Sergeant determines that it reasonably appears the release of the person (Minn. Stat. § 629.72):
  - 1. Poses a threat to the alleged victim or another family or household member.
  - 2. Poses a threat to public safety.
  - 3. Involves a substantial likelihood that the arrested person will fail to appear at subsequent proceedings.
- (e) Officers shall arrest and take into custody, without a warrant, a person whom the peace officer has probable cause to believe has violated a court order issued pursuant to Minn. Stat. § 518B.01 or Minn. Stat. § 629.75. Such an arrest shall be made even if the violation of the order did not take place in the presence of the peace officer, if the officer can verify the existence of the order. If the person is not released on citation in lieu of continuing detention, the person shall be held in custody for these violations for at least 36 hours unless released by a court (Minn. Stat. § 518B.01; Minn. Stat. § 629.75).
- (f) An arrest for a violation of an order of protection may be made regardless of whether the excluded party was invited back to the residence (Minn. Stat. § 518B.01, Subd. 18).
- (g) Following an arrest, an officer should contact the local domestic abuse program by phone as soon as possible and provide the name and address of the victim and a brief factual account of events associated with the action.

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- (h) An officer shall arrest and take into custody a person whom the officer has probable cause to believe has violated a harassment restraining order, pursuant to Minn. Stat. § 609.748, if the officer can verify the existence of the order.
- (i) Officers are authorized to make an arrest without a warrant when there is probable cause to believe the person has violated the provisions of any other no contact or restraining order issued by a court, even if the offense did not rise to the level of a felony (Minn. Stat. § 629.34). While conducting a domestic abuse investigation officers shall attempt to verify whether there has been a court order issued.
- (j) Officers should consider whether other offenses have been committed that may not qualify as a domestic abuse including, but not limited to, burglary, felony assault, other threats of violence, kidnapping, false imprisonment, witness tampering, trespassing, criminal damage to property, disorderly conduct, or assault.

#### 308.8.2 REPORTS AND RECORDS

- (a) Officers should include information related to the following in a report, as applicable (Minn. Stat. § 629.341):
  - 1. Names, addresses, and telephone numbers of all involved persons
  - 2. Condition of clothing
  - 3. Description of the scene, including any property damage
  - 4. Evidence of physical injury, including strangulation
  - 5. Presence of elderly victims or persons with disabilities
  - 6. Facts related to any person who may have been a primary aggressor
  - 7. Excited utterances of the victim and the suspect
  - 8. Demeanor of the victim and the suspect
  - 9. Medical records, including the victim's statements to paramedics, nurses, and doctors
  - 10. Detailed statements of interviews of witnesses, including children, who may have been present, noting any language barriers
  - 11. A detailed explanation of the reasons for the officer's decision not to arrest or seek an arrest warrant
  - 12. Evidence of any prior domestic abuse or related convictions, including dates
  - 13. Any existing orders for protection, harassment restraining order, or no contact orders
  - 14. Identifying information of a specific court order violated, including county of origin, the file number, and the provision allegedly violated
- (b) Domestic abuse reports should be forwarded to the appropriate prosecutor for review and consideration of criminal charges, even when no arrest is made or warrant requested.

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- (c) If a child was present at the scene of a domestic abuse incident or was the victim of domestic abuse, the officer should determine whether the child has been subjected to physical abuse, sexual abuse, or neglect, and comply with the mandatory reporting requirements of Minn. Stat. § 260E.06 et seq.
  - 1. The officer shall also attempt to verify whether there has been an order for protection issued under Minn. Stat. § 260C.201 and take appropriate action.
- (d) Fees will not be charged for the release of reports related to domestic abuse, as directed in Minn. Stat. § 13.82.

#### 308.8.3 SERVICE OF COURT ORDERS

Officers, when reasonably safe and in a position to do so, shall serve copies or short forms of court orders as directed in Minn. Stat. § 518B.01 and Minn. Stat. § 609.748.

#### 308.8.4 COURT-ORDERED FIREARM SURRENDERS

Although not required, this department generally will accept firearms surrendered by a court order from an abusing party or defendant. A decision to refuse a surrendered firearm should be approved by a supervisor.

Firearms will normally be surrendered at the Fairmont Police Department; however, when encountering someone in the field who wishes to surrender a firearm, officers should make reasonable efforts to accommodate the request.

Surrendered firearms should be collected and submitted to the Property and Evidence Section in accordance with the Property and Evidence Section Policy.

## Search and Seizure

### 309.1 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 Fairmont Police Department personnel to consider when dealing with search and seizure issues.

### 309.2 POLICY

It is the policy of the Fairmont 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.

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.

### 309.3 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 consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances

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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#### *Search and Seizure*

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#### **309.4 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.

#### **309.5 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

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.

## Temporary Custody of Juveniles

### 310.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Fairmont Police Department (34 USC § 11133; Minn. Stat. § 260B.176; Minn. Stat. § 260C.176).

This policy does not apply to secure detention facilities, shelter care facilities, or the juvenile portion of an adult facility authorized to hold juveniles, but rather applies to the temporary custody of a juvenile before a juvenile is released, delivered to a court, or delivered to any of these other facilities (Minn. Stat. § 260B.176, Subd. 3; Minn. Stat. § 260C.176, Subd. 3).

#### 310.1.1 DEFINITIONS

Definitions related to this policy include:

**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; Minn. Stat. § 260C.007, Subd. 10).

**Juvenile non-offender** - An abused, neglected, dependent, or alien juvenile who may be legally held for his/her own safety or welfare. This includes those held as runaways (Minn. Stat. § 260C.175), truancy violators (Minn. Stat. § 260C.143), and juveniles 15 years old or younger in custody related to their engaging in prostitution or related activities (Minn. Stat. § 260B.007 Subd. 6(c)). This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for his/her protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person.

**Juvenile offender** - A juvenile 17 years of age or younger who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense). It also includes possession of a handgun in violation of Minn. Stat. § 624.713 (28 CFR 31.303). This does not include a juvenile petty offender under Minn. Stat. § 260B.007.

**Non-secure custody** - When a juvenile is held in the presence of an officer or other custody employee at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring, and audio two-way communication is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation.

**Secure custody** - When a juvenile offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object.

Examples of secure custody include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) A juvenile handcuffed to a rail.



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#### *Temporary Custody of Juveniles*

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- (c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
- (d) A juvenile being processed in a secure booking area when a non-secure booking area is available.
- (e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- (f) A juvenile placed in a cell within the adult temporary holding area whether or not the cell door is locked.
- (g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

**Sight and sound separation** - Located or arranged to prevent physical, visual, or auditory contact.

**Status offender** - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include underage possession of tobacco or curfew violation. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender. Juvenile petty offenders taken into custody should be considered a status offender for purposes of this policy (Minn. Stat. § 260B.007; Minn. Stat. § 260B.143).

#### **310.2 POLICY**

The Fairmont Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the Fairmont Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer, or release.

#### **310.3 JUVENILES WHO SHOULD NOT BE HELD**

Juveniles who exhibit any of the following conditions should not be held at the Fairmont Police Department:

- (a) Unconscious
- (b) Seriously injured
- (c) A known suicide risk or obviously severely emotionally disturbed
- (d) Significantly intoxicated
- (e) Extremely violent or continuously violent

Officers taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation.

These juveniles should not be held at the Fairmont Police Department unless they have been evaluated by a qualified medical and/or mental health professional.

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If the officer taking custody of the juvenile believes the juvenile may be a suicide risk, the juvenile shall be under continuous direct supervision until evaluation, release, or a transfer is completed.

##### **310.3.1 SUICIDE PREVENTION OF JUVENILES IN CUSTODY**

The arresting officer should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill him/herself, or any unusual behavior that may indicate the juvenile may harm him/herself while in custody.

##### **310.4 CUSTODY OF JUVENILES**

Officers should take custody of a juvenile and temporarily hold the juvenile at the Fairmont Police Department when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile that is suspected of being a victim.

Juvenile should be held in temporary custody at the Fairmont Police Department with authorization of the arresting officer's supervisor or the Shift Sergeant when one is on duty.

Any juvenile taken into custody shall be released to the care of the juvenile's parent or other responsible adult, or transferred to a juvenile custody facility or to other authority as soon as practicable, and in no event shall a juvenile be held beyond six hours from the time of his/her entry into the Fairmont Police Department (34 USC § 11133).

##### **310.4.1 CUSTODY OF JUVENILE NON-OFFENDERS**

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Fairmont Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible (Minn. Stat. § 260B.175; Minn. Stat. § 260C.143; Minn. Stat. § 260C.176). Juvenile non-offenders may not be held in secure custody (34 USC § 11133).

Juveniles detained for truancy violations may be (Minn. Stat. § 260C.143):

- (a) Transported to the juvenile's home and released to a parent or guardian.
- (b) Transported to the juvenile's school of enrollment and delivered to the school superintendent or a teacher.
- (c) Transported to a child truancy center under Minn. Stat. § 260A.04, Subd. 3.

##### **310.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS**

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However officers may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent). Juvenile status offenders may not be held in secure custody (34 USC § 11133).

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##### 310.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Fairmont Police Department unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

Generally juvenile offenders may be taken into custody under the authority of Minn. Stat. § 260B.175 when a court order authorizes the custody, when the juvenile has committed an offense that would warrant the arrest of an adult, or when it is reasonably believed that the child has violated the terms of probation, parole, or other field supervision.

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

The parent, guardian, or custodian of the juvenile shall be notified as soon as possible when a juvenile offender is taken into custody. Juvenile offenders shall be released to the custody of a parent, guardian, custodian, or other suitable person unless there is reason to believe that the juvenile would (Minn. Stat. § 260B.176):

- (a) Endanger him/herself or others.
- (b) Not return for a court hearing.
- (c) Run away from or otherwise not remain in the care or control of his/her parent, guardian, or custodian.
- (d) Face immediate endangerment to his/her health or welfare.

If a juvenile offender is not released to a parent, guardian, custodian, or other suitable person, the officer taking the juvenile offender into custody shall notify the court as soon as possible of the detention of the juvenile and the reasons for detention (Minn. Stat. § 260B.176).

##### 310.4.4 SCHOOL NOTIFICATION

Minnesota law requires that the Chief of Police or the authorized 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):

- (a) There is probable cause to believe a juvenile has committed an offense that would be a crime if committed as an adult, where the victim is a student or staff member and the notice is reasonably necessary for the protection of the victim.
- (b) There is probable cause to believe a juvenile has committed certain serious crimes regardless of whether the victim is a student or staff member.
- (c) The juvenile is taken into protective custody and methamphetamine manufacture or storage is involved (see the Child Abuse Policy for guidelines) (see also, Minn. Stat. § 260C.171)

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

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##### **310.5 ADVISEMENTS**

When a juvenile is taken into custody on a warrant, the juvenile and his/her parent, guardian, or custodian, if present, shall immediately be informed of the existence of the warrant for immediate custody and, as soon as practicable, of the reasons why the juvenile is being taken into custody (Minnesota Rules of Juvenile Delinquency Procedure 4.03, Subd. 10).

If it is determined that a juvenile taken into custody is going to be placed into a secure detention facility or a shelter care facility, the officer shall advise both the juvenile and the juvenile's parent, guardian, or custodian as soon as possible (Minn. Stat. § 260B.176, Subd. 3; Minn. Stat. § 260C.176, Subd. 3):

- (a) Of the reasons for custody and the reasons for placement.
- (b) Of the location of the facility unless there is reason to believe that disclosure would place the juvenile's health and welfare in immediate endangerment. If so, the disclosure shall not be made (Minn. Stat. § 260B.176, Subd. 5).
- (c) That the juvenile's parent, guardian, or custodian and attorney or guardian ad litem may make an initial visit to the facility at any time. Subsequent visits may also be made on a reasonable basis.
- (d) That the juvenile may telephone parents and an attorney or guardian ad litem immediately after being admitted to the facility and thereafter on a reasonable basis.
- (e) That the juvenile may not be detained for acts under Minn. Stat. § 260B.007, Subd. 6 for longer than 36 hours excluding weekends and holidays unless a petition has been filed pursuant to Minn. Stat. § 260B.178.
- (f) That the juvenile may not be detained under Minn. Stat. § 260C.175, Subd. 1, clause (1) or (2), item (ii) longer than 72 hours at a shelter care facility excluding weekends and holidays unless a petition has been filed pursuant to Minn. Stat. § 260C.178.
- (g) That the juvenile may not be detained for acts under Minn. Stat. § 260B.007, Subd. 6 for longer than 24 hours in an adult jail or municipal lockup excluding weekends and holidays or longer than six hours if the adult jail or municipal lockup is a standard metropolitan statistical area, unless a petition has been filed pursuant to Minn. Stat. § 260B.178 and a motion made to refer the juvenile for adult prosecution.
- (h) Of the date, time, and place of the detention hearing, if this information is available.
- (i) That the juvenile and the juvenile's parent, guardian, or custodian have the right to be present and to be represented by counsel, at the detention hearing and that if they cannot afford counsel it will be appointed at public expense.

##### **310.6 NO-CONTACT REQUIREMENTS**

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (34 USC § 11133). There should also be sight and sound separation between non-offenders and juvenile or status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Fairmont Police Department

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shall maintain a constant, immediate presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact.

#### **310.7 USE OF RESTRAINT DEVICES**

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Fairmont Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening.

Restraints shall only be used after less restrictive measures have failed and with the approval of the Shift Sergeant. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others.

Juveniles in restraints shall be kept away from other unrestrained juveniles or monitored in such a way as to protect the juvenile from abuse.

#### **310.8 PERSONAL PROPERTY**

The officer taking custody of a juvenile offender or status offender at the Fairmont Police Department shall ensure a thorough search of the juvenile's property is made and all property is removed from the juvenile, especially those items that could compromise safety, such as pens, pencils, and belts.

The personal property of a juvenile should be placed in a property bag. The property should be inventoried in the juvenile's presence and sealed into the bag. The property should be kept in a monitored or secure location until the juvenile is released from the custody of the Fairmont Police Department.

#### **310.9 SECURE CUSTODY**

Only juvenile offenders 14 years of age or older may be placed in secure custody (Minn. Stat. § 260B.181). Shift Sergeant approval is required before placing a juvenile offender in secure custody.

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to him/herself or others.

Members of this department should not use secure custody for convenience when non-secure custody is or later becomes a reasonable option.

When reasonably practicable, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody rather than the use of a locked enclosure. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object.

Generally, juveniles should not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter. Supervisor approval should be documented.

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##### **310.10 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY OF A JUVENILE**

The Shift Sergeant will ensure procedures are in place to address the suicide attempt, death, or serious injury of any juvenile held at the Fairmont Police Department. The procedures will address:

- (a) Immediate notification of the on-duty supervisor, Chief of Police and Investigation Division Supervisor.
- (b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.
- (c) Notification of the appropriate prosecutor.
- (d) Notification of the City attorney.
- (e) Evidence preservation.

##### **310.11 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS**

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent and does consent to an interview or interrogation.

##### **310.12 RESTRICTION ON PHOTOGRAPHING**

Photographing of juveniles taken into custody will only occur with the consent of the juvenile court, except when the photograph is taken related to a violation of driving while impaired or is taken pursuant to the laws of arrest (Minn. Stat. § 260B.171, Subd. 5; Minn. Stat. § 260B.175; Minn. Stat. § 169A.20).

## Adult Abuse

### 311.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for Fairmont Police Department members as required by law (Minn. Stat. § 626.557).

#### 311.1.1 DEFINITIONS

Definitions related to this policy include (Minn. Stat. § 626.5572):

**Adult abuse** - Any offense or attempted offense involving violence or neglect of an adult victim when committed by a person responsible for the adult's care, or any other act that would mandate reporting or notification to a social service agency or law enforcement.

### 311.2 POLICY

The Fairmont Police Department will investigate all reported incidents of alleged adult abuse and ensure proper reporting and notification as required by law.

### 311.3 MANDATORY NOTIFICATION

Members of the Fairmont Police Department shall notify the entity responsible for receiving such reports when they have reason to believe that a vulnerable adult is being or has been maltreated, or has sustained a physical injury which is not reasonably explained. Members shall also report suspected negligent care by a service or health care provider that resulted in injury or harm requiring the care of a physician (Minn. Stat. § 626.557).

For purposes of notification, a vulnerable adult is a person age 18 or older who has physical, mental or emotional disabilities that make it difficult for the person to care for or to protect him/herself from maltreatment. It also refers to adults who reside at a facility, or receive care at a facility or through home care (Minn. Stat. § 626.5572).

Maltreatment includes abuse, neglect and financial exploitation. Abuse can be physical, emotional or sexual. Financial exploitation may include any instance where vulnerable adults' money, assets or property are not used for their benefit or are stolen or kept from them (see Minn. Stat. § 626.5572 for full definitions).

#### 311.3.1 NOTIFICATION PROCEDURE

Notification should be made as soon as possible, but in all cases within 24 hours (Minn. Stat. § 626.557; Minn. Stat. § 626.5572). To the extent possible, the following should be included in the notification:

- (a) The identity of the vulnerable adult and any caregiver
- (b) The nature and extent of the suspected maltreatment
- (c) Any evidence of previous maltreatment

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- (d) The name and addresses of the person initiating the report or other witnesses
- (e) The time, date, and location of the incident
- (f) Any other information that might be helpful in investigating the suspected maltreatment

If notification of maltreatment is first made to the Fairmont Police Department, the member receiving the notification shall complete and forward the intake form to the entity responsible for receiving such reports.

#### **311.4 QUALIFIED INVESTIGATORS**

Qualified investigators should be available to investigate cases of adult abuse. These investigators should:

- (a) Conduct interviews in appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to adult abuse investigations.
- (c) Present all cases of alleged adult abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and facility administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians and support for the victim and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Minn. Stat. § 626.5571).

#### **311.5 INVESTIGATIONS AND REPORTING**

All reported or suspected cases of adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated. Investigations should be initiated as soon as possible, but in all cases within 24 hours (Minn. Stat. § 626.557).

Investigations and reports related to suspected cases of adult 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 adult abuse victim is contacted.
- (b) Any relevant statements the victim may have made and to whom he/she made the statements.
- (c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.
- (e) Whether the victim was transported for medical treatment or a medical examination.
- (f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.



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- (g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.
- (h) Previous addresses of the victim and suspect.
- (i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential adult abuse and investigated similarly.

Assigned members shall initiate an investigation of vulnerable adult abuse as soon as possible, but in all cases within 24 hours when there is reason to believe a crime has been committed (Minn. Stat. § 626.557).

#### **311.6 PROTECTIVE CUSTODY**

Before taking an adult abuse victim into protective custody when facts indicate the adult may not be able to care for him/herself, the officer should make reasonable attempts to contact an appropriate protective services agency. Generally, removal of an adult abuse victim from his/her family, guardian or other responsible adult should be left to the welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove an adult abuse victim from his/her family or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the victim. Prior to taking an adult abuse victim into protective custody, the officer should take reasonable steps to deliver the adult to another qualified legal guardian, unless it reasonably appears that the release would endanger the victim or result in abduction. If this is not a reasonable option, the officer shall ensure that the adult is delivered to an appropriate protective services agency or medical facility.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking an adult abuse victim into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking the adult into protective custody.

When adult abuse victims are under state control, have a state-appointed guardian or there are other legal holdings for guardianship, it may be necessary or reasonable to seek a court order on behalf of the adult victim to either remove the adult from a dangerous environment (protective custody) or restrain a person from contact with the adult.

#### **311.7 INTERVIEWS**

##### **311.7.1 PRELIMINARY INTERVIEWS**

Absent extenuating circumstances or impracticality, officers should audio record the preliminary interview with a suspected adult abuse victim. Officers should avoid multiple interviews with the 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.

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##### **311.7.2 DETAINING VICTIMS FOR INTERVIEWS**

An officer should not detain an adult involuntarily who is suspected of being a victim of abuse solely for the purpose of an interview or physical exam without his/her consent or the consent of a guardian unless one of the following applies:

- (a) Exigent circumstances exist, such as:
  - 1. A reasonable belief that medical issues of the adult need to be addressed immediately.
  - 2. A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
  - 3. The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.
- (b) A court order or warrant has been issued.

##### **311.8 MEDICAL EXAMINATIONS**

When an adult abuse investigation requires a medical examination, the investigating officer should obtain consent for such examination from the victim, guardian, agency or entity having legal custody of the adult. The officer should also arrange for the adult's transportation to the appropriate medical facility.

In cases where the alleged offender is a family member, guardian, agency or entity having legal custody and is refusing to give 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 adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

##### **311.9 DRUG-ENDANGERED VICTIMS**

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of an adult abuse victim who has been exposed to the manufacturing, trafficking or use of narcotics.

###### **311.9.1 SUPERVISOR RESPONSIBILITIES**

The Investigations supervisor should:

- (a) Work with professionals from the appropriate agencies, including the applicable adult protective services agency, other law enforcement agencies, medical service providers and local prosecutors, to develop community-specific procedures for responding to situations where there are adult abuse victims 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 Investigations supervisor that he/she has responded to a drug lab or other narcotics crime scene where an adult abuse victim is present or where evidence indicates that an adult abuse victim lives.

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- (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 adult.

#### 311.9.2 OFFICER RESPONSIBILITIES

Officers responding to a drug lab or other narcotics crime scene where an adult abuse victim is present or where there is evidence that an adult abuse victim lives should:

- (a) Document the environmental, medical, social and other conditions of the adult, using photography as appropriate and the checklist or form developed for this purpose.
- (b) Notify the Investigations supervisor so an interagency response can begin.

#### 311.10 STATE MANDATES AND OTHER RELEVANT LAWS

Minnesota requires or permits the following:

##### 311.10.1 RECORDS SECTION RESPONSIBILITIES

The Records Section is responsible for:

- (a) Providing a copy of the adult abuse report to the applicable entity in the county responsible for receiving such reports as required by law.
- (b) Retaining the original adult abuse report with the initial case file.

##### 311.10.2 RELEASE OF REPORTS

Information related to incidents of adult abuse or suspected adult abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Minn. Stat. § 626.557).

#### 311.11 TRAINING

The Department should provide training on best practices in adult abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.
- (b) Conducting interviews.
- (c) Availability of therapy services for adults and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to adult abuse investigations.
- (f) Availability of victim advocates or other support.

## **Discriminatory Harassment**

### **312.1 PURPOSE AND SCOPE**

This policy is intended to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

### **312.2 POLICY**

The Fairmont 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.

### **312.3 DEFINITIONS**

Definitions related to this policy include:

#### **312.3.1 DISCRIMINATION**

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status 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; making 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 a work environment that is free of discrimination.

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##### 312.3.2 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because the person has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated.

##### 312.3.3 SEXUAL HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member 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 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.

##### 312.3.4 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) and the Minnesota Department of Human Rights.
- (b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with City or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

#### **312.4 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 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 the member's 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, The Captain, or the City Administrator.

Any member who believes, in good faith, that the member has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment, discrimination, or

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retaliation, 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.

#### 312.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors and managers shall include but are not limited to:

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
- (c) Ensuring that their subordinates understand their responsibilities under this policy.
- (d) Ensuring 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) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notifying the Chief of Police or the Captain in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

#### 312.4.2 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

- (a) Behavior of supervisors and managers should represent the values of the Department and professional standards.
- (b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

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 members, or issuing discipline in a manner that is consistent with established procedures.

#### 312.4.3 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief of Police, the Captain, or the City Administrator for further information, direction, or clarification.

#### 312.5 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

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complaints of discrimination, retaliation, or harassment shall be fully documented, and promptly and thoroughly investigated.

##### **312.5.1 SUPERVISOR RESOLUTION**

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's 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.

##### **312.5.2 FORMAL INVESTIGATION**

If the complaint cannot be satisfactorily resolved through the process described above, a formal investigation will be conducted.

The person 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 an investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and 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, the Captain or the City Administrator.

##### **312.5.3 ALTERNATIVE COMPLAINT PROCESS**

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Department. Members who believe that they have been harassed, discriminated against, or retaliated 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. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

#### **312.6 DOCUMENTATION OF COMPLAINTS**

All complaints or allegations shall be thoroughly documented on the appropriate forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

- (a) Approved by the Chief of Police, the City Administrator, or the Captain, depending on the ranks of the involved parties.
- (b) Maintained in accordance with the established records retention schedule.

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##### 312.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

##### **312.7 TRAINING**

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's term with the Department.

All members 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.



## Child Abuse

### 313.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Fairmont Police Department members are required to notify the county social services agency of suspected child abuse.

#### 313.1.1 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 (also known as maltreatment of minors)** - 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. § 260E.03; Minn. Stat. § 260E.06).

### 313.2 POLICY

The Fairmont 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.

### 313.3 MANDATORY NOTIFICATION

Members of the Fairmont 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. § 260E.06):

- (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. § 260E.03, subd. 15; Minn. Stat. § 260E.31).

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. § 260E.12).

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

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sexual conduct and prostitution offenses. Neglect includes failure to supply a child with necessary clothing, shelter, or medical care. See Minn. Stat. § 260E.03 for full definitions of physical abuse, sexual abuse, and neglect.

#### **313.3.1 NOTIFICATION PROCEDURE**

Notification should occur as follows (Minn. Stat. § 260E.09):

- (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 72 hours, exclusive of weekends and holidays.
- (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 or a profession that requires a state license (e.g., foster homes, group homes, day care, educator), notification shall also be made to the agency responsible for licensing the facility or person (Minn. Stat. § 260E.11).

#### **313.4 QUALIFIED INVESTIGATORS**

Qualified investigators should be used when 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.

#### **313.5 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).

#### **313.6 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).

#### 313.6.1 NOTICE TO PARENT OR CUSTODIAN AND CHILD

Whenever an officer takes a child into protective custody, the officer shall notify the parent or custodian, and the child (age 10 years or older) that they may request that the child be placed with a relative 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. When placement with a relative is requested, the [officer/deputy] will coordinate with the responsible social services agency to ensure the child's safety and well-being in compliance with Minn. Stat. § 260C.181 (Minn. Stat. § 260C.175).

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).

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#### 313.6.2 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. § 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).

#### 313.7 INTERVIEWS

##### 313.7.1 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.

##### 313.7.2 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.

##### 313.7.3 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. § 260E.22, Subd. 1).

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. When it is possible and substantial child endangerment or sexual

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abuse is alleged, the interview may take place outside the presence of the alleged offender and prior to any interviews of the alleged offender (Minn. Stat. § 260E.22).

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. § 260E.22).

#### **313.7.4 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. § 260E.22, Subd. 7).

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. § 260E.22, Subd. 7).

#### **313.7.5 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. § 260E.23):

- (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.

#### **313.8 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.

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### **313.9 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.

#### **313.9.1 SUPERVISOR RESPONSIBILITIES**

The Investigations 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 Investigations 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.

#### **313.9.2 OFFICER 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 Investigations supervisor so an interagency response can begin when necessary.

#### **313.9.3 SCHOOL NOTIFICATION**

If a juvenile is taken into protective custody after being found in an area where methamphetamine was being manufactured or attempted to be manufactured, or where any chemical substances, paraphernalia or waste products related to methamphetamine are stored, the officer who took the juvenile into custody shall notify the chief administrative officer of the juvenile's school (Minn. Stat. § 260C.171, Subd. 6).

### **313.10 STATE MANDATES AND OTHER RELEVANT LAWS**

Minnesota requires or permits the following:

#### **313.10.1 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 Maintenance and Release Policy (Minn. Stat. § 260E.35).

#### **313.10.2 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).

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##### **313.10.3 COORDINATION WITH SOCIAL SERVICES**

In every case of child abuse that would require notification to a local county social services agency, the Investigations Sergeant or Investigator 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. § 260E.12; Minn. Stat. § 260E.14, Subd. 5).

Members may disclose the status of an individual as a predatory offender to a child protection worker who is conducting an assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs under Chapter 260E (Minn. Stat. § 243.166).

##### **313.10.4 NOTIFICATION PROCESS**

The Investigations Sergeant 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. § 260E.01 et seq.).

##### **313.10.5 COURT-ORDERED FIREARM SURRENDERS**

Although not required, this department generally will accept firearms surrendered by a court order from an abusing party or defendant. A decision to refuse a surrendered firearm should be approved by a supervisor.

Firearms will normally be surrendered at the Fairmont Police Department; however, when encountering someone in the field who wishes to surrender a firearm, officers should make reasonable efforts to accommodate the request.

Surrendered firearms should be collected and submitted to the Property and Evidence Section in accordance with the Property and Evidence Section Policy.

#### **313.11 TRAINING**

The department 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.



## Missing Persons

### 314.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

#### 314.1.1 DEFINITIONS

Definitions related to this policy include:

**Endangered** - A person the Department has confirmed is missing and there is sufficient evidence to indicate that the person is at risk of physical injury or death. Examples include (Minn. Stat. § 299C.52):

- (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 that 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.
- (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 immediate and effective investigation 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.
- (m) Qualify for a state AMBER Alert™ pursuant to Minn. Stat. § 299A.61, Subd. 1.

**Missing person** - Any person who is reported missing to law enforcement when that person's location is unknown. This includes any person under the age of 18 or who is certified or known to be mentally incompetent (Minn. Stat. § 299C.52).

**Missing person networks** - Databases or computer networks that are available to law enforcement and are suitable for obtaining information related to missing person investigations. This includes the National Crime Information Center (NCIC), the Minnesota Justice Information

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Services (MNJIS), the Minnesota Missing and Unidentified Persons Clearinghouse and the Minnesota Crime Alert Network.

#### **314.2 POLICY**

The Fairmont Police Department does not consider any report of a missing person to be routine and assumes that the missing person is in need of immediate assistance until an investigation reveals otherwise. Priority shall be given to missing person cases over property-related cases. Members will initiate an investigation into all reports of missing persons, regardless of the length of time the person has been missing.

#### **314.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS**

The Investigations sergeant shall ensure the following forms and kits are developed and available:

- Missing person report form
- Missing person investigation checklist that provides investigation guidelines and resources that could be helpful in the early hours of a missing person investigation
- Missing person school notification form
- Medical records release form
- Biological sample collection kits

#### **314.4 ACCEPTANCE OF REPORTS**

Any member encountering a person who wishes to report a missing person or runaway shall render assistance without delay. This can be accomplished by accepting the report via telephone or in person and initiating the investigation. Those members who do not take such reports or who are unable to give immediate assistance shall promptly dispatch or alert a member who can take the report.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any question of jurisdiction (Minn. Stat. § 299C.53, Subd.1(a)).

#### **314.5 INITIAL INVESTIGATION**

Officers or other members conducting the initial investigation of a missing person should take the following investigative actions as applicable:

- (a) Respond to a dispatched call as soon as practicable. Obtain a detailed description of the missing person, as well as a description of any related vehicle and/or abductor.
- (b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be endangered (Minn. Stat. § 299C.53, Subd. 1(b)). Interviews should be conducted separately, if practicable.
- (c) Consult with the Bureau of Criminal Apprehension (BCA) if the person is determined to be an endangered missing person (Minn. Stat. § 299C.53, Subd. 1(b)).

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- (d) Canvass the last known area where the missing person was seen, if known. A search of the location where the incident took place, if known, should also be conducted and a search warrant obtained if necessary.
- (e) Determine when, where and by whom the missing person was last seen. Interview the person who last had contact with the missing person.
- (f) Notify a supervisor immediately if there is evidence that a missing person is either endangered or may qualify for a public alert, or both (see the Public Alerts Policy).
- (g) Broadcast an "Attempt to Locate" (ATL) or similar alert if the person is under 18 years of age or there is evidence that the missing person is endangered. The alert should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 18 years of age or may be endangered.
- (h) Relay known details to all on-duty personnel as well as other local or surrounding law enforcement agencies using local and state databases.
- (i) Ensure that entries are made into the appropriate missing person networks:
  - 1. Immediately, when the missing person is endangered (Minn. Stat. § 299C.53, Subd. 1(b)).
  - 2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.
- (j) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.
- (k) Collect and/or review:
  - 1. A photograph and fingerprint card of the missing person, if available (Minn. Stat. § 299C.54, Subd. 2).
    - (a) A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).
  - 2. Any documents that may assist in the investigation, such as court orders regarding custody.
  - 3. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).
- (l) When circumstances permit and if appropriate, attempt to determine the missing person's location through his/her telecommunications carrier.
- (m) Contact the appropriate agency if the report relates to a missing person report previously made to another agency and that agency is actively investigating the report. When this is not practicable, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an endangered missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.
- (n) Implement multi-jurisdictional coordination/mutual aid plan as appropriate such as when:
  - 1. The primary agency has limited resources.

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2. The investigation crosses jurisdictional lines.
3. Jurisdictions have pre-established task forces or investigative teams.

#### 314.5.1 CRIME SCENE INVESTIGATION AND MANAGEMENT

If a crime scene is identified, it should be secured and a command post or operation base located at a reasonable distance from the crime scene. Staff and assign the responsibilities for command post supervisor, media specialist, search coordinator, investigative coordinator, communication officer and support unit coordinator. Provide two liaison officers (one at the command post and one at the crime scene). The role of the liaison at the home will include facilitating support and advocacy for the family.

The investigation of the scene and the crime should consider various elements, including:

- (a) Establishing the ability to “trap and trace” all incoming calls. Consider setting up a separate telephone line or cellular telephone for department use and follow-up on all leads.
- (b) Compiling a list of known sex offenders in the region.
- (c) In cases of infant abduction, investigating claims of home births made in the area.
- (d) In cases involving children, obtaining child protective agency records for reports of child abuse.
- (e) Reviewing records for previous incidents related to the missing person and prior law enforcement activity in the area, including prowlers, indecent exposure, attempted abductions, etc.
- (f) Obtaining the missing person’s medical and dental records, fingerprints and a biological sample when practicable or within 30 days.
- (g) Creating a missing person profile with detailed information obtained from records and interviews with family and friends, describing the missing person’s health, relationships, personality, problems, life experiences, plans, equipment, etc.
- (h) Interviewing delivery personnel, employees of gas, water, electric and cable companies, taxi drivers, post office personnel, sanitation workers, etc.
- (i) Determining if outside help is needed and the merits of utilizing local, state and federal resources related to specialized investigative needs, including:
  1. Investigative resources (e.g., search and rescue).
  2. Interpretive resources.
  3. Telephone services, such as traps, traces and triangulation.
  4. Media assistance from local and national sources.

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- (j) Using secure electronic communication information, such as the missing person's cellular telephone number, e-mail address and information from social networking sites.
- (k) Appointing an officer to communicate with the family/reporting party or their designee. The officer will be the primary point of contact for the family/reporting party or their designee, and should provide contact information and the family information packet (if available) to the family/reporting party or their designee.
- (l) Providing general information to the family/reporting party or their designee about the handling of the missing person case or about any intended efforts, only to the extent that disclosure would not adversely affect the department's ability to locate or protect the missing person or to apprehend or criminally prosecute any person in connection to the case.

#### **314.6 REPORT PROCEDURES AND ROUTING**

Members should complete all missing person reports and forms promptly and advise the appropriate supervisor as soon as a missing person report is ready for review.

##### **314.6.1 SUPERVISOR RESPONSIBILITIES**

The responsibilities of the supervisor shall include, but are not limited to:

- (a) Reviewing and approving missing person reports upon receipt.
  - 1. The reports should be promptly sent to the Records Section.
- (b) Ensuring resources are deployed as appropriate.
- (c) Initiating a command post as needed.
- (d) Ensuring applicable notifications and public alerts are made and documented.
- (e) Ensuring that records have been entered into the appropriate missing persons networks.
- (f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.
  - 1. If the case falls within the jurisdiction of another agency, the supervisor should facilitate transfer of the case to the agency of jurisdiction.

##### **314.6.2 RECORDS SECTION RESPONSIBILITIES**

The responsibilities of the Records Section receiving member shall include, but are not limited to:

- (a) As soon as reasonable under the circumstances, notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's residence in cases where the missing person is a resident of another jurisdiction.
- (b) Notifying and forwarding a copy of the report to the agency of jurisdiction where the missing person was last seen.

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- (c) Notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's intended or possible destination, if known.
- (d) Forwarding a copy of the report to Investigations.
- (e) Coordinating with the NCIC Terminal Contractor for Minnesota to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

#### **314.7 INVESTIGATIONS FOLLOW-UP**

In addition to completing or continuing any actions listed above, the investigator assigned to a missing person investigation:

- (a) Should ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.
  - 1. The notice shall be in writing and should also include a photograph.
  - 2. The investigator should meet with school officials as appropriate to stress the importance of including the notice in the child's student file, along with the investigator's contact information if the school receives a call requesting the transfer of the missing child's files to another school.
- (b) Should recontact the reporting person and/or other witnesses within 30 days of the initial report and within 30 days thereafter to determine if any additional information has become available.
- (c) Shall review the case file to determine whether any additional information received on the missing person indicates that the person is endangered, and shall update applicable state or federal databases accordingly (Minn. Stat. § 299C.535(b); Minn. Stat. § 299C.535(c)).
- (d) Shall attempt to obtain the following, if not previously obtained, if the person remains missing after 30 days (Minn. Stat. § 299C.535(a)):
  - 1. Biological samples from family members and, if possible, from the missing person
  - 2. Dental information and X-rays
  - 3. Additional photographs and video that may aid the investigation or identification
  - 4. Fingerprints
  - 5. Any other specific identifying information
- (e) Should consider contacting other agencies involved in the case to determine if any additional information is available.
- (f) Shall verify and update the Minnesota Justice Information Services (MNJIS), the Minnesota Missing and Unidentified Persons Clearinghouse, NCIC and any other applicable missing person networks within 30 days of the original entry into the networks and every 30 days thereafter until the missing person is located (34 USC § 41308).

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- (g) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.
- (h) Should consider taking certain actions if a person is missing after a prolonged period, generally exceeding 45 days. Those actions include:
  - 1. Developing a profile of the possible abductor.
  - 2. Using a truth verification device for parents, spouse and other key individuals.
  - 3. Reviewing all reports and transcripts of interviews, revisiting the crime scene, reviewing all photographs and videotapes, reinterviewing key individuals and reexamining all physical evidence collected.
  - 4. Reviewing all potential witness/suspect information obtained in the initial investigation and considering background checks on anyone of interest identified in the investigation.
  - 5. Periodically checking pertinent sources of information about the missing person for any activity, such as telephone, bank, Internet or credit card activity.
  - 6. Developing a time line and other visual exhibits.
  - 7. Critiquing the results of the ongoing investigation with appropriate investigative resources.
  - 8. Arranging for periodic media coverage.
  - 9. Considering the use of rewards and crime-stoppers programs.
  - 10. Maintaining contact with the family and/or the reporting party or designee, as appropriate.
- (i) Shall maintain a close liaison with state and local child welfare systems and the National Center for Missing and Exploited Children (NCMEC) if the missing person is under the age of 21 and shall promptly notify NCMEC when the person is missing from a foster care family home or childcare institution (34 USC § 41308).
- (j) Should make appropriate inquiry with the Medical Examiner.
- (k) Should obtain and forward medical and dental records, photos, X-rays and biological samples, as applicable.
- (l) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not been obtained previously, forward the photograph to BCA (Minn. Stat. § 299C.54) and enter the photograph into applicable missing person networks (34 USC § 41308).
- (m) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).
- (n) In the case of an endangered missing person or a person who has been missing for an extended time, should consult with a supervisor regarding seeking federal assistance from the FBI and the U.S. Marshals Service (28 USC § 566).

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#### **314.8 WHEN A MISSING PERSON IS FOUND**

When any person reported missing is found, the assigned investigator shall document the location of the missing person in the appropriate report, notify the reporting party and other involved agencies and refer the case for additional investigation if warranted.

The Captain shall ensure that, upon receipt of information that a missing person has been located, the following occurs:

- (a) Notification is made to BCA.
- (b) A missing child's school is notified.
- (c) Entries are made in the applicable missing person networks (Minn. Stat. § 299C.53, Subd. 2).
- (d) When a child is endangered, the fact that the child has been found shall be reported within 24 hours to BCA.
- (e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation.

#### **314.8.1 PERSONS FOUND ALIVE**

Additional responsibilities related to missing persons who are found alive include:

- (a) Verifying that the located person is the reported missing person.
- (b) If appropriate, arranging for a comprehensive physical examination of the victim.
- (c) Conducting a careful interview of the person, documenting the results of the interview and involving all appropriate agencies.
- (d) Notifying the family/reporting party that the missing person has been located. In adult cases, if the located adult permits the disclosure of his/her whereabouts and contact information, the family/reporting party may be given this information.
- (e) Depending on the circumstances of the disappearance, considering the need for reunification assistance, intervention, counseling or other services for either the missing person or family/reporting party.
- (f) Performing a constructive post-case critique. Reassessing the procedures used and updating the Department policy and procedures as appropriate.

#### **314.8.2 UNIDENTIFIED PERSONS**

Members investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying him/herself should:

- (a) Obtain a complete description of the person.
- (b) Enter the unidentified person's description into the NCIC Unidentified Person File.
- (c) Use available resources, such as those related to missing persons, to identify the person.



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##### **314.8.3 DECEASED PERSONS**

If a deceased person has been identified as a missing person, the Investigations shall attempt to locate family members and inform them of the death and the 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 (Minn. Stat. § 390.25, Subd. 2).

Additional investigation responsibilities include the following:

- (a) Secure the crime scene if this department has jurisdiction.
- (b) Contact the coroner, medical examiner or forensic anthropologist to arrange for body recovery and examination.
- (c) Collect and preserve any evidence at the scene.
- (d) Depending on the circumstances, consider the need for intervention, counseling or other services for the family/reporting party.
- (e) Cancel alerts and remove the case from NCIC and other information systems; remove posters and other publications from circulation.
- (f) Perform a constructive post-case critique. Reassess the procedures used and update the department policy and procedures as appropriate.

##### **314.9 CASE CLOSURE**

The Investigations sergeant may authorize the closure of a missing person case after considering the following:

- (a) Closure is appropriate when the missing person is confirmed returned or evidence matches an unidentified person or body.
- (b) If the missing person is a resident of Fairmont or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.
- (c) If this department is not the lead agency, the case can be made inactive if all investigative leads have been exhausted, the lead agency has been notified and entries are made in the applicable missing person networks, as appropriate.
- (d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

##### **314.10 TRAINING**

Subject to available resources, the department should ensure that members of this department whose duties include missing person investigations and reports receive training that includes:

- (a) The initial investigation:
  - 1. Assessments and interviews
  - 2. Use of current resources, such as Mobile Audio Video (MAV)

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3. Confirming missing status and custody status of minors
  4. Evaluating the need for a heightened response
  5. Identifying the zone of safety based on chronological age and developmental stage
- (b) Briefing of department members at the scene.
  - (c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).
  - (d) Verifying the accuracy of all descriptive information.
  - (e) Initiating a neighborhood investigation.
  - (f) Investigating any relevant recent family dynamics.
  - (g) Addressing conflicting information.
  - (h) Key investigative and coordination steps.
  - (i) Managing a missing person case.
  - (j) Additional resources and specialized services.
  - (k) Update procedures for case information and descriptions.
  - (l) Preserving scenes.
  - (m) Internet and technology issues (e.g., Internet use, cell phone use).
  - (n) Media relations.

## Public Alerts

### 315.1 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.

### 315.2 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.

### 315.3 RESPONSIBILITIES

#### 315.3.1 EMPLOYEE RESPONSIBILITIES

Employees of the Fairmont Police Department should notify their supervisor, Shift Sergeant or Investigations 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.

#### 315.3.2 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 Captain 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 Captain

### 315.4 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).

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##### 315.4.1 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.

The criteria for issuance of an Amber Alert are as follows:

- (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 requested if there is no information to distribute.

##### 315.4.2 PROCEDURE

The supervisor shall review the AMBER Alert checklist provided by the Bureau of Criminal Apprehension (BCA) to determine whether the abduction meets the AMBER Alert criteria.

As soon as possible, Records Section personnel shall enter the child's name and other critical data into the National Crime Information Center (NCIC), with appropriate flags.

If the AMBER Alert criteria is met, the supervisor, Shift Sergeant or Investigations supervisor will notify the Operations Center at the BCA. The BCA will determine whether an AMBER Alert will be issued and, if so, will activate the Minnesota Emergency Alert System (EAS) through the Minnesota Department of Public Safety (DPS) Division of Homeland Security and Emergency Management (HSEM).

BCA will manage press notifications through the EAS.

As additional information becomes available, the BCA shall be apprised and they will disseminate the information, as appropriate.

When the child is found, or the alert should be cancelled for other reasons, the Investigations supervisor shall immediately notify BCA with the pertinent information.

#### **315.5 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.

##### 315.5.1 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.

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##### **315.5.2 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.

The Public Information Officer should prepare a press release that includes all available information that might strengthen the assistance by the public or other law enforcement agencies. It should be updated with additional information as it becomes available and useful. All media releases should be coordinated with the BCA. In the event of a confirmed child abduction, whether or not an AMBER Alert or MCAN alert is activated, procedures designed to inform the media should be followed. Initial information to release may include, but is not limited to:

- (a) The nature of the crime that has occurred.
- (b) The victim's identity, age and description, if relevant.
- (c) Photograph if available.
- (d) The suspect's identity, age and description, if known.
- (e) Pertinent vehicle description.
- (f) Detail regarding location of incident, direction of travel and potential destinations, if known.
- (g) Whether there is reason to believe the suspect has a relationship to the victim.
- (h) Name and phone number of the supervisor or other authorized individual to handle media liaison.
- (i) A telephone number for the public to call with leads or information.

As additional information pertinent to the case becomes available, it shall be forwarded to the BCA.

##### **315.6 BLUE ALERTS**

Blue Alerts are used to provide a statewide system for the rapid dissemination of information regarding a violent criminal who has seriously injured or killed a local, state or federal law enforcement officer.

##### **315.6.1 CRITERIA**

The following criteria should be utilized to determine if a request to activate a Blue Alert will be made:

- (a) A law enforcement officer has been killed, seriously injured or is missing while in the line of duty under circumstances evidencing concern for the officer's safety.
- (b) The investigating law enforcement agency has determined that:
  - 1. The suspect poses a serious risk to the public or other law enforcement personnel.
  - 2. Dissemination of available information to the public may help avert further harm or assist in the apprehension of the suspect.

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- (c) A description of the offender, the offender's vehicle (including license plate or partial license plate) is available for broadcast.

#### 315.6.2 PROCEDURE

The on-duty supervisor should ensure that contact is made with the Minnesota Bureau of Criminal Apprehension (BCA) to request activation of a Blue Alert. The on-duty supervisor should also ensure that any changes to information (e.g., vehicle information, broadcast area) are communicated to BCA in a timely manner.

## Victim and Witness Assistance

### 316.1 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.

### 316.2 POLICY

The Fairmont Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The employees of the Fairmont 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.

### 316.3 CRIME VICTIM LIAISON

The Chief of Police should appoint a member of the Department to serve as the crime victim liaison, currently that member is the investigations officer. The crime victim liaison will be the point of contact for individuals requiring further assistance or information from the Fairmont Police Department regarding benefits from crime victim resources. The investigations sergeant shall be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

#### 316.3.1 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 Section forwards copies of requested reports to the board or other authorized organizations within 10 days of receipt, in compliance with the Records Maintenance and Release Policy. These reports include those maintained as confidential or not open to inspection under Minn. Stat. § 260B.171 or Minn. Stat. § 260C.171 (Minn. Stat. § 611A.66).

The crime victim liaison will also (Minn. Stat. § 611A.27):

- (a) Serve for a sexual assault victim or a sexual assault victim's written designee as the liaison between the Fairmont Police Department and a forensic laboratory.
- (b) Facilitate requests for information made by a sexual assault victim or written designee.
- (c) Provide an appropriate response to a victim's request for investigative data within 30 days.
- (d) Develop a procedure allowing a sexual assault victim to request that the sexual assault examination kit be submitted to a forensic laboratory if the victim had not previously authorized such submission.

The crime victim liaison or the authorized designee, in consultation with the Investigation Division Captain, should establish procedures for receiving requests for assistance in applying for U visa or T visa status, and make those procedures available to victims. The procedures should provide for responses to these requests to be made in compliance with applicable law and as set forth in the Immigration Violations Policy and applicable law (Minn. Stat. § 611A.95).

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### **316.4 CRIME VICTIMS**

Officers should provide all victims with the applicable victim information handouts.

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.

### **316.5 VICTIM INFORMATION**

The investigations sergeant shall ensure that victim information handouts are available and current. These should include as appropriate:

- (a) Shelters and other community resources for victims, including domestic violence and sexual assault victims.
- (b) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109).
- (c) 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.
- (d) A clear explanation of relevant court orders and how they can be obtained.
- (e) Information regarding available compensation for qualifying victims of crime.
- (f) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.
- (g) Notice regarding U visa and T visa application processes.
- (h) Resources available for victims of identity theft.
- (i) A place for the officer's name, badge number, and any applicable case or incident number.
- (j) 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 (Minn. 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)
- (k) 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.



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- (l) Contact information for the Office of Justice Programs and the Emergency Fund and Crime Victims Reparations.

#### **316.6 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.

## Hate or Prejudice Crimes

### 317.1 PURPOSE AND SCOPE

The Fairmont 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.

#### 317.1.1 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).

### 317.2 DEFINITIONS

**Hate or Prejudice 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, ethnicity, gender, sexual orientation, gender identity or expression, or disability (see generally Minn. Stat. § 611A.79, Subd. 1).

### 317.3 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 hate or prejudice 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.

### 317.4 PROCEDURE FOR INVESTIGATING HATE OR PREJUDICE CRIMES

Whenever any member of this department receives a report of a suspected hate or prejudice crime or other activity that reasonably appears to involve a potential hate or prejudice 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 should 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 hate or prejudice 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 hate or prejudice 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 hate or prejudice crime in the relevant reports. All related reports will be clearly marked as "Hate or Prejudice 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 also make reasonable efforts to assist the victims 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.

#### **317.5 INVESTIGATIONS RESPONSIBILITIES**

If a case is assigned to the Investigations, the assigned investigator will be responsible for following up on the reported hate or prejudice crime as follows:

- (a) Coordinating further investigation with the prosecuting attorney and other appropriate law enforcement agencies, as appropriate.
- (b) Maintaining contact with the victims 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.

##### **317.5.1 STATE HATE CRIME REPORTING**

This department shall report hate or prejudice 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 Captain or assigned to the Investigations (Minn. Stat. § 626.5531, Subd. 2).

Reports are required to include (Minn. Stat. 626.5531, Subd. 1):

- (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.
- (d) The crime committed.

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- (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.

#### **317.5.2 FEDERAL HATE CRIME REPORTING**

The Captain should include hate crime data reporting within the National Incident-Based Reporting System (NIBRS), Uniform Crime Report (UCR) and Summary Reporting System (SRS) reports pursuant to Records Section procedures and in compliance with (28 USC § 534(a)).

#### **317.6 TRAINING**

All members of this department will receive training on hate and prejudice crime recognition and investigation and will attend periodic training that incorporates a hate and prejudice crime training component (Minn. Stat. § 626.8451, Subd. 1 and Subd. 4).

## Standards of Conduct

### 318.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Fairmont Police Department and are expected of all department 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 conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

#### 318.1.1 STANDARDS OF CONDUCT FOR PEACE OFFICERS

The Fairmont Police Department adopts the Professional Conduct of Peace Officers model policy established and published by the Minnesota Board of Peace Officer Standards and Training Board (POST) (Minn. Stat. § 626.8457). This model policy applies to all peace officers of this department.

[See attachment: Professional-Conduct-of-Peace-Officers-Policy.pdf](#)

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 to POST any data regarding the investigation and disposition of cases involving alleged misconduct of officers (Minn. Stat. § 626.8457, Subd. 3).

### 318.2 POLICY

The continued employment or appointment of every member of the Fairmont Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

### 318.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

#### 318.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or

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shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

#### **318.3.2 SUPERVISOR RESPONSIBILITIES**

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.
- (d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

#### **318.4 GENERAL STANDARDS**

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

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

#### **318.5 CAUSES FOR DISCIPLINE**

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action

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for violation of other rules, standards, ethics, and specific action or inaction that is detrimental to efficient department service.

#### 318.5.1 LAWS, RULES AND ORDERS

- (a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.
- (b) Disobedience of any legal directive or order issued by any department member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

#### 318.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Fairmont Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for nondepartment business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

#### 318.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

#### 318.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on duty or through the use of one's official capacity.
- (b) Engaging in on duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

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- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

#### 318.5.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without reasonable excuse.

#### 318.5.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms, or reports obtained as a result of the member's position with this department.
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any department property for personal use, personal gain, or any other improper or unauthorized use or purpose.
- (e) 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 nonsubpoenaed records.

#### 318.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.



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- (c) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Department within 24 hours of any change in residence address or contact numbers.

#### 318.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any workrelated investigation.
- (b) The falsification of any work-related records, making 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 or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department--related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- (f) 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, while on duty or while in uniform, or while using any department equipment or system.
  - 3. 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.
- (g) Improper political activity including:
  - 1. Unauthorized attendance while on duty at official legislative or political sessions.
  - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on duty or on department property except as expressly authorized by City policy, the collective bargaining agreement, or the Chief of Police.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by City policy, the collective bargaining agreement, or the Chief of Police.

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- (i) Any act on or off duty that brings discredit to this department.

#### 318.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.
- (g) Use of obscene, indecent, profane or derogatory language while on duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any collective bargaining agreement or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.
- (m) Any other on or off duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

#### 318.5.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver's license).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.

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- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off-duty.
- (e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

#### 318.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

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## Information Technology Use

### 319.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of department information technology resources, including computers, electronic devices, hardware, software and systems.

#### 319.1.1 DEFINITIONS

Definitions related to this policy include:

**Computer system** - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented or licensed by the Fairmont Police Department that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Department or department funding.

**Hardware** - Includes, but is not limited to, computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, modems or any other tangible computer device generally understood to comprise hardware.

**Software** - Includes, but is not limited to, all computer programs, systems and applications, including shareware. This does not include files created by the individual user.

**Temporary file, permanent file or file** - 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, messages, photographs or videos.

### 319.2 RESTRICTED USE

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors or Shift Sergeants.

Members shall not use another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor.

#### 319.2.1 SOFTWARE

Members shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company's copyright and license agreement.

To reduce the risk of a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any department computer. Members shall not install personal copies of any software onto any department computer.

When related to criminal investigations, software program files may be downloaded only with the approval of the information systems technology (IT) staff and with the authorization of the Chief of Police or the authorized designee.

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No member shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the Department while on department premises, computer systems or electronic devices. Such unauthorized use of software exposes the Department and involved members to severe civil and criminal penalties.

Introduction of software by members should only occur as 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 from IT staff and a full scan for malicious attachments.

#### **319.2.2 HARDWARE**

Access to technology resources provided by or through the Department shall be strictly limited to department-related activities. Data stored on or available through department computer systems shall only be accessed by authorized members who are engaged in an active investigation or assisting in an active investigation, or who otherwise have a legitimate law enforcement or department-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

#### **319.2.3 INTERNET USE**

Internet access provided by or through the Department is primarily for department-related activities. Although limited personal use of the internet for personal use is allowed, no use of these systems should ever conflict with the primary purpose for which they have been provided. Internet sites containing information that is not appropriate or applicable to department use and which shall not be intentionally accessed include, but are not limited to, adult forums, pornography, gambling, chat rooms and similar or related Internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

Downloaded information shall be limited to messages, mail and data files.

#### **319.2 PROTECTION OF AGENCY SYSTEMS AND FILES**

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care and maintenance of the computer system.

Members shall ensure department computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present. Access passwords, logon information and other individual security data, protocols and procedures are confidential information and are not to be shared. Password length, format, structure and content shall meet the prescribed standards required by the computer system or as directed by a supervisor and shall be changed at intervals as directed by IT staff or a supervisor.

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Employees will provide the Captain with any and all usernames and passwords related to desktop work station computer(s) and all department issued cell phones/devices. If the employee changes a password they must provide the new password to the Captain in writing during their next duty shift.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the Internet) to a supervisor.

#### **319.2 INSPECTION OR REVIEW**

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, 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.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Department involving one of its members or a member's duties, an alleged or suspected violation of any department policy, a request for disclosure of data, or a need to perform or provide a service.

The IT staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the department computer system when requested by the Chief of Police or Captain.

#### **319.2 POLICY**

It is the policy of the Fairmont Police Department that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the Department in a professional manner and in accordance with this policy.

#### **319.2 PRIVACY EXPECTATION**

Members forfeit any expectation of privacy with regard to emails, texts or anything published, shared, transmitted or maintained through file-sharing software or any Internet site that is accessed, transmitted, received or reviewed on any department computer 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 email system, computer network and/or any information placed into storage on any department system or device. This includes records of all keystrokes 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 username or password will not create an expectation of privacy if it is accessed through department computers, electronic devices or networks.

## Report Preparation

### 320.1 PURPOSE AND SCOPE

Report preparation is a major part of each employee's job. The purpose of reports is to document sufficient information to refresh the employee's memory and to provide sufficient information for follow-up investigation and successful prosecution.

#### 320.1.1 REPORT PREPARATION

Employees should ensure that their reports are sufficient for their purpose and reasonably free of errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports and update all IBRs taken during the shift before going off-duty whenever possible. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held. Any reports related to a subject in custody must be completed with enough information to allow a criminal complaint to be completed before the employee ends their shift unless permission to delay completion has been approved by a supervisor.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident nor shall any employee make a false report orally or in writing. Employees may reference recorded digital media (Video/Audio) related to event but should not depend on these sources to complete a written report. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

### 320.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate Department-approved form unless otherwise approved by a supervisor.

#### 320.2.1 CRIMINAL ACTIVITY

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution.

Activity to be documented in a written report includes:

- (a) All arrests
- (b) All felony crimes
- (c) All incidents involving violations of crimes or ordinances motivated by bias (Minn. Stat. § 626.5531)
- (d) Non-felony incidents involving threats or stalking behavior
- (e) Situations covered by separate policy. These include:
  1. Use of Force Policy

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2. Domestic Abuse Policy
3. Child Abuse Policy
4. Adult Abuse Policy
5. Hate or Prejudice Crimes Policy
6. Suspicious Activity Reports Policy

- (f) All misdemeanor crimes where the victim desires a written report

Misdemeanor crimes where the victim does not desire a report shall be documented using the department-approved alternative reporting method (e.g., Detailed IBR Update).

#### 320.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

- (a) Any time an officer points a firearm at any person
- (b) Any use of force against any person by a member of this department (see the Use of Force Policy)
- (c) Any firearm discharge (see the Firearms Policy)
- (d) Any time a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)
- (e) Any traffic collisions above the minimum reporting level (see the Traffic Collisions Policy)
- (f) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy
- (g) All protective custody detentions
- (h) Suspicious incidents that may place the public or others at risk
- (i) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor
- (j) Any watercraft collision or accident, drowning death and/or general water accident should be reported on the appropriate Department of Natural Resource Form (Minn. Stat. § 86B.105(a))

#### 320.2.3 DEATH REPORTS

Reports shall be completed by the handling employee. All deaths shall be handled in compliance with the Death Investigations Policy.

#### 320.2.4 INJURY OR DAMAGE BY CITY PERSONNEL

Reports shall be taken if an injury occurs that is a result of an act of a City employee. Additionally, reports shall be taken involving damage to City property or City equipment.

#### 320.2.5 MISCELLANEOUS INJURIES

Any injury that is reported to this department shall require a report when:



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- (a) The injury is a result of a drug overdose.
- (b) Attempted suicide.
- (c) The injury is major or serious, whereas death could result.
- (d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event.

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

#### **320.2.6 ALTERNATE REPORTING FOR VICTIMS**

Reports that may be submitted by the public via online or other self-completed reporting processes include:

- (a) Lost property.
- (b) Misdemeanor thefts of property, other than firearms or materials that threaten public safety, when there is no suspect information or serial number or ability to trace the item.
  - 1. Misdemeanor thefts of cellular telephones may be reported even though they have a serial number.
- (c) Misdemeanor vandalism with no suspect information and no hate crime implications.
- (d) Vehicle burglaries with no suspect information or evidence.
- (e) Stolen vehicle attempts with no suspect information or evidence.
- (f) Annoying telephone calls with no suspect information.
- (g) Identity theft without an identifiable suspect.
- (h) Online or email fraud solicitations without an identifiable suspect.
- (i) Hit-and-run vehicle collisions with no suspect or suspect vehicle.
- (j) Supplemental property lists.

Members at the scene of one of the above incidents should not refer the reporting party to an alternate means of reporting without authorization from a supervisor. Members may refer victims to online victim assistance programs (e.g., Federal Communications Commission (FCC) website for identity theft, Internet Crime Complaint Center (IC3) website for computer crimes).

#### **320.3 GENERAL POLICY OF EXPEDITIOUS REPORTING**

In general, all employees and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

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#### **320.4 REPORT CORRECTIONS**

Supervisors shall review reports for content and accuracy during their shift(s) and initial each case file from the Records in-basket by the end of their shift. If more than one supervisor is on duty, only one supervisor is required to initial a submitted case file. If a correction is necessary. The original report and the correction form should be returned to the reporting employee for correction as soon as practicable. It shall be the responsibility of the originating employee to ensure that any report returned for correction is processed in a timely manner. In custody reports shall not be delayed for submission to Records.

#### **320.5 REPORT CHANGES OR ALTERATIONS**

Reports that have been approved by a supervisor and submitted to the Records Section for filing and distribution shall not be modified or altered except by way of a supplemental report unless further errors are noted and a supervisor may initial all changes. Reviewed reports that have not yet been submitted to the Records Section may be corrected or modified by the authoring employee only with the knowledge and authorization of the reviewing supervisor or another supervisor if reviewing supervisor is not available.

#### **320.6 FIREARM INJURY REPORTING FROM HEALTH PROFESSIONALS**

Members receiving a report from a health professional of a bullet or gunshot wound, powder burns or any other injury arising from, or caused by, the discharge of any gun, pistol or any other firearm shall thoroughly investigate the facts surrounding the incident (Minn. Stat. § 626.52, Subd. 2; Minn. Stat. § 626.553, Subd. 1).

The Records Section shall ensure that the report received from the health professional is forwarded to the commissioner of the Department of Health (Minn. Stat. § 626.53, Subd. 2). If the injury resulted from a hunting incident, the Records Section shall ensure that the findings of the investigation are forwarded to the commissioner of the Department of Natural Resources using the form provided by the commissioner (Minn. Stat. § 626.553, Subd. 1).

## Media Relations

### 321.1 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.

### 321.2 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, Captains, Shift Sergeants and designated employee(s) may prepare and release information to the media in accordance with this policy and the applicable law.

#### 321.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the Chief of Police, or if unavailable, to the first available supervisor. 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 the Chief of Police or their designee.
- (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.

### 321.3 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.
- (c) No member of this department shall be required to submit to media visits or interviews without the consent of the involved employee.

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- (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 the scene supervisor.

#### **321.3.1 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 Shift Sergeant. 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).

#### **321.3.2 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.

#### **321.4 SCOPE OF INFORMATION SUBJECT TO RELEASE**

Any requests for copies of related reports or additional information shall be referred to the designated media representative or Records. Such requests will generally be processed in accordance with the provisions of the Minnesota Government Data Practices Act (Minn. Stat. § 13.03).

#### **321.4.1 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 Maintenance and Release Policy and the Personnel Records Policy). When in doubt, authorized and available legal counsel should be obtained.

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## Court Appearance and Subpoenas

### 322.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Fairmont Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

### 322.2 POLICY

Fairmont Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

### 322.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department or any of its members may do so (Minn. R. Civ. P.45.02; Minn. R. Crim. P. 22.03).

A court notice from a prosecutor or other government attorney may be served by delivery to the member's workstation (e.g. email) or mail box. Members shall check for delivery of such documents at the beginning of each shift worked.

Subpoenas shall not be accepted in a civil action in which the member or Department is not a party without properly tendered fees pursuant to applicable law (Minn. Stat. § 357.23; Minn. R. Civ. P. 45.03).

#### 322.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the City Attorney or the prosecutor shall notify The Captain without delay regarding:

- (a) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.
- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Fairmont Police Department.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Fairmont Police Department.

If an employee is notified of any change in date/time or cancellation they shall notify the Captain in writing (e.g. email) without delay.

No member shall be retaliated against for testifying in any matter.

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##### **322.3.2 CIVIL SUBPOENA**

The Department will compensate members who appear in their official capacities on civil matters arising out of their official duties, in accordance with any collective bargaining agreement.

The Department should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

##### **322.3.3 OFF-DUTY RELATED SUBPOENAS**

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through the Captain.

##### **322.4 FAILURE TO APPEAR**

Any member who fails to comply with the terms of any written notice from a prosecutor to appear in court or hearing, any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

##### **322.5 COURTROOM PROTOCOL**

When appearing in court, members shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in the department class A uniform or standard uniform if not on duty for non-jury trial hearings..
- (c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

##### **322.5.1 TESTIMONY**

The employee member shall review all relevant reports and become familiar with the content in order to be prepared for court.

##### **322.6 OVERTIME APPEARANCES**

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with any current collective bargaining agreement .

## Part-Time Officers

### 323.1 PURPOSE AND SCOPE

The Fairmont Police Department Part-Time Unit was established to supplement and assist licensed police officers in their duties. This unit provides professional, licensed part-time officers who can augment regular staffing levels (Minn. R. 6700.1110).

#### 323.1.1 DEFINITIONS

Definitions related to this policy include (Minn. Stat. § 626.84, Subd. 1):

**Part-time officer** - A person who has been licensed by the Board of Peace Officer Standards and Training (POST), who is utilized for no more than an average of 20 hours per week and no more than 1040 hours per calendar year, and who has either full powers of arrest or has been authorized by the Chief of Police to carry a firearm while on active duty.

### 323.2 POLICY

The Fairmont Police Department shall ensure that part-time officers are properly appointed, trained and supervised and that they maintain the appropriate certifications and readiness to carry out their assigned duties.

### 323.3 RECRUITMENT AND SELECTION

The Fairmont Police Department shall endeavor to recruit and appoint only those applicants who meet the high ethical, moral and professional standards set forth by this department.

All applicants shall be required to meet and pass the same pre-employment procedures as regular full-time police officers before appointment.

#### 323.3.1 APPOINTMENT

Applicants who are selected for appointment as part-time officers shall, on the recommendation of the Chief of Police, be sworn in and take the Oath of Office in accordance with the Oath of Office Policy and as required for the position.

Part-time officers are considered at-will employees and may be dismissed at the discretion of the Chief of Police, with or without cause. Part-time officers shall have no property interest in continued appointment. However, if a part-time officer is removed for alleged misconduct, the part-time officer will be afforded an opportunity solely to clear his/her name through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

### 323.4 IDENTIFICATION AND UNIFORMS

Part-time officers will be issued Fairmont Police Department badges and identification cards. The uniforms and badges shall be the same as those worn by regular full-time police officers. The identification cards will be the standard Fairmont Police Department identification cards, with the exception that "Part-time" will be indicated on the cards.

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#### *Part-Time Officers*

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### **323.5 AUTHORITY**

Part-time officers shall perform peace officer duties within the scope of their approved training. Part-time officers:

- (a) Perform law enforcement functions and have the authority to arrest on behalf of this department.
- (b) Shall not exercise peace officer duties when off-duty.

### **323.6 COMPLIANCE**

Part-time officers shall be required to adhere to all department policies and procedures. A copy of the policies and procedures will be made available to each part-time officer upon appointment. The officers shall become thoroughly familiar with these policies.

Whenever a rule, regulation or guideline in this Policy Manual refers to a regular full-time police officer, it shall also apply to a part-time officer, unless by its nature it is inapplicable.

Part-time officers are required by this department to meet department-approved training requirements.

All part-time officers are required to attend scheduled meetings. Any absences must be satisfactorily explained to the Captain.

### **323.7 FIREARMS**

Part-time officers shall successfully complete department-authorized training in the use of firearms. Their appointments must be approved by the City prior to being issued firearms by this department or otherwise acting as part-time officers on behalf of the Fairmont Police Department (Minn. Stat. § 626.8452, Subd. 2).

Part-time officers will be issued duty firearms as specified in the Firearms Policy. Any part-time officer who is permitted to carry a firearm other than the assigned duty weapon or any optional firearm may do so only in compliance with the Firearms Policy.

Part-time officers are required to maintain proficiency with firearms used in the course of their assignments. Part-time officers shall comply with all training and qualification requirements set forth in the Firearms Policy.

#### **323.7.1 CONCEALED FIREARMS**

A part-time officer shall not carry a concealed firearm while in an off-duty capacity, other than to and from work, unless he/she possesses a valid concealed weapon permit (Minn. Stat. § 624.714).

An instance may arise where a part-time officer is assigned to a plainclothes detail for his/her assigned tour of duty. Under these circumstances, the part-time officer may be permitted to carry a weapon more suited to the assignment, but only with the knowledge and approval of the supervisor in charge of the detail.

Before being allowed to carry any optional firearm during an assigned tour of duty, the part-time officer shall demonstrate his/her proficiency with the weapon.



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#### **323.8 FIELD TRAINING**

All part-time officers shall complete the same department-specified field training as regular full-time police officers, as described in the Field Training Policy.

#### **323.9 SUPERVISION**

Part-time officers may perform the same duties as regular full-time officers of this department provided they are under the direct or indirect supervision of a supervisor or officer in charge (Minn. Stat. § 626.8465; Minn. R. 6700.1110). Part-time officers should not supervise a regular full-time officer.

##### **323.9.1 EVALUATIONS**

While in training, part-time officers should be continuously evaluated using standardized daily and weekly observation reports. The part-time officer will be considered a trainee until he/she has satisfactorily completed training. Part-time officers who have completed their field training should be evaluated annually using performance dimensions applicable to the duties and authorities granted to that part-time officer.

##### **323.9.2 INVESTIGATIONS AND COMPLAINTS**

If a part-time officer has a personnel complaint made against him/her or becomes involved in an internal investigation, the matter shall be investigated in compliance with the Personnel Complaints Policy.

## Outside Agency Assistance

### 324.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

### 324.2 POLICY

It is the policy of the Fairmont Police Department to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

### 324.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the Shift Sergeant's office 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. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this department, the Shift Sergeant may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

Officers may respond to a request for emergency assistance; however, they shall notify a supervisor of their activity as soon as practicable.

#### 324.3.1 AGREEMENTS

The Department may, at the discretion of the Chief of Police, establish an agreement with another law enforcement 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.

#### 324.3.2 INITIATED ACTIVITY

Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Fairmont Police Department shall notify his/her supervisor or the Shift Sergeant and Dispatch as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

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#### **324.4 REQUESTING OUTSIDE ASSISTANCE**

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

#### **324.5 MANDATORY SHARING**

Equipment and supplies purchased with federal funds or grants that require such equipment and supplies be shared with other agencies should be documented and updated as necessary by the Captain or the authorized designee.

The documentation should include:

- (a) The conditions relative to sharing.
- (b) The training requirements for:
  - 1. The use of the supplies and equipment.
  - 2. The members trained in the use of the supplies and equipment.
- (c) Any other requirements for use of the equipment and supplies.

## Registered Predatory Offender

### 325.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Fairmont 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.

### 325.2 POLICY

It is the policy of the Fairmont 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.

### 325.3 REGISTRATION

The Investigations 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. If it is reasonable to do so, an employee assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Those assigned to register offenders should receive appropriate training regarding the registration process. Any employee may assist a registrant in completed the required registration documentation (e.g. Change of Information Form, etc) during their assigned shift.

Upon conclusion of the registration process, the investigator shall ensure that the registration information is provided to the Bureau of Criminal Apprehension (BCA) in accordance with Minn. Stat. § 243.166 within three days of the registration. Registration and updated information from a person who lacks a primary residence shall be forwarded within two business days. Updated primary address information from any registered predatory offender shall also be forwarded within two business days (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.

#### 325.3.1 NOTIFICATION TO REGISTRANTS

The registration process established by the Investigations supervisor should include procedures for determining whether an individual requires notification of his/her requirement to register because the individual was not otherwise notified of the requirement by the sentencing court or assigned a corrections agent (Minn. Stat. § 243.166).

#### 325.3.2 REGISTRATION PROCESS

When an offender arrives to register with this department, the employee should:

- (a) Determine in what state the offense was committed.
- (b) Confirm the individual is required to register by reviewing the list of Minnesota offenses on the BCA's Predatory Offender Registration website or in the BCA Predatory Offender Registration (POR) Manual that is available on the BCA's secure website.

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- (c) If a person is required to register, search the BCA's secure 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 on the BCA's secure website).
- (e) If the offender is not registered, complete a POR Form (available at BCA's secure website).
- (f) If the offender is from another state, contact the state (information for each state is listed on the BCA's website) and request a copy of the offender's original registration form, criminal complaint and sentencing documents.
  - 1. Documents obtained should be submitted to the BCA with a registration form.
  - 2. The BCA will determine if registration is required and inform the department and the offender.

Additional information regarding offender registration is available in the POR Manual or by contacting the Predatory Offender Unit by phone (651) 793-7070 or through the BCA secure LE website.

#### **325.3.3 GUIDELINES AND FORMS**

The registration process shall be in accordance with Minn. Stat. § 243.166 and follow the guidelines implemented by the BCA. Forms used in the registration process are available from the secure website operated by the BCA.

#### **325.4 MONITORING OF REGISTERED OFFENDERS**

The Investigations supervisor should establish 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. 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 BCA secure website or the Department of Corrections Offender Information (DOC) website.
- (c) Contact with a registrant's parole or probation officer, if any.

Any discrepancies should be reported to BCA in writing.

The Investigations supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Fairmont Police Department personnel who have a need to know, including timely updates regarding new or relocated registrants.

#### **325.5 DISSEMINATION OF PUBLIC INFORMATION**

Members will not make a public notification advising the community of a particular registrant's presence in the community without permission from the Captain. Members who believe notification is appropriate should promptly advise The investigations supervisor. The Investigations supervisor should evaluate the request and forward the information to the Chief of Police if warranted. A

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determination will be made by the Captain based on statutory requirements, with the assistance of legal counsel as necessary, whether such a public alert should be made.

The Investigations supervisor shall release local registered offender information to residents in accordance with state law (Minn. Stat. § 244.052; Minn. Stat. § 243.166, Subd. 7; Minn. Stat. § 13.01 et seq.) and in compliance with a Minnesota Government Data Practices Act request.

#### 325.5.1 LEVEL 1 DISCLOSURE

Data maintained by law enforcement may be subject to limited disclosure (Minn. Stat. § 244.052, Subd. 4) (refer to the DOC document “Confidential Fact Sheet - For Law Enforcement Agency Use Only” or other DOC guidance):

- (a) Mandatory disclosure:
  - 1. Victims who have requested disclosure
  - 2. Adult members of the offender's immediate household
- (b) Discretionary disclosure:
  - 1. Other witnesses or victims
  - 2. Other law enforcement agencies

#### 325.5.1 MANDATORY DISSEMINATION

The Department shall provide and release predatory offender data, or updated data, obtained from 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, home care provider, or hospice provider of the status of any registered predatory offender under Minn. Stat. § 243.166 who is receiving care shall be made by this department (Minn. Stat. § 244.052, Subd. 4c).

The Department shall provide an offender's change of status to the entities and individuals who were initially notified if the Department becomes aware that the area where notification was made is no longer where the offender resides, is employed, or is regularly found (Minn. Stat. § 244.052, Subd. 4).

#### 325.5.2 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 (Minn. Stat. § 244.052, Subd. 4) (refer to DOC document “Law Enforcement Agency Fact Sheet - Notification of Release in Minnesota - Risk Level 2” or other DOC guidance):

- (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.

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2. Individuals likely to be victimized by the offender.
- (b) Discretionary notification must be based on the offender's pattern of offending or victim preference as documented by the DOC or the Minnesota Department of Human Services (DHS).

#### 325.5.3 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 (Minn. Stat. § 244.052, Subd. 4) (refer to the DOC document "Law Enforcement Agency Fact Sheet - Notification of Release in Minnesota" or other DOC guidance):

- (a) The Department shall disclose information to the persons and entities provided for Level 1 and 2 disclosures.
- (b) 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.
- (c) A good faith effort must be made to complete the disclosure within 14 days of receiving a confirmed address from the DOC.
- (d) The process of notification is determined by this department. The DOC has recommended that the community be invited to a public meeting and disclose the necessary data. Assistance is available from the DOC Risk Assessment/Community Notification (RA/CN) Unit.

Data disclosed to the public of a Level 3 predatory offender shall be forwarded to the DOC within two days of the department's determination to disclose (Minn. Stat. § 244.052, Subd. 4(g)).

#### 325.5.4 HEALTH CARE FACILITY NOTIFICATION

Upon notice that a registered predatory offender is planning to be in this jurisdiction or has been admitted to a health care facility, home care provider, or hospice provider in this jurisdiction, this department shall provide a fact sheet to the facility administrator with the following data (Minn. Stat. § 243.166, Subd. 4b) (refer to the DOC documents, "Law Enforcement Agency Fact Sheet Health Care Facility Notification Data on a Registered Offender Not For Distribution to Facility Residents" and "Law Enforcement Agency Fact Sheet Health Care Facility Notification Data on a Registered Offender For Distribution to Facility Residents" or other DOC guidance):

- (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

#### 325.5.5 SPECIALIZED NOTIFICATION

Offenders from other states and offenders released from federal facilities are also subject to notification (Minn. Stat. § 244.052, Subd. 3a):

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- (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 the 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 the 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.
- (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 the DOC the necessary documents required to assess a person for a risk level.

#### 325.5.6 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. Information disclosed should be obtained from the risk assessment report provided by DOC (Minn. § Stat. 244.052, Subd. 3).

The DOC will provide victim contact data to this department when there is a victim who has requested notification (refer to the DOC document "Victim Data Confidential for Law Enforcement Agency Use Only").

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.

Members of the Department may contact other victims, witnesses and other individuals who are likely to be victimized by the offender.

#### 325.5.7 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, unless an alternative reporting procedure is approved by the Investigations supervisor (Minn. Stat. § 243.166, Subd. 3a).

#### 325.5.8 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)).

The broadest disclosures authorized under Minn. Stat. § 244.052, Subd. 4 may still be made for certain offenders (sexually dangerous persons or persons with a sexual psychopathic personality) even though still residing in a residential facility (Minn. Stat. § 253D.32, Subd. 1).



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### **325.6 DISCLOSURE TO LOCAL WELFARE AGENCY**

Upon request, members may disclose the status of an individual as a predatory offender to a child protection worker who is conducting an assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs under Chapter 260E (Minn. Stat. § 243.166).

## Major Incident Notification

### 326.1 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.

### 326.2 POLICY

The Fairmont 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.

### 326.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police and the Captain. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides.
- Traffic collisions with fatalities.
- Officer-involved shooting, whether on- or off-duty (See Officer-Involved Shootings and Deaths Policy for special notifications).
- Significant injury or death to an employee, whether on- or off-duty.
- Death of a prominent Fairmont official.
- Arrest of Department employee or prominent Fairmont official.
- Aircraft crash with major damage and/or injury or death.
- In-custody deaths.
- Any other incident, which has or is likely to attract significant media attention.

### 326.4 SHIFT SERGEANT RESPONSIBILITIES

The Shift Sergeant is responsible for making the appropriate notifications. If a Shift Sergeant is not on duty the OIC will make notification. The Shift Sergeant shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Shift Sergeant shall attempt to make the notifications as soon as practicable. Notification should be made by using the call notification protocol posted in Dispatch.

#### 326.4.1 STAFF NOTIFICATION

In the event an incident occurs as identified in the Minimum Criteria for Notification, the Chief of Police shall be notified along with the affected Captain and the Investigations Captain if that division is providing assistance.

## Death Investigation

### 327.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers initially respond to and investigate the circumstances of a deceased person.

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 and the use of appropriate resources and evidence gathering techniques is critical.

### 327.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Emergency Medical Services shall be called in all suspected death cases unless the death is obvious (e.g., decapitated or decomposed). Peace officers are not authorized to pronounce death unless they are also Coroners or deputy coroners. A supervisor shall be notified in all death investigations when the employee believes it's necessary. A Martin County Sheriff's Deputy will be contacted for all death investigations as they serve as deputy coroners for Martin County.

#### 327.2.1 MEDICAL EXAMINER REQUEST

The Medical Examiner shall be called, most often by a Martin County Deputy Coroner, in all sudden or unexpected deaths or deaths due to other than natural causes, including, but not limited to (Minn. Stat. § 390.11):

- (a) Unnatural deaths, including violent deaths arising from homicide, suicide or accident.
- (b) Deaths due to a fire or associated with burns or chemical, electrical or radiation injury.
- (c) Unexplained or unexpected perinatal and postpartum maternal deaths.
- (d) Deaths under suspicious, unusual or unexpected circumstances.
- (e) Deaths of persons whose bodies are to be cremated or otherwise disposed of so that the bodies will later be unavailable for examination.
- (f) Deaths of inmates of public institutions and persons in custody of law enforcement officers who have not been hospitalized primarily for organic disease.
- (g) Deaths that occur during, in association with or as the result of diagnostic, therapeutic or anesthetic procedures.
- (h) Deaths due to culpable neglect.
- (i) Stillbirths of 20 weeks or longer gestation unattended by a physician.
- (j) Sudden deaths of persons not affected by recognizable disease.
- (k) Unexpected deaths of persons notwithstanding a history of underlying disease.
- (l) Deaths in which a fracture of a major bone, such as a femur, humerus or tibia, has occurred within the past six months.

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- (m) Deaths unattended by a physician occurring outside of a licensed health care facility or licensed residential hospice program.
- (n) Deaths of persons not seen by their physician within 120 days of demise.
- (o) Deaths of persons occurring in an emergency department.
- (p) Stillbirths or deaths of newborn infants in which there has been maternal use of or exposure to unprescribed controlled substances, including street drugs, or in which there is a history or evidence of maternal trauma.
- (q) Unexpected deaths of children.
- (r) Solid organ donors.
- (s) Unidentified bodies.
- (t) Skeletonized remains.
- (u) Unexpected deaths occurring within 24 hours of arrival at a health care facility.
- (v) Deaths associated with the decedent's employment.
- (w) Deaths of non-registered hospice patients or patients in non-licensed hospice programs.
- (x) Deaths attributable to acts of terrorism.

#### 327.2.2 SEARCHING DEAD BODIES

The Medical Examiner or his/her assistants and authorized investigators are generally the only persons permitted to move, handle or search a dead body (Minn. Stat. § 390.221).

An officer shall make a reasonable search of an individual who it is reasonable to believe is dead, or near death, for information identifying the individual as an organ donor or as an individual who made a refusal. If a donor document is located, the Medical Examiner shall be promptly notified (Minn. Stat. § 525A.12).

Should exigent circumstances indicate to an officer that any other search of a known dead body is warranted prior to the arrival of the Medical Examiner, the investigating officer shall first obtain verbal consent from the Medical Examiner.

The Medical Examiner is required to release property or articles to law enforcement that are necessary for conducting an investigation unless reasonable basis exists pursuant to Minn. Stat. § 390.225 Subd. 2 to not release the property or articles (Minn. Stat. § 390.221).

Whenever reasonably possible, a witness, preferably a relative of the deceased or a member of the household, should be requested to remain nearby the scene and available to the officer, pending the arrival of the Medical Examiner.

The name and address of this person shall be included in the narrative of the death report. Whenever personal effects are removed from the body of the deceased by the Medical Examiner, a receipt shall be obtained. This receipt shall be attached to the death report.

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##### 327.2.3 DEATH NOTIFICATION

When practicable notification to the next-of-kin of the deceased person shall be made, in person, by the officer assigned to the incident. Death notifications to next-of-kin should be done with a patrol officer and a supervisor whenever possible. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification. Assigned investigators may need to talk to the next-of-kin. The Medical Examiner, or Martin County Deputy Coroner, must be notified if/when next-of-kin notification has been completed.

If a deceased person has been identified as a missing person, this department shall attempt to locate family members and inform them of the death and the 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 (Minn. Stat. § 390.25 Subd. 2 (b)).

This department shall immediately notify the state fire marshal or Fairmont's chief officer (if that position exists) when a human death results from a fire, (Minn. Stat. § 299F.04 Subd. 5 (b)).

##### 327.2.4 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.

##### 327.2.5 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, any information or items pertaining to identifying features of the unidentified body, dental records, fingerprints, any unusual physical characteristics, description of clothing or personal belongings found on or with the body, that are in the possession of FPD shall be forwarded to the Medical Examiner for transmission to the BCA for eventual entry into systems designed to assist in the identification process, such as the Missing Children and Missing Persons Information Clearinghouse and the National Crime Information Center (NCIC) files (Minn. Stat. § 390.25 Subd. 2 (a)).

##### 327.2.6 DEATH INVESTIGATION REPORTING

All incidents involving a death shall be documented in a written report completed by the officer(s) that responded to the call.

##### 327.2.7 SUSPECTED HOMICIDE

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the officer shall take steps to protect the scene and the Investigations Supervisor or Investigator shall be notified to determine the possible need for to respond to the scene for further immediate investigation.

If the on-scene supervisor, through consultation with the Captain or Investigations supervisor, is unable to determine the manner of death, the investigation shall proceed as though it is a homicide.

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The investigator of a homicide or suspicious-circumstances death may, with the approval of his/her supervisor, request the Medical Examiner to conduct physical examinations and tests and provide a report with the costs borne by the Department (Minn. Stat. § 390.251).

#### 327.2.8 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, should ensure that the nearest office of the Minnesota Department of Labor and Industry is notified with all pertinent information.

## Identity Theft

### 328.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

### 328.2 REPORTING

- (a) A report shall be taken any time a person living within the jurisdiction of the Fairmont Police Department reports that he/she has been a victim of identity theft (Minn. Stat. § 609.527, Subd. 5). This includes:
  - 1. Taking a report even if the location of the crime is outside the jurisdiction of this department or has not been determined.
  - 2. Providing the victim with department information, as set forth in the Victim and Witness Assistance Policy. Officers should encourage the individual to review the material, and assist with any questions.
- (b) A report should also be taken if a person living outside the department jurisdiction reports an identity theft that may have been committed or facilitated within this jurisdiction (e.g., use of a post office box in Fairmont to facilitate the crime).
- (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.

### 328.3 PREVENTATIVE MEASURES

The victim should be advised to place a security freeze on his/her consumer report as allowed by law (Minn. Stat. § 13C.016 Subd. 2). A victim may also access the Minnesota Attorney General's office for additional detailed information.

### 328.4 VICTIM DATA

The victim may be provided the Consent to Create an FBI Identity Theft File Form and a Notice About Providing Your Social Security Number. These completed forms should be submitted to the Records Section for appropriate filing and entry into the NCIC Identity Theft File. Forms and details are available on the Bureau of Criminal Apprehension identity theft website.

### 328.5 INFORMATION

The victim should also be encouraged to contact the Federal Trade Commission (FTC), which is responsible for receiving and processing complaints under the Identity Theft and Assumption

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Deterrence Act. The victim can contact the FTC online or by telephone. Additional information may be found at the U.S. Department of Justice (USDOJ) website.



## Private Persons Arrests

### 329.1 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).

### 329.2 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).

### 329.3 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).

### 329.4 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.

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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.
  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.

#### **329.5 REPORTING REQUIREMENTS**

officers shall complete a narrative report regarding the circumstances and disposition of the incident.

## Limited English Proficiency Services

### 330.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

#### 330.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others or the use of ELSA/RTT phone translation services.

**Interpret or 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)** - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These 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. This includes individuals who, because of difficulty in speaking or comprehending the English language, cannot fully understand any charges made against them, the seizure of their property, or they are incapable of presenting or assisting in the presentation of a defense (Minn. Stat. § 611.31).

**Qualified bilingual member** - A member of the Fairmont Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

**Translate or translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

### 330.2 POLICY

It is the policy of the Fairmont Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The 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.

### 330.3 AUDIO RECORDINGS

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the

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community being served. All officers have access to ELSA/RTT application/software that provides translation for numerous languages on their department issued cell phone/devices. All ELSA/RTT conversations are audio recorded and may be accessed for review or court purposes.

#### **330.4 QUALIFIED BILINGUAL MEMBERS**

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

When a qualified bilingual member from this department is not available, personnel from other City departments, having the requisite skills and competence, may be requested. The use of RTT/ELSA translation may also be used as necessary.

#### **330.5 CONTACT AND REPORTING**

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

#### **330.6 FIELD ENFORCEMENT**

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. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member, an authorized interpreter, or use of ELSA/RTT phone translation services before placing an LEP individual under arrest.

#### **330.7 INVESTIGATIVE FIELD INTERVIEWS**

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks

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the skills to directly communicate with the LEP individual, an authorized interpreter or ELSA/RTT should be used. 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 *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

### **330.8 CUSTODIAL INTERROGATIONS**

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

#### **330.8.1 OTHER TIMING AND NOTIFICATION MANDATES**

The investigating or arresting officer shall immediately make necessary contacts to get an authorized interpreter for an in-custody LEP person at the earliest possible time in order to assist the person throughout the interrogation or taking of a statement. This applies even when the interrogation will be conducted by a bilingual member (Minn. Stat. § 611.32).

The following shall be explained to the LEP person with the assistance of the authorized interpreter (Minn. Stat. § 611.32):

- (a) All charges filed against the person
- (b) All procedures relating to the person's detention and release
- (c) In the case of any seizure under the provisions of the Asset Forfeiture Policy:
  1. The possible consequences of the seizure
  2. The person's right to judicial review

### **330.9 COMPLAINTS**

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the Captain.

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Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

#### **330.10 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

# Communications with Persons with Disabilities

## 331.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

### 331.1.1 DEFINITIONS

Definitions related to this policy include:

**Auxiliary aids** - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

**Disability or impairment** - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102). This includes those who, because of a hearing, speech or other communication disorder, cannot fully understand any charges made against them, the seizure of their property or they are incapable of presenting or assisting in the presentation of a defense (Minn. Stat. § 611.31).

**Qualified Interpreter** - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, transliterators, sign language interpreters and intermediary interpreters.

## 331.2 POLICY

It is the policy of the Fairmont Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

## 331.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be appointed by and directly responsible to the Captain or the authorized designee.

The responsibilities of the ADA Coordinator shall include, but not be limited to:

- (a) Working with the City ADA coordinator regarding the Fairmont Police Department's efforts to ensure equal access to services, programs and activities.

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- (b) Developing reports, new procedures, or recommending modifications to this policy.
- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.
- (d) Ensuring that a list of qualified interpreter services is maintained and available to each Shift Sergeant and Dispatch Supervisor. The list should include information regarding the following:
  - 1. Contact information
  - 2. Availability
  - 3. Type of services provided
- (e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- (f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.
- (g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

#### **331.4 FACTORS TO CONSIDER**

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

- (a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.
- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).
- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However in an emergency availability may factor into the type of aid used.



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##### **331.5 INITIAL AND IMMEDIATE CONSIDERATIONS**

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

Members should exercise special care in the use of all gestures and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation when a member knows or suspects an individual requires assistance to effectively communicate the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include for example exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Fairmont Police Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

##### **331.6 TYPES OF ASSISTANCE AVAILABLE**

Fairmont Police Department members shall never refuse to assist an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

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#### **331.7 AUDIO RECORDINGS AND ENLARGED PRINT**

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

#### **331.8 QUALIFIED INTERPRETERS**

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or the investigation. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available by some means, even remotely, within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

#### **331.9 COMMUNITY VOLUNTEERS**

Interpreter services may be available from community volunteers who have demonstrated competence in communication services such as ASL or SE, and have been approved by the Department to provide interpreter services.

Where qualified interpreters are unavailable to assist approved community volunteers who have demonstrated competence may be called upon when appropriate. However department members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

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##### **331.10 FAMILY AND FRIENDS**

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

##### **331.11 REPORTING**

Whenever any member of this department is required to complete a report or other documentation and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

##### **331.12 FIELD ENFORCEMENT**

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 individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Department recognizes it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, 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 an individual who is deaf or hard of hearing and requires communications assistance.

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If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

##### **331.12.1 FIELD RESOURCES**

Examples of methods that may be sufficient for transactions such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress may, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.
- (d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.
- (e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

##### **331.13 CUSTODIAL INTERROGATIONS**

In an effort to ensure the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

To ensure that communications during custodial investigations are accurately documented and are admissible as evidence, as with all custodial interviews, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

##### **331.13.1 OTHER TIMING AND NOTIFICATION MANDATES**

The investigating or arresting officer shall immediately make necessary contacts to get a qualified interpreter for a person in custody at the earliest possible time (Minn. Stat. § 611.32).

The following shall be explained with the assistance of the qualified interpreter (Minn. Stat. § 611.32):

- (a) All charges filed against the person

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- (b) All procedures relating to the person's detainment and release
- (c) In the case of any seizure under the Asset Forfeiture Policy:
  - 1. The possible consequences of the seizure
  - 2. The person's right to judicial review

#### 331.13.2 OATH

Every qualified interpreter shall be administered and take the following oath prior to assisting in taking a statement related to a criminal matter from an in-custody deaf or hard of hearing person (Minn. Stat. § 611.33):

"I will make, to the best of my skill and judgment, a true interpretation to the disabled person being examined of all the proceedings, in a language which said person understands, and to repeat the statements, in the English language, of said person to the officials before whom the proceeding is taking place."

#### **331.14 ARRESTS AND BOOKINGS**

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

#### **331.15 COMPLAINTS**

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the department ADA Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department.

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#### *Communications with Persons with Disabilities*

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##### **331.16 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

##### **331.17 TRAINING**

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

- (a) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (b) Procedures for accessing qualified interpreters and other available resources.
- (c) Working with in-person and telephone interpreters and related equipment.

The Training Sergeant shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Training Sergeant shall maintain records of all training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

## Pupil Arrest Reporting

### 332.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the procedures to follow when a pupil is arrested on school grounds and during school hours.

### 332.2 PUPIL ARREST REPORTING

In the event a school pupil is arrested, the arresting officer shall include the necessary information in the report to ensure that the arresting officer notifies the principal of the school, or an appropriate designee, of the pupil's arrest. School information is also necessary for Records to send notices as applicable.

If there is probable cause to believe an incident involved alcohol or a controlled substance, the arresting officer shall complete the appropriate form and submit the form with the report to the Records Section. The Records Section shall ensure the form is distributed to the chemical abuse pre-assessment team of the school within two weeks of the occurrence (Minn. Stat. § 121A.28).

#### 332.2.1 PUPIL ARREST AFTER NOTIFICATION

Based upon the circumstances of the investigation, it may be appropriate to notify the school prior to the arrest. Prior notification and assistance from the school, may reduce disruption to school operations and other students.

#### 332.2.2 PUPIL ARREST BEFORE NOTIFICATION

Based upon the circumstances of the investigation, it may be appropriate to arrest the pupil before notifying the school. This may be appropriate if the pupil is a flight risk, if prior notification will impede the investigation or if notification creates additional risks to students, faculty, the officer or the public.

Proper notification to the school after the pupil's arrest should then be made when circumstances reasonably allow.

#### 332.2.3 PARENTAL NOTIFICATION

Upon arrest, it is the arresting officer's responsibility to ensure the parents of the arrested pupil are properly notified. Notification shall be made by the officer, regardless of subsequent notifications by the juvenile detention facility. Notifications should be documented and include the charges against the pupil and where the pupil will be taken.

## Biological Samples

### 333.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples collected from those required to register, for example, as sex offenders.

### 333.2 POLICY

The Fairmont Police Department will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

### 333.3 PERSONS SUBJECT TO BIOLOGICAL SAMPLE COLLECTION

The following persons must submit a biological sample:

- (a) Adults who are subject to a court order requiring a biological sample after sentencing (Minn. Stat. § 609.117).
- (b) Juveniles who are subject to a court order requiring a biological sample after being adjudicated delinquent (Minn. Stat. § 609.117).

### 333.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall attempt to obtain the sample in accordance with this policy.

#### 333.4.1 COLLECTION

The following steps should be taken to collect a sample:

- (a) Verify that the individual is required to provide a sample pursuant to Minn. Stat. § 609.117.
- (b) Verify that a biological sample has not been previously collected from the offender by querying the person's criminal history. There is no need to obtain a biological sample if one has been previously obtained.
- (c) Use the designated collection kit provided by the Minnesota Bureau of Criminal Apprehension to perform the collection and take steps to avoid cross contamination.

### 333.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order or approval of legal counsel and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:



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- (a) The person's parole or probation officer when applicable.
- (b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.
- (c) The judge at the person's next court appearance.
- (d) The person's attorney.
- (e) A clergy member.
- (f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.
- (g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

#### 333.5.1 VIDEO RECORDING

A video recording should be made any time force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department's records retention schedule.

## Public Safety Video Surveillance System

### 334.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of department public safety video surveillance, as well as the storage and release of the captured images.

This policy only applies to overt, marked public safety video surveillance systems operated by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image capturing devices used by the Department.

### 334.2 POLICY

Currently the Fairmont Police Department does not operate a public safety video surveillance system. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist City officials in providing services to the community.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

### 334.3 OPERATIONAL GUIDELINES

Only department-approved video surveillance equipment shall be utilized. Members authorized to monitor video surveillance equipment should only monitor public areas and public activities where no reasonable expectation of privacy exists. The Chief of Police or the authorized designee shall approve all proposed locations for the use of video surveillance technology and should consult with and be guided by legal counsel as necessary in making such determinations.

#### 334.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City divisions and designated community groups when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high-value or high-threat areas. The public safety video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To target identified areas of gang and narcotics complaints or activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.

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#### *Public Safety Video Surveillance System*

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- (e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- (f) To augment resources in a cost-effective manner.
- (g) To monitor pedestrian and vehicle traffic activity.

Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera. Images should be transmitted to monitors installed in the Shift Sergeant's office and Dispatch. When activity warranting further investigation is reported or detected at any camera location, the available information should be provided to responding officers in a timely manner. The Shift Sergeant or trained Dispatch personnel are authorized to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

The Chief of Police may authorize video feeds from the public safety video surveillance system to be forwarded to a specified location for monitoring by other than police personnel, such as allied government agencies, road or traffic crews, or fire or emergency operations personnel.

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.

#### **334.3.2 CAMERA MARKINGS**

All public areas monitored by public safety surveillance equipment shall be marked in a conspicuous manner with appropriate signs to inform the public that the area is under police surveillance. Signs should be well lit, placed appropriately and without obstruction to ensure visibility.

#### **334.3.3 INTEGRATION WITH OTHER TECHNOLOGY**

The Department may elect to integrate its public safety video surveillance system with other technology to enhance available information. Systems such as gunshot detection, incident mapping, crime analysis, license plate recognition, facial recognition and other video-based analytical systems may be considered based upon availability and the nature of department strategy.

The Department should evaluate the availability and propriety of networking or otherwise collaborating with appropriate private sector entities and should evaluate whether the use of certain camera systems, such as pan-tilt-zoom systems and video enhancement or other analytical technology, requires additional safeguards.

#### **334.3 VIDEO SURVEILLANCE AUDIT**

The Chief of Police or the authorized designee will conduct an annual review of the public safety video surveillance system. The review should include an analysis of the cost, benefit and effectiveness of the system, including any public safety issues that were effectively addressed or any significant prosecutions that resulted, and any systemic operational or administrative issues that were identified, including those related to training, discipline or policy.

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The results of each review shall be appropriately documented and maintained by the Chief of Police or the authorized designee and other applicable advisory bodies. Any recommendations for training or policy should be promptly addressed.

#### **334.3 RELEASE OF VIDEO IMAGES**

All recorded video images gathered by the public safety video surveillance equipment are for the official use of the Fairmont Police Department and are classified as law enforcement data under Minn. Stat. § 13.82.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records under the Minnesota Government Data Practices Act. Except as required by a statute, court order or other lawful process consistent with the provisions of Minn. Stat. § 13.82, video images requested under the Minnesota Government Data Practices Act will generally not be disclosed to the public when such video images are evidence in an ongoing criminal investigation in which a disposition has not been reached.

Requests for recorded images from other law enforcement agencies shall be referred to the Records Department for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

#### **334.3 VIDEO SUPERVISION**

The Captain should monitor video surveillance access and usage to ensure members are within department policy and applicable laws. The Captain should ensure such use and access is appropriately documented.

##### **334.3.1 VIDEO LOG**

A log should be maintained at all locations where video surveillance monitors are located. The log should be used to document all persons not assigned to the monitoring locations who have been given access to view or monitor images provided by the video surveillance cameras. The logs should, at a minimum, record the:

- (a) Date and time access was given.
- (b) Name and agency of the person being given access to the images.
- (c) Name of person authorizing access.
- (d) Identifiable portion of images viewed.

##### **334.3.2 PROHIBITED ACTIVITY**

Public safety video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Public safety video surveillance equipment shall not be used in an unequal or discriminatory manner and shall not target individuals or groups based solely on actual or perceived

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#### *Public Safety Video Surveillance System*

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characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.

Video surveillance equipment shall not be used to harass, intimidate, or discriminate against any individual or group.

#### **334.3 STORAGE AND RETENTION OF MEDIA**

All downloaded media shall be stored in a secure area with access restricted to authorized persons. A recording needed as evidence shall be copied to a suitable medium and booked into evidence in accordance with established evidence procedures. All actions taken with respect to retention of media shall be appropriately documented.

The type of video surveillance technology employed and the manner in which recordings are used and stored will affect retention periods. The recordings should be stored and retained in accordance with the established records retention schedule.

##### **334.3.1 EVIDENTIARY INTEGRITY**

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

#### **334.4 TRAINING**

All department members authorized to operate or access public video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, interaction with dispatch and patrol operations and a review regarding relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

## Child and Dependent Adult Safety

### 335.1 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 Adult Abuse.

### 335.2 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 Fairmont 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, including call-out availability and follow-up responsibilities.

### 335.3 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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#### *Child and Dependent Adult Safety*

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##### 335.3.1 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. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.
- (b) 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.
  - 1. 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.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify the county social services agency, if appropriate.
- (e) Notify the field supervisor or Shift Sergeant 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.

##### 335.3.2 DURING THE BOOKING PROCESS

During the booking process, the arrestee maybe 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.

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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.

#### 335.3.3 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. Special needs (e.g., medical, mental health)
  - 5. How, where and with whom or which agency the child was placed
  - 6. Identities and contact information for other potential caregivers
  - 7. Notifications made to other adults (e.g., schools, relatives)
- (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

#### 335.3.4 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.

#### **335.4 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 contact 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.



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## *Child and Dependent Adult Safety*

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Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

## Service Animals

### 336.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Fairmont 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 (ADA) to permit the use of service animals that are individually trained to assist a person with a disability.

#### 336.1.1 DEFINITIONS

Definitions related to this policy include:

**Service animal** - A dog that is 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 individual's disability (28 CFR 35.104).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

### 336.2 POLICY

It is the policy of the Fairmont Police Department to provide services and access to persons with service animals in the same manner as those without service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

### 336.3 IDENTIFICATION AND 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.

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- 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.

#### **336.3 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 Fairmont Police Department affords to all members of the public (see generally Minn. Stat. § 256C.02; Minn. Stat. § 363A.19).

##### **336.3.1 REMOVAL**

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.

##### **336.3.2 INQUIRY**

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.

##### **336.3.3 CONTACT**

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.

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#### *Service Animals*

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##### 336.3.4 COMPLAINTS

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.

# Native American Graves Protection and Repatriation

## 337.1 PURPOSE AND SCOPE

This policy is intended ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

### 337.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

**Funerary objects and associated funerary objects** - Objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains, or that were made exclusively for burial purposes or to contain human remains.

**Native American human remains** - The physical remains of the body of a person of Native American ancestry.

**Objects of cultural patrimony** - Objects having ongoing historical, traditional or cultural importance that is central to the Native American group or culture itself and therefore cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

**Sacred objects** - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

## 337.2 POLICY

It is the policy of the Fairmont Police Department that the protection of Native American human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption or complicated custody transfer processes.

## 337.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene, other than scene preservation activity, must cease (43 CFR 10.4).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

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#### *Native American Graves Protection and Repatriation*

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Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.4):

- Federal land - Appropriate agency at the U.S. Department of the Interior.
- State land - State archaeologist (Minn. Stat. § 307.08, Subd. 7)
- Tribal land - Responsible Indian tribal official.

#### **337.4 EVIDENCE AND PROPERTY**

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.6).

#### **337.5 BURIAL GROUNDS**

All human burials, human remains and human burial grounds shall be afforded equal treatment and respect for human dignity, regardless of ethnic origins, cultural backgrounds or religious affiliations (Minn. Stat. § 307.08, Subd. 1).

This department shall cooperate with other government agencies, the Minnesota Office of the State Archaeologist and the Minnesota Indian Affairs Council to carry out any provisions of state law (Minn. Stat. § 307.08, Subd. 9).

## Off-Duty Law Enforcement Actions

### 338.1 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 Fairmont Police Department with respect taking law enforcement action while off-duty.

### 338.2 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 the member reasonably believes would justify the use of deadly force or result in significant property damage may take reasonable action to minimize or eliminate the threat. See the Use of Force Policy for additional guidance.

### 338.3 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 Policy. When carrying firearms while off-duty, officers shall also carry their department-issued identification.

Officers should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. 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.

### 338.4 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.

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- (d) The lack of cover.
- (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.

#### 338.4.1 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 a Fairmont Police Department officer until acknowledged. Official identification should also be displayed.

#### 338.4.2 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.

#### 338.4.3 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.

#### 338.4.4 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.



## Department Use of Social Media

### 339.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Department is consistent with the department mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by department members (see the Employee Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this department (see the Investigation and Prosecution Policy).

#### 339.1.1 DEFINITIONS

Definitions related to this policy include:

**Social media** - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the department website or social networking services.

### 339.2 POLICY

The Fairmont Police Department may use social media as a method of effectively informing the public about department services, issues, investigations and other relevant events.

Department members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

### 339.3 AUTHORIZED USERS

Only members authorized by the Chief of Police or the authorized designee may utilize social media on behalf of the Department. Authorized members shall use only department-approved equipment during the normal course of duties to post and monitor department-related social media, unless they are specifically authorized to do otherwise by the Chief of Police or their designee.

The Chief of Police may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a supervisor prior to posting.

Requests to post information over department social media by members who are not authorized to post should be forward to the members that are approved for consideration of posting.

### 339.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the department mission and conforms to all department policies regarding the release of information may be posted.

Examples of appropriate content include:

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- (a) Announcements.
- (b) Tips and information related to crime prevention.
- (c) Investigative requests for information.
- (d) Requests that ask the community to engage in projects that are relevant to the department mission.
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.
- (f) Traffic information.
- (g) Press releases.
- (h) Recruitment of personnel.

#### 339.4.1 INCIDENT-SPECIFIC USE

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), Chief of Police or the authorized designee will be responsible for the compilation of information to be released..

#### 339.5 PROHIBITED CONTENT

Content that is prohibited from posting includes, but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
- (c) Any information that could compromise an ongoing investigation.
- (d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Fairmont Police Department or its members.
- (e) Any information that could compromise the safety and security of department operations, members of the Department, victims, suspects or the public.
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy or a supervisor.

Any member who becomes aware of content on this Department's social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

#### 339.5.1 PUBLIC POSTING PROHIBITED

Department social media sites shall be designed and maintained to prevent posting of content by the public.

The Department may provide a method for members of the public to contact department members directly.

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### **339.6 MONITORING CONTENT**

The Chief of Police may appoint a supervisor to review, at least annually, the use of department social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

### **339.7 RETENTION OF RECORDS**

The Captain shall work with the Chief of Police to establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules.

## Community Relations

### 340.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for community relationship-building.

### 340.2 POLICY

It is the policy of the Fairmont Police Department to promote positive relationships between department members and the community by treating community members with dignity and respect and engaging them in public safety strategy development and relationship-building activities, and by making relevant policy and operations information available to the community in a transparent manner.

### 340.3 MEMBER RESPONSIBILITIES

Officers should, as time and circumstances reasonably permit:

- (a) Make casual and consensual contacts with community members to promote positive community relationships.
- (b) Become reasonably familiar with the schools, businesses and community groups within the community they serve.
- (c) Work with community members and the department community relations coordinator to identify issues and solve problems related to community relations and public safety.
- (d) Conduct periodic foot patrols of their assigned areas to facilitate interaction with community members.
- (e) Utilize the Department calendar where community events are posted with the date/time and summary of events for opportunities to promote positive community relationships.

### 340.4 COMMUNITY RELATIONS COORDINATOR

The Chief of Police or the authorized designee should designate a Sergeant to serve as the community relations coordinator. He/she should report directly to the Captain and is responsible for:

- (a) Responding to requests from department members and the community for assistance in identifying issues and solving problems related to community relations and public safety.
- (b) Working with community groups, department members and other community resources to:
  - (a) Identify and solve public safety problems within the community.
  - (b) Organize programs and activities that help build positive relationships between department members and the community and provide community members with an improved understanding of department operations.
- (c) Working with the Captain to develop patrol deployment plans that allow officers the time to participate in community engagement and problem-solving activities.

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- (d) Recognizing department and community members for exceptional work or performance in community relations efforts.
- (e) Assisting with the department's response to events that may affect community relations.
- (f) Informing the Chief of Police and Captain of developments and needs related to the furtherance of the department's community relations goals, as appropriate.

#### **340.5 COMMUNITY AND YOUTH ACTIVITIES AND PROGRAMS**

The community relations coordinator should organize or assist with programs and activities that create opportunities for department members and community members, especially youth, to interact in a positive setting.

#### **340.6 INFORMATION SHARING**

The community relations coordinator should develop methods and procedures for the convenient sharing of information (e.g., major incident notifications, significant changes in department operations, comments, feedback, positive events) between the Department and community members. Examples of information-sharing methods include:

- (a) Community meetings.
- (b) Social media (see the Department Use of Social Media Policy).
- (c) Department website and social media postings.

Information should be regularly refreshed, to inform and engage community members continuously.

#### **340.7 LAW ENFORCEMENT OPERATIONS EDUCATION**

The community relations coordinator should develop methods to educate community members on general law enforcement operations so they may understand the work that officers do to keep the community safe. Examples of educational methods include:

- (a) Development and distribution of informational cards/flyers.
- (b) Department website postings.
- (c) Presentations to driver education classes.
- (d) Instruction in schools.
- (e) Scenario/Simulation exercises with community member participation.
- (f) Assist with internships at the Department.
- (g) Citizen academies.

#### **340.8 SAFETY AND OTHER CONSIDERATIONS**

Department members responsible for community relations activities should consider the safety of the community participants and, as much as reasonably practicable, not allow them to be present in any location or situation that would jeopardize their safety.

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#### **340.9 TRANSPARENCY**

The Department should periodically publish statistical data and analysis regarding the department's operations. The reports should not contain the names of officers, suspects or case numbers. The community relations coordinator should work with the community advisory committee to identify information that may increase transparency regarding department operations.

#### **340.10 TRAINING**

Subject to available resources, members should receive training related to this policy, including training on topics such as:

- (a) Effective social interaction and communication skills.
- (b) Cultural, racial and ethnic diversity and relations.
- (c) Building community partnerships.
- (d) Community policing and problem-solving principles.
- (e) Enforcement actions and their effects on community relations.

Where practicable and appropriate, community members, especially those with relevant expertise, should be involved in the training to provide input from a community perspective.

##### **340.10.1 STATE-MANDATED TRAINING**

The Training Sergeant is responsible for ensuring that members receive community policing as required by Minn. Stat. § 626.8455.

## **Chapter 4 - Patrol Operations**

## 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.

#### 400.1.1 FUNCTION

Officers will generally patrol in clearly marked vehicles, patrol assigned jurisdictional areas of Fairmont, 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.

Patrol will generally provide the following services within the limits of available resources:

- (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 divisions within the Department, as well as 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.

#### 400.1.2 TERRORISM

It is the goal of the Fairmont Police Department to make every reasonable effort to accurately and appropriately gather and report any information that may relate to either foreign or domestic terrorism. Officers should advise a supervisor as soon as practicable of any activity believed to be terrorism related and should document such incidents with a written report or Field Interview (FI). The supervisor should ensure that all terrorism-related reports and FIs are forwarded to the Investigations Supervisor in a timely fashion.

### 400.2 PATROL INFORMATION SHARING PROCEDURES

The following guidelines are intended to develop and maintain intra-organization cooperation and information flow between the various divisions of the Fairmont Police Department.



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##### 400.2.1 RECORDS SECTION

The Records Section will be the central unit for information exchange. Criminal information and reports can be submitted to the Records Section for distribution to all divisions within the Department through daily and special bulletins. Any additional information may be disseminated by a supervisor as needed.

##### 400.2.2 CRIME REPORTS

A crime report may be completed by any patrol officer who receives criminal information. The report will be processed and forwarded to the appropriate bureau/department for retention or follow-up investigation.

##### 400.2.3 PATROL BRIEFINGS

Patrol supervisors, investigative sergeants and lead officers/officers in charge are encouraged to share information as much as reasonably possible. All supervisors and/or officers will be provided an opportunity to share information through daily patrol briefings, as time permits.

##### 400.2.4 INFORMATION CLIPBOARDS

Several information clipboards will be maintained in the squad room room and Sergeant's Office will be available for review by officers from all divisions within the Department.

##### 400.2.5 BULLETIN BOARDS

A bulletin board will be kept in the briefing room for display of suspect information, investigative reports and photographs. New Departmental Directives will be made available for patrol supervisors and will be discussed at briefings and shift meetings. A copy of the Departmental Directive will be placed on the briefing room clipboard.

#### **400.3 CROWDS, EVENTS AND GATHERINGS**

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action. Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

## Bias-Based Policing

### 401.1 PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the Fairmont Police Department's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the department's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

#### 401.1.1 DEFINITIONS

Definitions related to this policy include:

**Bias-based policing** - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement.

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 Fairmont 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, objectively and without discrimination toward any individual or group (Minn. Stat. § 626.8471, Subd. 3).

### 401.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

### 401.4 MEMBER RESPONSIBILITIES

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

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##### 401.4.1 REASON FOR CONTACT

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, written narrative, or blotter update), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, 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, provide their name and badge number and identify this department during routine stops or contacts.
- (e) When requested, officers should inform a member of the public of the process to file a misconduct complaint for bias-based policing against a member of the Department, and that bias-based policing complaints may be made by calling the Attorney General's office (Minn. Stat. § 626.9514).

##### 401.5 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

- (a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.
  1. Supervisors should document these discussions, in the prescribed manner.
- (b) Supervisors should periodically review Mobile Audio Video (MAV) recordings, portable audio/video recordings, Mobile Digital Computer (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.
  2. Recordings that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.
- (c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.

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- (d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this department who discloses information concerning bias-based policing.

#### **401.6 ADMINISTRATION**

Each year, the Captain should review the efforts of the Department to provide fair and objective policing and may submit an annual report, including public concerns and complaints, to the Chief of Police. The annual report should not contain any identifying information about 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 should review the annual report and discuss the results with those they are assigned to supervise.

#### **401.7 TRAINING**

Training on fair and objective policing and review of this policy should be conducted as directed by the Chief of Police or designee.

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).

Training should also include in-service training on recognizing and valuing community diversity and cultural differences, including implicit bias, as required by Minn. Stat. § 626.8469, Subd. 1.

## Shift Briefing Training

### 402.1 PURPOSE AND SCOPE

Briefing training is generally conducted at the beginning of the officer's assigned shift. Briefing provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct Briefing. However, officers may conduct Briefing for training purposes with supervisor approval.

Briefing should accomplish, at a minimum, the following basic tasks:

- (a) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles and major investigations.
- (b) Notifying officers of changes in schedules and assignments.
- (c) Notifying officers of new Departmental Directives or changes in Departmental Directives.
- (d) Reviewing recent incidents for training purposes.
- (e) Providing training on a variety of subjects.

### 402.2 PREPARATION OF MATERIALS

The supervisor conducting Briefing, or the officer if the supervisor is unable to participate in a group briefing session, is responsible for collection and preparation of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate officer in his/her absence or for training purposes.

## Crime and Disaster Scene Integrity

### 403.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

### 403.2 POLICY

It is the policy of the Fairmont Police Department to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

### 403.3 SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Officers shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an officer has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, the officer shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor or other designated person.

### 403.4 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the first responder's function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:

- (a) Broadcast emergency information, including requests for additional assistance and resources.
- (b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.
- (c) Locate or identify suspects and determine whether dangerous suspects are still within the area.
- (d) Provide first aid to injured parties if it can be done safely.
- (e) Evacuate the location safely as required or appropriate.
- (f) Secure the inner perimeter.
- (g) Protect items of apparent evidentiary value.
- (h) Secure an outer perimeter.
- (i) Identify potential witnesses.
- (j) Start a chronological log noting critical times and personnel allowed access.

### 403.5 SEARCHES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present and/or there are no injured

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persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

#### **403.5.1 CONSENT**

When possible, officers should seek written consent and/or recorded verbal consent to search from authorized individuals. However, in the case of serious crimes or major investigations, it may be prudent to also obtain a search warrant. Consent as an additional authorization may be sought, even in cases where a search warrant has been granted.

#### **403.6 EXECUTION OF HEALTH ORDERS**

Any licensed member of this department may assist in the enforcement of all directives of the local health officer issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease (Minn. Stat. § 144.4195, Subd. 2(c)).

# Regional High Risk Entry and Arrest Team (HEAT)

## 404.1 PURPOSE AND SCOPE

The Regional High Risk Entry and Arrest Team (HEAT) is comprised of two specialized teams: the Crisis Negotiation Team (CNT) and the Special Weapons and Tactics team (SWAT). The unit has been established to provide specialized support in handling critical field operations where intense negotiations and/or special tactical deployment methods beyond the capacity of field officers appear to be necessary.

### 404.1.1 OPERATIONAL AND ADMINISTRATIVE POLICY

The Policy Manual sections pertaining to the HEAT are divided into Administrative and Operational Policy and Procedures. Since situations that necessitate the need for such a law enforcement response vary greatly from incident to incident and such events often demand on-the-scene evaluation, the Operational Policy outlined in this manual section serves as a guideline to department personnel, allowing for appropriate on-scene decision-making as required. The Administrative Procedures, however, are more restrictive and few exceptions should be taken.

### 404.1.2 SWAT TEAM DEFINED

**SWAT team** - A designated unit of law enforcement officers, including a multi-jurisdictional team, that is specifically trained and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex or unusual that they may exceed the capabilities of first responders or investigative units. This includes, but is not limited to, hostage taking, barricaded suspects, snipers, terrorist acts and other high-risk incidents. As a matter of department policy, such a unit may also be used to serve high-risk warrants, both search and arrest, where public and officer safety issues warrant the use of such a unit.

## 404.2 POLICY

It is the policy of this department to maintain a SWAT team and to provide the equipment, manpower and training necessary to maintain a SWAT team. The SWAT team should develop sufficient resources to perform three basic operational functions:

- (a) Command and control
- (b) Containment
- (c) Entry/apprehension/rescue

It is understood it is difficult to categorize specific capabilities for critical incidents. Training needs may vary based on the experience level of the team personnel, team administrators and potential incident commanders. Nothing in this policy shall prohibit individual teams from responding to a situation that exceeds their training levels due to the exigency of the circumstances. The preservation of innocent human life is paramount.



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##### 404.2.1 POLICY CONSIDERATIONS

A needs assessment should be conducted to determine the type and extent of SWAT missions and operations appropriate to this department. The assessment should consider the team's capabilities and limitations and should be reviewed annually by the SWAT commander or designee.

##### 404.2.2 ORGANIZATIONAL PROCEDURES

This department shall develop a separate written set of organizational procedures that should address, at minimum, the following:

- (a) Locally identified specific missions the team is capable of performing.
- (b) Team organization and function.
- (c) Personnel selection and retention criteria.
- (d) Training and required competencies.
- (e) Procedures for activation and deployment.
- (f) Command and control issues, including a clearly defined command structure.
- (g) Multi-agency response.
- (h) Out-of-jurisdiction response.
- (i) Specialized functions and supporting resources.

##### 404.2.3 OPERATIONAL PROCEDURES

This department shall develop a separate written set of operational procedures, in accordance with its level of capability, using sound risk reduction practices. The operational procedures should be patterned after the National Tactical Officers Association Suggested SWAT Best Practices. Because such procedures are specific to HEAT members and will outline tactical and officer safety issues, they are classified as confidential security data and are not included within this policy. The operational procedures should include, at minimum, the following:

- (a) Designated personnel responsible for developing an operational or tactical plan prior to, and/or during SWAT operations (time permitting).
  - 1. All SWAT team members should have an understanding of operational planning.
  - 2. SWAT team training should consider planning for both spontaneous and planned events.
  - 3. SWAT teams should incorporate medical emergency contingency planning as part of the SWAT operational plan.
- (b) Plans for mission briefings should be conducted prior to an operation, unless circumstances require immediate deployment.

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1. When reasonably possible, briefings should include the specialized units and supporting resources.
- (c) Protocols for a sustained operation should be developed. These may include relief, rotation of personnel and augmentation of resources.
- (d) A generic checklist to be worked through prior to initiating a tactical action, as a means of conducting a threat assessment to determine the appropriate response and resources necessary, including the use of SWAT.
- (e) The appropriate role for a trained negotiator.
- (f) A standard method of determining whether a warrant should be regarded as high risk.
- (g) A method for deciding how best to serve a high-risk warrant with all reasonably foreseeable alternatives being reviewed in accordance with risk/benefit criteria prior to selecting the method of response.
- (h) Post-incident scene management including:
  1. Documentation of the incident.
  2. Transition to investigations and/or other units.
  3. Debriefing after every deployment of the SWAT team.
    - (a) After-action team debriefing provides evaluation and analysis of critical incidents and affords the opportunity for individual and team assessments, helps to identify training needs and reinforces sound risk management practices.
    - (b) Such debriefing should not be conducted until involved officers have had the opportunity to individually complete necessary reports or provide formal statements.
    - (c) To maintain candor and a meaningful exchange, debriefing will generally not be recorded.
    - (d) When appropriate, debriefing should include specialized units and resources.
- (i) Sound risk management analysis.
- (j) Standardization of equipment.

#### **404.3 TRAINING NEEDS ASSESSMENT**

The SWAT/HEAT commander shall conduct an annual SWAT training needs assessment to ensure that training is conducted within team capabilities and department policy.

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##### 404.3.1 INITIAL TRAINING

SWAT team operators and SWAT 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.

##### 404.3.2 SUPERVISION AND MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level. This is to ensure personnel who provide active oversight at the scene of SWAT 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. SWAT command personnel should attend a department-approved SWAT commander or tactical commander course or its equivalent.

##### 404.3.3 TRAINING SAFETY

Use of a designated safety officer should be considered for all tactical training.

##### 404.3.4 SCENARIO-BASED TRAINING

SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

##### 404.3.5 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the HEAT Training Unit. 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.

#### **404.4 UNIFORMS, EQUIPMENT AND FIREARMS**

##### 404.4.1 UNIFORMS

SWAT 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.

##### 404.4.2 EQUIPMENT

SWAT teams from this department should be adequately equipped to meet the specific mission(s) identified by the Department.

##### 404.4.3 FIREARMS

Weapons and equipment used by SWAT, the specialized units and the supporting resources should be Department-issued or approved, including any modifications, additions or attachments.

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##### 404.4.4 OPERATIONAL READINESS INSPECTION

The commander of the HEAT shall appoint a HEAT Supervisor to perform an operational readiness inspection of all unit equipment at least quarterly. The results of the inspection will be forwarded to the HEAT commander. The inspections will include personal equipment issued to members of the unit as well as special use equipment maintained for periodic or occasional use in the SWAT vehicle.

##### **404.5 CRISIS NEGOTIATION TEAM ADMINISTRATIVE PROCEDURES**

The Crisis Negotiation Team has been established to provide skilled verbal communicators who may be utilized to attempt to de-escalate and effect surrender in critical situations where suspects have taken hostages, barricaded themselves or have suicidal tendencies.

The following procedures serve as directives for the administrative operation of the Crisis Negotiation Team.

##### 404.5.1 SELECTION OF PERSONNEL

Interested licensed personnel, who are off probation, shall submit a request to their appropriate Captain. A copy will be forwarded to the HEAT Commander and the Crisis Negotiation Team supervisor. Qualified applicants will then be invited to an oral interview. The oral board will consist of the HEAT Commander, the Crisis Negotiation Team supervisor and a third person to be selected by the two. Interested personnel shall be evaluated by the following criteria:

- (a) Recognized competence and ability as evidenced by performance.
- (b) Demonstrated good judgment and understanding of critical role of negotiator and negotiation process.
- (c) Effective communication skills to ensure success as a negotiator.
- (d) Special skills, training or appropriate education as it pertains to the assignment.
- (e) Commitment to the unit, realizing that the assignment may necessitate unusual working hours, conditions and training obligations.

The oral board shall submit a list of successful applicants to staff for final selection.

##### 404.5.2 TRAINING OF NEGOTIATORS

Those officers selected as members of the Crisis Negotiation Team should attend a department-approved Basic Negotiators Course prior to deployment in an actual crisis situation. Untrained officers may be used in a support or training capacity. Additional training will be coordinated by the team supervisor.

A minimum of one training day per quarter will be required to provide the opportunity for role playing and situational training that is necessary to maintain proper skills. This will be coordinated by the team supervisor.

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the team supervisor. Performance and efficiency levels

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established by the team supervisor will be met and maintained by all team members. Any member of the Crisis Negotiation Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the unit.

#### **404.6 SWAT TEAM ADMINISTRATIVE PROCEDURES**

The SWAT team was established to provide a skilled and trained team that may be deployed during events requiring specialized tactics, in situations where suspects have taken hostages and/or barricaded themselves, as well as prolonged or predictable situations in which persons who are armed or suspected of being armed pose a danger to themselves or others.

The following procedures serve as directives for the administrative operation of the SWAT team.

##### **404.6.1 SELECTION OF PERSONNEL**

Interested licensed personnel who are off probation shall submit a request to their appropriate supervisor, a copy of which will be forwarded to the HEAT Commander and other SWAT 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 HEAT Commander. The testing process will consist of an oral board, physical agility test, and a SWAT basic handgun and team evaluation.

- (a) Oral board: The oral board will consist of personnel selected by the HEAT Commander. Applicants will be evaluated by the following criteria:
  - 1. Recognized competence and ability as evidenced by performance.
  - 2. Demonstrated good judgment and understanding of the critical role of a SWAT member.
  - 3. Special skills, training or appropriate education as it pertains to this assignment.
  - 4. Commitment to the unit, realizing that the additional assignment may necessitate unusual working hours, conditions and training obligations.
- (b) Physical agility: The physical agility test is designed to determine the physical capabilities of the applicant as it relates to performance of SWAT-related duties. The test and scoring procedure will be established by the HEAT Commander. A minimum qualifying score shall be attained by the applicant to be considered for the position.
- (c) SWAT basic handgun: Candidates will be invited to shoot the SWAT Basic Drill for the handgun. A minimum qualifying score of 400 out of a possible score of 500 must be attained to qualify.
- (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 staff by the HEAT Commander for final selection.

##### **404.6.2 TEAM EVALUATION**

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the HEAT Commander. The performance and efficiency

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level, as established by the team supervisor, will be met and maintained by all SWAT team members. Any member of the SWAT team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.

#### **404.7 OPERATIONAL GUIDELINES FOR HEAT**

The following procedures serve as guidelines for the operational deployment of the HEAT. Generally, the SWAT team and the Crisis Negotiation Team will be activated together. It is recognized, however, that a tactical team may be used in a situation not requiring the physical presence of the Crisis Negotiation Team, such as warrant service operations. This shall be at the discretion of the HEAT Commander.

##### **404.7.1 ON-SCENE DETERMINATION**

The supervisor in charge at the scene of a particular event will assess whether the HEAT should respond. Upon final determination by the Shift Sergeant, he/she will notify the HEAT Commander.

##### **404.7.2 APPROPRIATE SITUATIONS FOR USE OF HEAT**

The following are examples of incidents that may result in the activation of the HEAT:

- (a) Barricaded suspects who refuse an order to surrender.
- (b) Incidents where hostages have been taken.
- (c) Cases of suicide threats.
- (d) Arrests of dangerous persons.
- (e) Any situation where a HEAT response could enhance the ability to preserve life, maintain social order and ensure the protection of property.

##### **404.7.3 OUTSIDE AGENCY REQUESTS**

Requests by field personnel for assistance from outside agency crisis units must be approved by the Shift Sergeant. Deployment of the Fairmont Police Department HEAT in response to requests by other agencies must be authorized by a Captain.

##### **404.7.4 MULTI-JURISDICTIONAL SWAT OPERATIONS**

The SWAT team, including relevant specialized units and supporting resources, should develop protocols, agreements, memorandums of understanding, collective bargaining agreements or working relationships to support multi-jurisdictional or regional responses.

- (a) If it is anticipated that multi-jurisdictional SWAT operations will regularly be conducted, SWAT multi-agency and multidisciplinary joint training exercises are encouraged.
- (b) Members of the Fairmont Police Department SWAT team shall operate under the policies, procedures and command of the Fairmont Police Department when working in a multi-agency situation.

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##### 404.7.5 MOBILIZATION OF HEAT

The on-scene supervisor shall make a request to the Shift Sergeant for the HEAT to respond. The Shift Sergeant shall then notify the HEAT Commander. If unavailable, a team supervisor shall be notified. A current mobilization list shall be maintained in the Shift Sergeant's office by the HEAT Commander. The Shift Sergeant will then notify the Patrol Captain as soon as practicable.

The Shift Sergeant should advise the HEAT 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.

The HEAT Commander or supervisor shall then call selected officers to respond.

##### 404.7.6 FIELD UNIT RESPONSIBILITIES

While waiting for the HEAT, field personnel should, if safe, practicable and if sufficient resources exist:

- (a) Establish an inner and outer perimeter.
- (b) Establish a command post outside of the inner perimeter.
- (c) Establish an arrest/response team. The team's actions may include:
  - 1. Securing any subject or suspect who may surrender.
  - 2. Taking action to mitigate a deadly threat or behavior.
- (d) Evacuate any injured persons or citizens in the zone of danger.
- (e) Attempt to establish preliminary communication with the suspect. Once the HEAT has arrived, all negotiations should generally be halted to allow the negotiators and SWAT time to set up.
- (f) Be prepared to brief the HEAT Commander on the situation.
- (g) Plan for and stage anticipated resources.

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##### 404.7.7 ON-SCENE COMMAND RESPONSIBILITIES

Upon arrival of the HEAT, the Incident Commander shall brief the HEAT Commander and team supervisors. Upon review, it will be the Incident Commander's decision, with input from the HEAT Commander, whether to deploy the HEAT. Once the Incident Commander authorizes deployment, the HEAT Commander will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and support for the HEAT. The Incident Commander and the HEAT Commander or designee shall maintain communications at all times.

##### 404.7.8 COMMUNICATION WITH HEAT PERSONNEL

All of those persons who are non-HEAT personnel should refrain from any non-emergency contact or from interference with any member of the unit during active negotiations. Operations require the utmost in concentration by involved personnel. No one should interrupt or communicate with HEAT personnel directly. All non-emergency communications shall be channeled through the Crisis Negotiation Team sergeant or designee.



## Ride-Along Policy

### 405.1 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, approval process and hours of operation for the Ride-Along Program.

#### 405.1.1 ELIGIBILITY

The Fairmont 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 16 years of age (Must have parent or guardian signed approval).
- Prior criminal history.
- Pending criminal action.
- Pending lawsuit against the Department.
- Denial by any supervisor.

#### 405.1.2 AVAILABILITY

The Ride-Along Program is available on most days of the week.

### 405.2 SECTION TITLE

#### 405.3 PROCEDURE TO REQUEST A RIDE-ALONG

Generally, ride-along requests will be scheduled by the Captain. The participant will complete and sign a ride-along waiver form before being allowed to ride with an officer or in a city vehicle. [Adult Ride-Along Form](#). [JV Ride-Along Form](#)

The Captain will schedule a date, based on availability, and if approved a copy of the ride-along waiver form will be forwarded to the respective Shift Sergeant as soon as possible for his/her scheduling considerations.

If the ride-along is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.

#### 405.3.1 PROGRAM REQUIREMENTS

Once approved, civilian ride-alongs will be allowed to ride no more than once every six months. An exception would apply to the following: cadets, agency interns, Explorers, RSVP, chaplains, Reserves, police applicants and all others with approval of the Captain.

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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.

#### **405.3.2 PEACE OFFICER RIDE-ALONGS**

Off-duty members of this department or any other law enforcement agency will not be permitted to ride-along with on-duty officers without the express consent of the Captain or his/her designee. In the event that such a ride-along is permitted, the off-duty employee shall not be considered on-duty and shall not represent him/herself as a peace officer or participate in any law enforcement activity except as emergency circumstances may require.

#### **405.3.3 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 a Minnesota Bureau of Criminal Apprehension Criminal History System check prior to approval (provided that the ride-along is not an employee of the Fairmont Police Department).

#### **405.4 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 Shift Sergeant.

The Captain is responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, a copy of the ride-along waiver form shall be returned to the Captain with any comments that may be offered by the officer.

#### **405.5 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 the station if the ride-along interferes with the performance of any officer's duties. An officer

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may request not to have a ride along assigned to them, but ultimate discretion of assignment rests with the supervisor.

- (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.
- (g) Under no circumstance shall a civilian ride-along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person.

## Hazardous Material Response

### 406.1 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.

#### 406.1.1 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.

### 406.2 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 biohazards.

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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#### *Hazardous Material Response*

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#### **406.3 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 and the employee's supervisor completing a First Report of Injury that shall be forwarded via chain of command to the Captain. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.

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. [See attachment: First Report of Injury.pdf](#) [See attachment: Supervisor Incident Report- Personal Injury ro.pdf](#)

#### **406.3.1 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.

To ensure the safety of employees, safety equipment is available through supervisory personnel. Safety items not maintained by the Department will be obtained through the appropriate fire department or the Martin County Emergency Management Office.

## Hostage and Barricade Incidents

### 407.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

#### 407.1.1 DEFINITIONS

Definitions related to this policy include:

**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.

**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.

### 407.2 POLICY

It is the policy of the Fairmont 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.

### 407.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources. If the supervisor, or senior officer if a supervisor is not on duty, determines that the incident is a barricade or hostage situation the Regional HEAT team will be contacted to help assess and respond to assist if deemed appropriate by the HEAT Team Commander.

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##### **407.3.1 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).

##### **407.4 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.

##### **407.4.1 BARRICADE SITUATION**

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Request additional personnel, resources and equipment as needed (e.g., canine team).
- (d) Provide responding emergency personnel with a safe arrival route to the location.
- (e) Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.
- (f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.

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- (h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer.
- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.

#### 407.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options while not all-inclusive or in any particular order, should be considered:

- Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).
- Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.
- Request additional personnel, resources and equipment as needed (e.g., canine team).
- Provide responding emergency personnel with a safe arrival route to the location.
- Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.
- Coordinate pursuit or surveillance vehicles and control of travel routes.
- Attempt or obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
- Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
- Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.



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- Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer.
- If necessary and available, establish a tactical or exclusive radio frequency for the incident.

#### **407.5 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 HEAT response if appropriate and apprising the HEAT 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.
- (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 Dispatch.
- (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 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.

#### **407.6 CRISIS RESPONSE UNIT**

It will be the Incident Commander's decision, with input from the HEAT Commander, whether to deploy the HEAT during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the HEAT Commander or the authorized designee will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for

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## *Hostage and Barricade Incidents*

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the HEAT. The Incident Commander and the HEAT Commander or the authorized designee shall maintain communications at all times.

### **407.7 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.

## Response to Bomb Calls

### 408.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Fairmont Police Department in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such 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 should always be the primary consideration.

### 408.2 POLICY

It is the policy of the Fairmont Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

### 408.3 RECEIPT OF BOMB THREAT

Department members receiving a bomb threat should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved by the Martin County Sheriff's Office in accordance with established department evidence procedures.

The member receiving the bomb threat should ensure that the Shift Sergeant is immediately advised when possible and informed of the details. If available the Shift Sergeant will ensure that the appropriate personnel are dispatched and, as appropriate, the threatened location is given an advance warning.

### 408.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

#### 408.4.1 FAIRMONT POLICE DEPARTMENT FACILITY

If the bomb threat is against the Fairmont Police Department facility, the Shift Sergeant or OIC will direct and assign officers as required for coordinating a general building search or evacuation of the police department, as he/she deems appropriate.

#### 408.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the Fairmont Police Department that is not the property of this department, the appropriate agency will be promptly informed of the threat. Assistance to the other entity may be provided as the officer deems appropriate.

#### 408.4.3 MILITARY BUILDING OR PROPERTY

If the bomb threat is against

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a military installation (e.g. Armory), the military security responsible for the installation should be notified.

#### **408.5 PRIVATE FACILITY OR PROPERTY**

When a member of this department receives notification of a bomb threat at a location in the City of Fairmont, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

- (a) The location of the facility.
- (b) The nature of the threat.
- (c) Whether the type and detonation time of the device is known.
- (d) Whether the facility is occupied, and if so, the number of occupants currently on-scene.
- (e) Whether the individual is requesting police assistance at the facility.
- (f) Whether there are any internal facility procedures regarding bomb threats in place, such as:
  - 1. No evacuation of personnel and no search for a device.
  - 2. Search for a device without evacuation of personnel.
  - 3. Evacuation of personnel without a search for a device.
  - 4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the Shift Sergeant is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

##### **408.5.1 ASSISTANCE**

The Shift Sergeant should be notified when police assistance is requested. The Shift Sergeant or OIC will make the decision whether the Department will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including police control over the facility.

Should the Shift Sergeant or OIC determine that the Department will assist or control such an incident, he/she will determine:

- (a) The appropriate level of assistance.
- (b) The plan for assistance.
- (c) Whether to evacuate the facility.
- (d) Whether to involve facility staff in the search or evacuation of the building.
  - (a) The person in charge of the facility should be made aware of the possibility of damage to the facility as a result of a search.
  - (b) The safety of all participants is the paramount concern.

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- (e) The need for additional resources, including:
  1. Notification and response, or standby notice, for fire and emergency medical services.

Even though a facility does not request police assistance to clear the interior of a building, based upon the circumstances and known threat, officers may be sent to the scene to evacuate other areas that could be affected by the type of threat, or for traffic and pedestrian control.

#### **408.6 FOUND DEVICE**

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.
- (b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.
- (c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes the following:
  1. Two-way radios
  2. Cell phones
  3. Other personal communication devices
- (d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.
- (e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.
- (f) A safe access route should be provided for support personnel and equipment.
- (g) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.
- (h) Promptly relay available information to the Shift Sergeant including:
  1. The time of discovery.
  2. The exact location of the device.
  3. A full description of the device (e.g., size, shape, markings, construction).
  4. The anticipated danger zone and perimeter.
  5. The areas to be evacuated or cleared.

#### **408.7 EXPLOSION/BOMBING INCIDENTS**

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic events, a rapid response may help to minimize injury

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#### *Response to Bomb Calls*

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to victims, minimize contamination of the scene by gathering crowds, or minimize any additional damage from fires or unstable structures.

#### 408.7.1 CONSIDERATIONS

Officers responding to explosions, whether accidental or a criminal act, should consider the following actions:

- (a) Assess the scope of the incident, including the number of victims and extent of injuries.
- (b) Request additional personnel and resources, as appropriate.
- (c) Assist with first aid.
- (d) Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.
- (e) Assist with the safe evacuation of victims, if possible.
- (f) Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.
- (g) Preserve evidence.
- (h) Establish an outer perimeter and evacuate if necessary.
- (i) Identify witnesses.

#### 408.7.2 NOTIFICATIONS

When an explosion has occurred, the following people should be notified as appropriate:

- Fire department
- Bomb squad
- Additional department personnel.
- Shift Sergeant, Captain, and Chief of Police
- Other law enforcement agencies, including local, state or federal agencies, such as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Other government agencies, as appropriate

#### 408.7.3 CROWD CONTROL

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

#### 408.7.4 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene. The Shift Sergeant should assign officers to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

## Civil Commitments

### 409.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may place an individual in protective custody and request a 72-hour hold under the Minnesota Commitment and Treatment Act (Minn. Stat. § 253B.051).

### 409.2 POLICY

It is the policy of the Fairmont Police Department to protect the public and individuals through legal and appropriate use of the 72-hour hold process.

### 409.3 AUTHORITY

An officer, having probable cause to believe that any individual because of mental illness, chemical dependency, or public intoxication is in danger of injuring him/herself or others if not immediately detained, may take, or cause to be taken, the individual to an appropriate treatment facility for a 72-hour evaluation (Minn. Stat. § 253B.051, Subd. 1).

The officer shall make written application for admission of the individual to an appropriate treatment facility. The application shall contain the officer's reasons for and circumstances under which the individual was taken into custody. If danger to specific individuals is a basis for the requested emergency hold, the statement must include identifying information for those individuals to the extent reasonably practicable. The officer shall also provide the department contact information for purposes of receiving notice if the individual is released prior to the 72-hour admission or leaves the facility without consent. The facility shall make a copy of the statement available to the individual taken into custody (Minn. Stat. § 253B.051, Subd. 1).

#### 409.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for a 72-hour hold, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the individual so desires, the officers should:

- (a) Transport the individual to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to the Minnesota Commitment and Treatment Act.
- (b) If at any point the individual changes his/her mind regarding voluntary evaluation, officers should proceed with the application for a 72-hour hold, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

### 409.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a 72-hour hold should consider, as time and circumstances reasonably permit:

- (a) Available information that might assist in determining the cause and nature of the individual's action or stated intentions.

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- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

#### **409.5 TRANSPORTATION**

When transporting any individual for a 72-hour hold, the transporting officer should have Dispatch notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Officers may transport individuals in a patrol unit and may secure them in accordance with the Handcuffing and Restraints Policy as necessary. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, Shift Sergeant approval should be obtained when possible before transport commences.

##### **409.5.1 TYPE OF TRANSPORTATION**

When transporting any individual on a Minn. Stat. § 253B.051 admission, and if reasonably practicable, officers should not be in uniform and should not use a vehicle visibly marked as a law enforcement vehicle (Minn. Stat. § 253B.051, Subd. 1(e)).

#### **409.6 TRANSFER TO APPROPRIATE FACILITY**

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for a 72-hour hold if necessary and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints unless requested to do so by medical staff.

#### **409.7 DOCUMENTATION**

If necessary the officer should complete an application for emergency admission, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.



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#### **409.8 CRIMINAL OFFENSES**

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken into custody for purposes of a 72-hour hold should resolve the criminal matter by issuing a warning or a citation, as appropriate.

- (a)
- (b)
- (c)
- (d)

#### **409.9 FIREARMS AND OTHER WEAPONS**

Whenever an individual is taken into custody for a 72-hour hold, the handling officers should seek to determine if the individual owns or has access to any firearm or other deadly weapon. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search unless lawful warrantless entry has already been made (e.g., exigent circumstances, consent). A warrant may also be needed before searching for or seizing weapons.

The handling officers should further advise the individual of the procedure for the return of any firearm or other weapon that has been taken into custody.

#### **409.10 TRAINING**

This department will endeavor to provide department-approved training on interaction with mentally disabled persons, 72-hour holds and crisis intervention.

## Citation Releases

### 410.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of the Fairmont Police Department with guidance on when to release adults who are suspected offenders on a citation for a criminal offense, rather than having the person held in custody for a court appearance or released on bail.

This policy also provides guidance on when a court orders that a person be released.

Additional release restrictions may apply to those detained for domestic violence, as outlined in the Domestic Abuse Policy.

### 410.2 POLICY

The Fairmont Police Department will consider its resources and its mission of protecting the community when exercising any discretion to release suspected offenders on a citation, when authorized to do so.

### 410.3 RELEASE

A suspected offender shall be released on issuance of a citation:

- (a) When the offender has been arrested without a warrant and either a prosecutor or district court judge orders that the offender should be released (Minn. R. Crim. P. 4.02; Minn. R. Crim. P. 6.01).
  1. Release is not required if a reviewing supervisor determines that the offender should be held pursuant to Minn. R. Crim. P. 6.01 Subd. 1.
- (b) When the offender is charged with a petty or fine-only misdemeanor (Minn. R. Crim. P. 6.01).
- (c) In misdemeanor cases unless it reasonably appears to the arresting officer that the offender will (Minn. R. Crim. P. 6.01):
  1. Cause bodily injury to him/herself or another if he/she is not detained.
  2. Continue engaging in criminal conduct.
  3. Not respond to a citation.
- (d) When the offender is from another state which has a reciprocal agreement with Minnesota unless the offense is (Minn. Stat. § 169.91):
  1. One which would result in the revocation of the offender's driver's license under Minnesota law upon conviction.
  2. A violation of a highway weight limitation.
  3. A violation of a law governing the transportation of hazardous materials.
  4. That the offender was driving without a valid driver's license.

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#### **410.4 CONSIDERATIONS**

In determining whether to cite and release a person when discretion is permitted, officers should consider:

- (a) The type of offense committed.
- (b) The known criminal history of the suspected offender.
- (c) The ability to identify the suspected offender with reasonable certainty.
- (d) Whether there is any record of the individual failing to appear in previous cases or other articulable indications that the individual may not appear in court for this offense.
- (e) The individual's ties to the area, such as residence, employment or family.
- (f) Whether there is reasonable likelihood that criminal conduct by the individual will continue.

#### **410.5 FISH AND GAME AND ENVIRONMENT-RELATED OFFENSES**

In the case of game and fish laws or other environment-related offenses, as specified in Minn. Stat. § 97A.211, officers should release the offender unless there is reason to believe that criminal conduct will continue or that the offender will not respond as required by the citation (Minn. Stat. § 97A.211).

# Foreign Diplomatic and Consular Representatives

## 411.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Fairmont Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

## 411.2 POLICY

The Fairmont Police Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

## 411.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

## 411.4 ENFORCEMENT ACTION

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

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- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
  - 1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
  - 1. Diplomatic-level staff of missions to international organizations and recognized family members
  - 2. Diplomatic agents and recognized family members
  - 3. Members of administrative and technical staff of a diplomatic mission and recognized family members
  - 4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
  - 1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
  - 2. Support staff of missions to international organizations.
  - 3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
  - 4. Honorary consular officers.

#### **411.5 DOCUMENTATION**

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

#### **411.6 DIPLOMATIC IMMUNITY TABLE**

Reference table on diplomatic immunity:

Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members

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<b>Diplomatic Agent</b>	No (note b)	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Member of Admin and Tech Staff</b>	No (note b)	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Service Staff</b>	Yes (note a)	Yes	Yes	Yes	No for official acts Yes otherwise (note a)	No immunity or inviolability (note a)
<b>Career Consul Officer</b>	Yes if for a felony and pursuant to a warrant (note a)	Yes (note d)	Yes	Yes	No for official acts Yes otherwise (note a)	No immunity or inviolability
<b>Honorable Consul Officer</b>	Yes	Yes	Yes	No for official acts Yes otherwise	No for official acts Yes otherwise	No immunity or inviolability
<b>Consulate Employees</b>	Yes (note a)	Yes	Yes	No for official acts Yes otherwise	No for official acts Yes otherwise (note a)	No immunity or inviolability (note a)
<b>Int'l Org Staff (note b)</b>	Yes (note c)	Yes (note c)	Yes	Yes (note c)	No for official acts Yes otherwise (note c)	No immunity or inviolability
<b>Diplomatic-Level Staff of Missions to Int'l Org</b>	No (note b)	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Support Staff of Missions to Int'l Orgs</b>	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

- (a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.

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- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.
- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

## Rapid Response and Deployment

### 412.1 PURPOSE AND SCOPE

Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist officers in situations that call for rapid response and deployment.

### 412.2 POLICY

The Fairmont Police Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Department in protecting themselves or others from death or serious injury.

### 412.3 CONSIDERATIONS

When dealing with a crisis situation members should:

- (a) Assess the immediate situation and take reasonable steps to maintain operative control of the incident.
- (b) Obtain, explore and analyze sources of intelligence and known information regarding the circumstances, location and suspect involved in the incident.
- (c) Attempt to attain a tactical advantage over the suspect by reducing, preventing or eliminating any known or perceived threat.
- (d) Attempt, if feasible and based upon the suspect's actions and danger to others, a negotiated surrender of the suspect and release of the hostages.

### 412.4 FIRST RESPONSE

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 reduce, prevent or 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.

If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, officers should take immediate action, if reasonably practicable, while requesting additional assistance.

Officers should remain aware of the possibility that an incident may be part of a coordinated multi-location attack that may require some capacity to respond to other incidents at other locations.

When deciding on a course of action officers should consider:



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- (a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advance or engagement should be based on information known or received at the time.
- (b) Whether to wait for additional resources or personnel. This does not preclude an individual officer from taking immediate action.
- (c) Whether individuals who are under imminent threat can be moved or evacuated with reasonable safety.
- (d) Whether the suspect can be contained or denied access to victims.
- (e) Whether the officers have the ability to effectively communicate with other personnel or resources.
- (f) Whether planned tactics can be effectively deployed.
- (g) The availability of rifles, shotguns, shields, breaching tools, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

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 hostage negotiation team response).

#### **412.5 PLANNING**

Supervisors Patrol Captain should coordinate critical incident planning. Planning efforts should consider:

- (a) Identification of likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Availability of building plans and venue schematics of likely critical incident target sites.
- (c) Communications interoperability with other law enforcement and emergency service agencies.
- (d) Training opportunities in critical incident target sites, including joint training with site occupants.
- (e) Evacuation routes in critical incident target sites.
- (f) Patrol first-response training.
- (g) Response coordination and resources of emergency medical and fire services.
- (h) Equipment needs.
- (i) Mutual aid agreements with other agencies.
- (j) Coordination with private security providers in critical incident target sites.

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#### **412.6 TRAINING**

The Training Sergeant should include rapid response to critical incidents in the training plan. This training should address:

- (a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Communications interoperability with other law enforcement and emergency service agencies.
- (c) Patrol first-response training, including patrol rifle, shotgun, breaching tool and control device training.
- (d) First aid, including gunshot trauma.
- (e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).

## Immigration Violations

### 413.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Fairmont Police Department relating to immigration and interacting with federal immigration officials.

### 413.2 POLICY

It is the policy of the Fairmont 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 national origin or immigration status.

### 413.3 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 not in any way that would violate the United States or Minnesota constitutions.

### 413.4 DETENTIONS

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.

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of federal immigration law may detain the person for a reasonable period of time in order to contact federal immigration officials to verify whether an immigration violation is a federal civil violation or a criminal violation. If the violation is a criminal violation, the officer may continue to detain the person for a reasonable period of time if requested by federal immigration officials (8 USC § 1357(g)(10)). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

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 a federal immigration official to respond to the location to take custody of the detained person (8 USC § 1357(g)(10)).

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.

An officer should notify a supervisor as soon as practicable whenever an individual is being detained for a criminal immigration violation.

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##### **413.4.1 SUPERVISOR RESPONSIBILITIES**

When notified that an officer has detained an individual and established reasonable suspicion or probable cause to believe the person has violated a criminal immigration offense, the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Lawfully arrest the person for a criminal offense or pursuant to a judicial warrant (see the Law Enforcement Authority Policy).

##### **413.5 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT**

Generally, an officer should not notify federal immigration officials when booking arrestees at a county jail facility. Any required notification will be handled according to jail operation procedures. No individual who is otherwise ready to be released should continue to be detained solely for the purpose of notification.

##### **413.6 FEDERAL REQUESTS FOR ASSISTANCE**

Requests by federal immigration officials 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.

##### **413.7 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 federal immigration officials
- (b) Maintaining such information in department records
- (c) Exchanging such information with any other federal, state, or local government entity

##### **413.7.1 IMMIGRATION DETAINERS**

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.

##### **413.8 U VISA AND T VISA NONIMMIGRANT 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)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

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Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Investigations supervisor assigned to oversee the handling of any related case.

The Investigations 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.
  - 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.

#### **413.9 TRAINING**

The Training Sergeant should ensure officers receive training on this policy as available.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration offense has been committed.

## Emergency Utility Service

### 414.1 PURPOSE AND SCOPE

The City Public Works Department has personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this department should be handled in the following manner.

#### 414.1.1 BROKEN WATER LINES

The City's responsibility ends at the water meter. Any break or malfunction in the water system from the water meter to the citizen's residence or business is the customer's responsibility. Public Works can only turn off the valve at the meter. The citizen can normally accomplish this.

If a break occurs on the City side of the meter, emergency personnel should be called as soon as practicable by Dispatch.

#### 414.1.2 ELECTRICAL LINES

City Public Works maintains electrical lines to street light poles. When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. TPublic Works should be promptly notified, as appropriate.

#### 414.1.3 RESERVOIRS, PUMPS AND WELLS

Public Works maintains the reservoirs and public water equipment, as well as several underpass and other street drainage pumps. In the event of flooding or equipment malfunctions, emergency personnel should be contacted as soon as possible.

#### 414.1.4 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies will be maintained by Dispatch.

### 414.2 TRAFFIC SIGNAL MAINTENANCE

The City of Fairmont provides maintenance for all traffic signals within the City, other than those maintained by the Minnesota Department of Transportation (Mn/DOT).

#### 414.2.1 OFFICER'S RESPONSIBILITIES

Upon observing a damaged or malfunctioning signal, the officer will advise Dispatch of the location and problem with the signal. The dispatcher or officer should make the necessary notification to the proper maintenance agency.

## Aircraft Accidents

### 415.1 PURPOSE AND SCOPE

The purpose of this policy is to provide department members with guidelines for handling aircraft accidents.

This policy does not supersede, and is supplementary to, applicable portions of the Crime and Disaster Scene Integrity, Emergency Operations Plan and Hazardous Material Response policies.

#### 415.1.1 DEFINITIONS

Definitions related to this policy include:

**Aircraft** - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

### 415.2 POLICY

It is the policy of the Fairmont Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

### 415.3 ARRIVAL AT SCENE

Officers or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

- (a) Protect persons and property.
- (b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.
- (c) Preserve ground scars and marks made by the aircraft.
- (d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.
- (e) Maintain a record of persons who enter the accident site.
- (f) Consider implementation of an Incident Command System (ICS).

### 415.4 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

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#### **415.5 NOTIFICATIONS**

When an aircraft accident is reported to this department, the responding supervisor shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), and when applicable, the appropriate branch of the military.

Supervisors shall ensure other notifications are made once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft accident has occurred, it is generally necessary to notify the following:

- (a) Fire department
- (b) Appropriate airport tower
- (c) Emergency medical services (EMS)

#### **415.6 CONTROLLING ACCESS AND SCENE AUTHORITY**

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

- (a) FAA.
- (b) Fire department, EMS or other assisting law enforcement agencies.
- (c) Medical Examiner.
- (d) Air Carrier/Operators investigative teams with NTSB approval.
- (e) Appropriate branch of the military, when applicable.
- (f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB has primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft accident, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB or military representative arrives on-scene, the efforts of this department will shift to a support role for those agencies.

If NTSB or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene department supervisor should ensure the accident is still appropriately investigated and documented.

#### **415.7 DANGEROUS MATERIALS**

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

- (a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.
- (b) Pressure vessels, compressed gas bottles, accumulators and tires.
- (c) Fluids, batteries, flares and igniters.



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- (d) Evacuation chutes, ballistic parachute systems and composite materials.

#### **415.8 DOCUMENTATION**

All aircraft accidents occurring within the City of Fairmont shall be documented. At a minimum the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of FPD members deployed to assist; other City resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

##### **415.8.1 WRECKAGE**

When reasonably safe, members should:

- (a) Obtain the aircraft registration number (N number) and note the type of aircraft.
- (b) Attempt to ascertain the number of casualties.
- (c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.
  - 1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).
- (d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.
- (e) Acquire copies of any recordings from security cameras that may have captured the incident.

##### **415.8.2 WITNESSES**

Members tasked with contacting witnesses should obtain:

- (a) The location of the witness at the time of his/her observation relative to the accident site.
- (b) A detailed description of what was observed or heard.
- (c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.
- (d) The names of all persons reporting the accident, even if not yet interviewed.
- (e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

#### **415.9 MEDIA RELATIONS**

The PIOChief of Police or their designee should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the surrounding community. Any release of information regarding details of the accident itself should be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

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Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The PIO should coordinate with other involved entities before the release of information.

## Field Training Officer Program

### 416.1 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 Fairmont 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.

### 416.2 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.

#### 416.2.1 SELECTION PROCESS

FTOs will be selected based on the following requirements:

- (a) Desire to be an FTO.
- (b) Minimum of three years of patrol experience, two of which shall be with this department.
- (c) Demonstrated ability as a positive role model.
- (d) Participate and pass an internal oral interview selection process.
- (e) Evaluation by supervisors and current FTOs.
- (f) Possess an FTO certificate of completion from a Minnesota POST Board-approved course.

#### 416.2.2 CONTINUED TRAINING

All FTOs must complete a POST-approved FTO training course prior to being assigned to the position of FTO.

### 416.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The Field Training Officer Program Supervisor will be selected by the Captain or designee.

The responsibilities of the FTO Program Supervisor 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.

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#### *Field Training Officer Program*

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- (g) Develop ongoing training for FTOs.

#### **416.4 TRAINEE DEFINED**

**Trainee** - Any entry level or lateral police officer newly appointed to the Fairmont Police Department who possesses a Minnesota POST license or is eligible to be licensed.

#### **416.5 REQUIRED TRAINING**

Entry level officers shall be required to successfully complete the Field Training Program.

The training period for lateral officers may vary depending on the trainee's demonstrated performance and level of experience..

The required training will take place on at least two different shifts and with at least two different FTOs if reasonably possible.

##### **416.5.1 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 Fairmont 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.

The Field Training Manual will specifically cover those policies, procedures, rules and regulations enacted by the Fairmont Police Department.

#### **416.6 EVALUATIONS**

Evaluations are an important component of the training process and shall be completed as outlined below.

##### **416.6.1 FIELD TRAINING OFFICER**

The FTO will be responsible for the following:

- (a) Completing and submitting a Daily Observation Report (DOR) on the performance of the assigned trainee to the trainee's immediate supervisor on a daily basis.
- (b) Reviewing the Daily Observation report with the trainee each day or the following shift.
- (c) Signing off all completed topics contained in the Field Training Manual.

##### **416.6.2 FIELD TRAINING SUPERVISOR**

The Field Training Supervisor will review and approve the Daily Observation Report(s) submitted by the FTO(s).

The Field Training Supervisor will hold periodic meetings with all FTOs to ensure understanding and compliance with the requirements of the Field Training Program. As needed, the Field Training Supervisor 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 Captain for review and approval.

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### 416.6.3 TRAINEE

At the completion of the Field Training Program, the trainee shall submit a performance evaluation of each of his/her FTOs and of the Field Training Program. The evaluation will be submitted to the Captain to review with the Field Training Supervisor.

### **416.7 DOCUMENTATION**

All documentation of the Field Training Program will be retained in the officer's training file.

## Contacts and Temporary Detentions

### 417.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

#### 417.1.1 DEFINITIONS

Definitions related to this policy include:

**Consensual encounter** - 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, temporary 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, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

**Pat-down search** - A type of search used by officers in the field to check an individual for dangerous 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** - 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.

**Temporary detention** - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person's freedom of movement.

### 417.2 POLICY

The Fairmont Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete an FI, pat-down search, or field photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

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#### **417.3 FIELD INTERVIEWS**

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Fairmont Police Department to strengthen community involvement, community awareness, and problem identification.

##### **417.3.1 INITIATING A FIELD INTERVIEW**

When initiating the stop, the officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act.
- (b) Actions suggesting that he/she is engaged in a criminal activity.
- (c) Presence in an area at an inappropriate hour of the day or night.
- (d) Presence in a particular area is suspicious.
- (e) Carrying of suspicious objects or items.
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon.
- (g) Location in proximate time and place to an alleged crime.
- (h) Physical description or clothing worn that matches a suspect in a recent crime.
- (i) Prior criminal record or involvement in criminal activity as known by the officer.

#### **417.4 FIELD PHOTOGRAPHS**

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer shall carefully consider, among other things, the factors listed below.

##### **417.4.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT**

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should have the individual read and sign the appropriate form accompanying the photograph.

##### **417.4.2 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

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conduct. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

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 Records and retained in compliance with this policy.

#### **417.4.3 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 each photograph is taken. 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. Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

#### **417.4 PAT-DOWN SEARCHES**

Once a valid stop has been made, and consistent with the officer's training and experience, an officer may pat a suspect's outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

- (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 actions and demeanor of the suspect.
- (f) Visual indications which suggest that the suspect is carrying a firearm or other dangerous weapon.

Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

#### **417.5 WITNESS IDENTIFICATION AND INTERVIEWS**

Because potential witnesses to an incident may become unavailable 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 members for the following:

- (a) Identifying all persons present at the scene and in the immediate area.



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1. When feasible, a recorded statement should be obtained from those 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.
- (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 members.
1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if reasonably available, prior to transport.

# Criminal Organizations

## 418.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Fairmont Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

### 418.1.1 DEFINITIONS

Definitions related to this policy include:

**Criminal intelligence system** - Any record system that receives, stores, exchanges or disseminates information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates. This does not include temporary information files.

## 418.2 POLICY

The Fairmont Police Department recognizes that certain criminal activities, including but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this department to collect and share relevant information while respecting the privacy and legal rights of the public.

## 418.3 CRIMINAL INTELLIGENCE SYSTEMS

No department member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for department use.

Any criminal intelligence system approved for department use should meet or exceed the standards of 28 CFR 23.20.

A designated supervisor will be responsible for maintaining each criminal intelligence system that has been approved for department use. The supervisor or the authorized designee should ensure the following:

- (a) Members using any such system are appropriately selected and trained.
- (b) Use of every criminal intelligence system is appropriately reviewed and audited.
- (c) Any system security issues are reasonably addressed.

### 418.3.1 SYSTEM ENTRIES

It is the designated supervisor's responsibility to approve the entry of any information from a report, FI, photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, such as open or public source documents or documents that are on file at another agency, the designated supervisor should ensure copies of those documents are retained by the Records Section. Any supporting

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documentation for an entry shall be retained in accordance with the established records retention schedule and for at least as long as the entry is maintained in the system.

The Captain should ensure that any documents retained by the Records Section are appropriately marked as intelligence information. Records may not purge such documents without the approval of the Captain.

#### **418.3.2 ENTRIES INTO CRIMINAL GANG INVESTIGATIVE DATA SYSTEM**

It is the Captain's responsibility to approve the entry of any information into the criminal gang investigative data system maintained by the Minnesota Bureau of Criminal Apprehension and authorized by Minn. Stat. § 299C.091. Entries may be made if the individual is 14 years of age or older and the Department documents the following:

- (a) The Department has reasonable suspicion to believe that the individual has met at least three of the criteria or identifying characteristics of gang membership, developed by the Violent Crime Coordinating Council.
- (b) The individual has been convicted of a gross misdemeanor or felony, or has been adjudicated or has a stayed adjudication as a juvenile for an offense that would be a gross misdemeanor or felony if committed by an adult.

#### **418.4 TEMPORARY INFORMATION FILE**

No member may create or keep files on individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the department-approved CIS only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of CIS entries.

##### **418.4.1 FILE CONTENTS**

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

- (a) Must only be included upon documented authorization of the responsible department supervisor.
- (b) Should not be originals that would ordinarily be retained by the Records Section or Property and Evidence Section, but should be copies of, or references to, retained documents such as copies of reports, field interview (FI) forms, Dispatch records or booking forms.
- (c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.

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- (d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

#### **418.4.2 FILE REVIEW AND PURGING**

The contents of a temporary information file shall not be retained longer than one year. At the end of one year, the contents must be purged or entered in an authorized criminal intelligence system, as applicable.

The designated supervisor shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the supervisor.

#### **418.5 INFORMATION RECOGNITION**

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

- (a) Gang indicia associated with a person or residence.
- (b) Information related to a drug-trafficking operation.
- (c) Vandalism indicating an animus for a particular group.
- (d) Information related to an illegal gambling operation.

Department supervisors who utilize an authorized criminal intelligence system should work with the Training Sergeant to train members to identify information that may be particularly relevant for inclusion.

#### **418.6 RELEASE OF INFORMATION**

Department members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

Information from a temporary information file may only be furnished to department members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

## Shift Sergeants

### **419.1 PURPOSE AND SCOPE**

Patrol shifts will routinely 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 Sergeant or Officer in Charge (OIC) will direct shift activities as needed.

### **419.2 DESIGNATION AS ACTING SHIFT SERGEANT OR OFFICER IN CHARGE (OIC)**

When a Sergeant is unavailable for duty as Shift Sergeant, in most instances the senior qualified officer in charge shall be designated as Officer in Charge. This policy does not preclude designating a less senior officer in charge as an acting supervisor or OIC when operational needs require or training permits.

## Mobile Video Recorders

### 420.1 PURPOSE AND SCOPE

The Fairmont Police Department has equipped marked patrol cars with Mobile Video Recording (MVR - Watch Guard) systems to provide records of events and assist officers in the performance of their duties. This policy provides guidance on the use of these systems.

#### 420.1.1 DEFINITIONS

Definitions related to this policy include:

**Activate** - Any process that causes the MVR system to transmit or store video or audio data in an active mode.

**In-car camera system and Mobile Video Recorder (MVR)** - Synonymous terms - that refer to any system that captures audio and video signals that is capable of installation in a vehicle and that includes at minimum, a camera, microphone, recorder and monitor.

**Law Enforcement Operator (LEO)** - Primarily a licensed peace officer but on occasion may be a non-licensed representative of the Department who is authorized and assigned to operate MVR-equipped vehicles to the extent consistent with Minn. Stat. § 169.98.

**MGDPA** - The Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13.

**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. Currently that responsibility is contracted with the Martin County IT Department.

**Recorded media** - Audio-video signals recorded or digitally stored on a storage device or portable media.

### 420.2 POLICY

It is the goal of the Fairmont Police Department to use mobile video recorder (MVR) technology to more effectively fulfill the department's mission and to ensure these systems are used securely and efficiently.

### 420.3 OFFICER RESPONSIBILITIES

Prior to going into service each officer will properly equip him/herself to record audio and video in the field. At the end of the shift each officer will follow the established procedures for providing to the Department any recordings or used media and any other related equipment. Only Fairmont Police Department identified and labeled media with tracking numbers is to be used.

At the start of each shift, officers should test the MVR system operation in accordance with manufacturer specifications and department operating procedures and training.

System documentation is accomplished by the officer logging on to the MVR under their name.

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#### **420.4 ACTIVATION OF THE MVR**

The MVR system is designed to turn on whenever the unit's emergency lights are activated. The system remains on until it is turned off manually. The audio portion is independently controlled and should be activated manually by the officer whenever appropriate. When audio is being recorded the video will also record.

Operators are encouraged to narrate events using the audio recording so as to provide the best documentation for pretrial and courtroom presentation.

##### **420.4.1 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. An officer may activate the system any time the officer believes its use would be appropriate and/or valuable to document an incident.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However the audio portion can be valuable evidence and is subject to the same activation requirements as the MVR. The MVR system should be activated in any of the following situations:

- (a) All field contacts involving actual or potential criminal conduct within video or audio range:
  - 1. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
  - 2. Priority responses
  - 3. Vehicle pursuits
  - 4. Suspicious vehicles
  - 5. Arrests
  - 6. Vehicle searches
  - 7. Physical or verbal confrontations or use of force
  - 8. Prisoner transports
  - 9. Non-custody transports
  - 10. Pedestrian checks
  - 11. DWI investigations including field sobriety tests
  - 12. Consensual encounters
  - 13. Crimes in progress
  - 14. Responding to an in-progress call
  - 15. Medical incidents attended to by members of the Department
- (b) All self-initiated activity in which an officer would normally notify Dispatch

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- (c) Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect:
  - 1. Family violence calls
  - 2. Disturbance of peace calls
  - 3. Offenses involving violence or weapons
- (d) Any other contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording
- (e) Any other circumstance where the officer believes that a recording of an incident would be appropriate

#### 420.4.2 CESSATION OF RECORDING

Once activated the MVR system should remain on until the incident has concluded. For purposes of this section conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and all witnesses and victims have been interviewed. Recording may cease if an officer is simply waiting for a tow truck or a family member to arrive, or in other similar situations.

#### 420.4.3 WHEN ACTIVATION IS NOT REQUIRED

Activation of the MVR system is not required when exchanging information with other officers or during breaks, lunch periods, when not in service or actively on patrol.

No member of this department may surreptitiously use City equipment to record a conversation of any other member of this department except with a court order or when lawfully authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation.

#### 420.4.4 SUPERVISOR RESPONSIBILITIES

At reasonable intervals, supervisors should validate that:

- (a) Beginning and end-of-shift recording 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 law enforcement operator or the vehicle to which it was issued.
  - 4. The date it was submitted.
  - 5. Law enforcement operators submitting the media.
  - 6. Holds for evidence indication and tagging as required.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, peace officer-involved shootings, department-involved collisions), a supervisor shall respond to the scene and ensure that the appropriate supervisor, MVR technician or crime scene investigator properly retrieves the recorded media. The media may need to be treated as evidence



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and should be handled in accordance with current evidence procedures for recorded media. Copies may be distributed to investigators as appropriate to the investigation.

Supervisors may activate the MVR system to monitor a developing situation such as a chase, riot or an event that may threaten public safety, officer safety or both, when the purpose is to obtain tactical information to assist in managing the event.

#### **420.5 REVIEW OF MVR RECORDINGS**

All recording media, recorded images and audio recordings are the property of the agency and 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, Peace Officer Disciplinary Procedures Act or other applicable law.

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.

Recordings may be reviewed in any of the following situations.

- (a) For use when preparing reports or statements
- (b) By a supervisor investigating a specific act of officer conduct
- (c) By a supervisor to assess officer performance
- (d) To assess proper functioning of MVR systems
- (e) By department investigators who are participating in an official investigation such as a personnel complaint, administrative inquiry or a criminal investigation
- (f) By department personnel who request to review recordings
- (g) By an officer 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
- (h) By court personnel through proper process or with permission of the Chief of Police or the authorized designee
- (i) By the media through proper process or with an MGDPA request (Minn. Stat. § 13.01 et seq.)
- (j) To assess possible training value
- (k) Recordings may be shown for staff or public safety training purposes. If an involved officer objects to showing a recording, his/her objection will be submitted to the staff to determine if the training value outweighs the officer's objection

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

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#### **420.6 DOCUMENTING MVR USE**

If any incident is recorded with either the video or audio system, the existence of that recording shall be documented in the officer's report. If a citation is issued, the officer shall make a notation on the records copy of the citation indicating that the incident was recorded.

#### **420.7 RECORDING MEDIA STORAGE AND INTEGRITY**

Once submitted for storage all recording media will be labeled and stored in a designated secure area. All recording media that is not booked in as evidence will be retained for a minimum of 180 days and disposed of in compliance with the established records retention schedule.

##### **420.7.1 COPIES OF ORIGINAL RECORDING MEDIA**

Original recording media may only be released in response to a court order or upon approval by the Chief of Police or the authorized designee. In the event an original recording is released to a court a copy shall be made and placed in storage until the original is returned.

##### **420.7.2 MVR RECORDINGS AS EVIDENCE**

Officers who reasonably believe that an MVR recording is likely to contain evidence relevant to a criminal offense, potential claim against the officer or against the Fairmont Police Department should indicate this in an appropriate report. Officers should ensure relevant recordings are preserved.

#### **420.8 SYSTEM OPERATIONAL STANDARDS**

- (a) MVR system vehicle installations should be based on officer safety requirements and vehicle and device manufacturer recommendations.
- (b) The MVR system should be configured to minimally record for 30 seconds prior to an event.
- (c) The MVR system may not be configured to record audio data occurring prior to activation.
- (d) To prevent bleed-over and/or noise from other MVRs in systems using low band transmitters (analog) only the primary LEO initiating the contact shall activate his/her audio recorder.
- (e) LEOs using digital transmitters that are individually synchronized to their individual MVR shall activate both audio and video recordings when responding in a support capacity in order to obtain additional perspectives of the incident scene.
- (f) 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.
- (g) LEOs shall not erase, alter, reuse, modify or tamper with MVR recordings. Only a MVR technician or other approved designee may erase and reissue previously recorded recordings and may only do so pursuant to the provisions of this policy.
- (h) To prevent damage original recordings shall not be viewed on any equipment other than the equipment issued or authorized by the MVR technician.

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#### **420.9 MVR TECHNICIAN RESPONSIBILITIES**

The MVR technician is responsible for:

- (a) Ordering, issuing, retrieving, storing, erasing and duplicating of all recorded media.
- (b) Collecting all completed media for oversight and verification of wireless downloaded media. Once collected the MVR technician:
  - 1. Ensures it is stored in a secured location with authorized controlled access.
  - 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, including reissuing all other media deemed to be of no evidentiary value.
- (d) Assigning all media an identification number prior to issuance to the field.
  - 1. Maintaining a record of issued media.
- (e) Ensuring that an adequate supply of recording media is available.
- (f) 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.

#### **420.10 TRAINING**

Users of the MVR systems and supervisors shall successfully receive appropriate instruction prior to being deployed with MVR systems in operational settings.

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## Mobile Digital Computer Use

### 421.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use and application of the Mobile Digital Computer (MDC) system in order to ensure appropriate access to confidential records from local, state and national law enforcement databases, and to ensure effective electronic communications between department members and Dispatch.

### 421.2 POLICY

Fairmont Police Department members using the MDC shall comply with all appropriate federal and state rules and regulations and shall use the MDC in a professional manner, in accordance with this policy.

### 421.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

### 421.4 RESTRICTED ACCESS AND USE

MDC use is subject to the Information Technology Use and Protected Information policies.

Members shall not access the MDC system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MDC by another member to their supervisors or Shift Sergeants.

Use of the MDC system to access law enforcement databases or transmit messages is restricted to official activities, business-related tasks and communications that are directly related to the business, administration or practices of the Department. In the event that a member has questions about sending a particular message or accessing a particular database, the member should seek prior approval from his/her supervisor.

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive, harassing or any other inappropriate messages on the MDC system is prohibited and may result in discipline.

It is a violation of this policy to transmit a message or access a law enforcement database under another member's name or to use the password of another member to log in to the MDC system unless directed to do so by a supervisor. Members are required to log off the MDC or secure the MDC when it is unattended. This added security measure will minimize the potential for unauthorized access or misuse.

#### 421.4.1 USE WHILE DRIVING

Use of the MDC by the vehicle operator should be limited to times when the vehicle is stopped. Information that is required for immediate enforcement, investigative, tactical or safety needs should be transmitted over the radio.

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In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

#### **421.5 DOCUMENTATION OF ACTIVITY**

Except as otherwise directed by the Shift Sergeant or other department-established protocol, all calls for service assigned by a dispatcher should be communicated by voice over the police radio and electronically via the MDC unless security or confidentiality prevents such broadcasting.

##### **421.5.1 STATUS CHANGES**

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted over the police radio or through the MDC system.

Members responding to in-progress calls should advise changes in status over the radio to assist other members responding to the same incident. Other changes in status can be made on the MDC while the vehicle is not in motion.

##### **421.5.2 EMERGENCY ACTIVATION**

If there is an emergency activation and the member does not respond to a request for confirmation of the need for emergency assistance or confirms the need, available resources will be sent to assist in locating the member. If the location is known, the nearest available officer should respond in accordance with the Officer Response to Calls Policy.

Members should ensure a the Shift Sergeant are notified of the incident without delay.

Officers not responding to the emergency shall refrain from transmitting on the police radio until a no-further-assistance broadcast is made or if they are also handling an emergency.

#### **421.6 EQUIPMENT CONSIDERATIONS**

##### **421.6.1 BOMB CALLS**

When investigating reports of possible bombs, members should not communicate on their MDCs when in the evacuation area of a suspected explosive device. Radio frequency emitted by the MDC could cause some devices to detonate.

## Portable Audio/Video Recorders

### 422.1 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 (Minn. Stat. § 626.8473). 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 mobile audio/video recordings, interviews, or interrogations conducted at any Fairmont Police Department facility, undercover operations, wiretaps, or eavesdropping (concealed listening devices).

#### 422.1.1 DEFINITIONS

Definitions related to this policy include:

**Portable recording system** - A device worn by a member that is capable of both video and audio recording of the member's activities and interactions with others or collecting digital multimedia evidence as part of an investigation and as provided in Minn. Stat. § 13.825.

### 422.2 POLICY

The Fairmont Police Department provides members with access to portable recorders 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.

### 422.3 COORDINATOR

The Chief of Police or the authorized designee should designate a coordinator responsible for (Minn. Stat. § 626.8473; Minn. Stat. § 13.825):

- (a) Establishing procedures for the security, storage and maintenance of data and recordings.
  - (a) The coordinator should work with the Captain and the member assigned to coordinate the use, access and release of protected information to ensure that procedures comply with requirements of the Minnesota Government Data Practices Act (MGDPA) and other applicable laws (Minn. Stat. § 13.01 et seq.) (See the Protected Information and the Records Maintenance and Release policies).
- (b) Establishing procedures for accessing data and recordings.
  1. These procedures should include the process to obtain written authorization for access to non-public data by FPD members and members of other governmental entities and agencies.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging or marking events.

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- (e) Establishing an inventory of portable recorders including:
  - (a) The ability to provide the total number of devices owned or maintained by the Fairmont Police Department.
  - (b) The ability to determine the total amount of recorded audio and video data collected by the devices and maintained by the Fairmont Police Department.
- (f) Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9.
- (g) Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Fairmont Police Department that expands the type or scope of surveillance capabilities of the department's portable recorders.
- (h) Ensuring that this portable Audio/Video Recorders Policy is posted on the Department website.

#### **422.4 MEMBER PRIVACY EXPECTATION**

All recordings made by members on any department-issued device at any time or while acting in an official capacity of this department, regardless of ownership of the device, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

#### **422.5 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 (Minn. Stat. § 13.825). If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable (Minn. Stat. § 626.8473).

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. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a portable 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.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording (Minn. Stat. § 626.8473). Members should include the reason for deactivation.

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#### **422.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER**

This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity in which a member would normally notify Dispatch
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

##### **422.6.1 CESSATION OF RECORDING**

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

##### **422.6.2 SURREPTITIOUS RECORDINGS**

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 member reasonably believes that such a recording will be lawful and beneficial to the investigation.

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.



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##### 422.6.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

##### **422.7 PROHIBITED USE OF AUDIO/VIDEO 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. 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 Chief of Police or designee. 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 and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

##### **422.8 RETENTION OF RECORDINGS**

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.

If an individual captured in a recording submits a written request, the recording shall be retained for an additional time period. The coordinator should be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825).

##### 422.8.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

##### 422.8.2 ACCESS TO RECORDINGS

Except as provided by Minn. Stat. § 13.825, Subd. 2, audio/video recordings are considered private or nonpublic data.

Any person captured in a recording may have access to the recording. If the individual requests a copy of the recording and does not have the consent of other non-law enforcement individuals captured on the recording, the identity of those individuals must be blurred or obscured sufficiently to render the subject unidentifiable prior to release. The identity of on-duty peace officers may not be obscured unless their identity is protected under Minn. Stat. § 13.82, Subd. 17.

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#### **422.9 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or mark the recordings in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an under-cover officer or confidential informant.
- (g) The recording or portions of the recording may be protected under the Minnesota Data Practices Act.

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.

#### **422.10 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. 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 or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- (a) By a supervisor as part of internal audits and reviews as required by Minn. Stat. § 626.8473.
- (b) 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.
- (c) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (d) By media personnel with permission of the Chief of Police or the authorized designee.

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- (e) In compliance with the Minnesota Data Practices Act request, if permitted or required by the Act, including pursuant to Minn. Stat. § 13.82, Subd. 15, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Captain of their designee prior to public release (see the Records Maintenance and Release Policy). Recordings that are clearly offensive to common sensibilities should not be publicly released unless disclosure is required by law or order of the court (Minn. Stat. § 13.82, Subd. 7; Minn. Stat. § 13.825, Subd. 2).

#### **422.11 ACCOUNTABILITY**

Any member who accesses or releases recordings without authorization may be subject to discipline (See the Standards of Conduct and the Protected Information policies) (Minn. Stat. § 626.8473).

## Public Recording of Law Enforcement Activity

### 423.1 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.

### 423.2 POLICY

The Fairmont 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.

### 423.3 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.

### 423.4 OFFICER RESPONSE

Officers should promptly request that 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.

#### **423.5 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.

#### **423.6 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. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

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Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Section Policy.

## Foot Pursuits

### 424.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

### 424.2 POLICY

It is the policy of this department that officers, when deciding to initiate or continue a foot pursuit, must continuously balance the objective of apprehending the suspect with the risk and potential for injury to department members, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances.

### 424.3 DECISION TO PURSUE

The safety of department members 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 members.

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. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated 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 without the development of reasonable suspicion regarding the individual's involvement in criminal activity or being wanted by law enforcement.

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 members 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 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 a foot pursuit based upon the circumstances and resources available, such as the following:

- (a) Containment of the area.
- (b) Saturation of the area with law enforcement personnel, including assistance from other agencies.
- (c) A canine search.

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- (d) Thermal imaging or other sensing technology.
- (e) Air support.
- (f) 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 foot pursuit.

#### **424.4 GENERAL GUIDELINES**

When reasonably practicable, officers should consider alternatives to engaging in or continuing a foot pursuit when:

- (a) Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory.
- (b) The officer is acting alone.
- (c) 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) The officer is pursuing multiple suspects and it is not reasonable to believe that the officer would be able to control the suspect should a confrontation occur.
- (f) The physical condition of the officers renders him/her incapable of controlling the suspect if apprehended.
- (g) The officer loses radio contact with Dispatch or with assisting or backup officers.
- (h) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.
- (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 foot pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.



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- (m) The suspect's location is no longer known.
- (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 environmental conditions.

#### **424.5 RESPONSIBILITIES IN FOOT PURSUITS**

##### 424.5.1 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) Location and direction of travel
- (b) Call sign identifier
- (c) Reason for the foot pursuit, such as the crime classification
- (d) Number of suspects and description, to include name if known
- (e) Whether the suspect is known or believed to be armed with a dangerous weapon

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 foot 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 Dispatch of his/her location and the status of the foot pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary, to include requesting medical aid as needed for officers, suspects or members of the public.

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##### 424.5.2 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.

##### 424.5.3 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 foot pursuit. The supervisor should continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

The supervisor shall 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.

#### **424.6 REPORTING**

The initiating officer shall complete the appropriate crime/arrest reports documenting, at minimum:

- (a) Date and time of the foot pursuit.
- (b) Initial reason and circumstances surrounding the foot pursuit.
- (c) Course and approximate distance of the foot pursuit.
- (d) Alleged offenses.
- (e) Involved vehicles and officers.
- (f) 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.
- (g) Arrestee information, if applicable.
- (h) Any injuries and/or medical treatment.
- (i) Any property or equipment damage.
- (j) Name of the supervisor at the scene or who handled the incident.

Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.

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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 formal report.

## Automated License Plate Readers (ALPR)

### 425.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology (Minn. Stat. § 626.8472).

### 425.2 POLICY

The Fairmont Police Department does not utilize ALPR technology to capture and store digital license plate data and images. The Fairmont Police Department will not utilize any device to deploy ALPR technology or retain any data from ALPR technology under Minn. Stat. 626.8472.

## Homeless Persons

### 426.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that personnel understand the needs and rights of the homeless and to establish procedures to guide officers during all contacts with the homeless, whether consensual or for enforcement purposes. The Fairmont Police Department recognizes that members of the homeless community are often in need of special protection and services. The Fairmont Police Department will address these needs in balance with the overall missions of this department. Therefore, officers will consider the following policy when serving the homeless community.

### 426.2 POLICY

It is the policy of the Fairmont Police Department to provide law enforcement services to all members of the community while protecting the rights, dignity and private property of the homeless. Homelessness is not a crime and members of this department will not use homelessness solely as a basis for detention or law enforcement action.

### 426.3 FIELD CONTACTS

Officers are encouraged to contact the homeless for purposes of rendering aid, support and for community-oriented policing purposes. Nothing in this policy is meant to dissuade an officer from taking reasonable enforcement action when facts support a reasonable suspicion of criminal activity. However, when encountering a homeless person who has committed a non-violent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest. Officers should provide homeless persons with resource and assistance information whenever it is reasonably apparent such services may be appropriate.

#### 426.3.1 OTHER CONSIDERATIONS

Homeless members of the community will receive the same level and quality of service provided to other members of our community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Officers should consider the following when handling investigations involving homeless victims, witnesses or suspects:

- (a) Documenting alternate contact information. This may include obtaining addresses and telephone numbers of relatives and friends.
- (b) Document places the homeless person may frequent.
- (c) Provide homeless victims with victim/witness resources when appropriate.
- (d) Obtain statements from all available witnesses in the event a homeless victim is unavailable for a court appearance.

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- (e) Consider whether the person may be a dependent adult or elder and if so proceed in accordance with the Adult Abuse Policy.
- (f) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.
- (g) Consider whether a crime should be reported and submitted for prosecution even when a homeless victim indicates he/she does not desire prosecution.

#### **426.4 MENTAL ILLNESSES AND MENTAL IMPAIRMENTS**

Some homeless persons may suffer from a mental illness or a mental impairment. Officers shall not detain a homeless person under a 72-hour emergency medical hold unless facts and circumstances warrant such a detention.

#### **426.5 ECOLOGICAL ISSUES**

Sometimes homeless encampments can affect the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

## Criminal Conduct on School Buses

### 427.1 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. This department, in cooperation with any other law enforcement agency that may have concurrent jurisdiction over the alleged offense, is responsible for responding to all reports of criminal misconduct on school buses in this jurisdiction.

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).

### 427.2 COMMUNITY COOPERATION

The Fairmont Police Department shall work with and consult with school officials, transportation personnel, parents and students to respond to these incidents to protect student safety and deal appropriately with those who violate the law.

### 427.3 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.

## Medical Aid and Response

### 428.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons in need of medical aid and establishes a law enforcement response to such situations.

### 428.2 POLICY

It is the policy of the Fairmont Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

### 428.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact Dispatch and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide Dispatch with information for relay to EMS personnel in order to enable an appropriate response, including:

- (a) The location where EMS is needed.
- (b) The nature of the incident.
- (c) Any known scene hazards.
- (d) Information on the person in need of EMS, such as:
  1. Signs and symptoms as observed by the member.
  2. Changes in apparent condition.
  3. Number of patients, sex, and age, if known.
  4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
  5. Whether the person is showing signs or symptoms of excited delirium or other agitated chaotic behavior.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel whether to transport the person for treatment.



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#### **428.4 TRANSPORTING ILL AND INJURED PERSONS**

Except in extraordinary cases where alternatives are not reasonably available, members should not transport persons who are unconscious, who have serious injuries or who may be seriously ill. EMS personnel should be called to handle patient transportation.

Officers should search any person who is in custody before releasing that person to EMS for transport.

An officer should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes or when so directed by a supervisor.

Members should not provide emergency escort for medical transport or civilian vehicles.

#### **428.5 PERSONS REFUSING EMS CARE**

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an officer shall not force that person to receive care or be transported. However, members may assist EMS personnel when EMS personnel determine the person lacks mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the officer should consider proceeding with a 72-hour hold in accordance with the Civil Commitments Policy.

If an officer believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The officer may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person who is in custody still refuses, the officer will require the person to be transported to the nearest medical facility. In such cases, the officer should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

#### **428.6 SICK OR INJURED ARRESTEE**

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a supervisor when possible, who will determine whether medical clearance will be obtained prior to booking. Martin County Jail Policy will also govern the acceptance of an arrestee.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

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Arrestees who appear to have a serious medical issue should be transported by ambulance. Officers should not transport an arrestee to a hospital without a supervisor's approval when possible.

Nothing in this section should delay an officer from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the officer's training.

#### **428.7 MEDICAL ATTENTION RELATED TO USE OF FORCE**

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Conducted Energy Device policies.

#### **428.8 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE**

##### **428.8.1 AED USER RESPONSIBILITY**

Members who are issued AEDs for use in department vehicles should check the AED at the beginning of the shift to ensure it is properly charged and functioning. Any AED that is not functioning properly will be taken out of service and given to the officer who is assigned the responsibility for ensuring appropriate maintenance.

Following use of an AED, the device shall be cleaned and/or decontaminated as required. The electrodes and/or pads will be replaced as recommended by the AED manufacturer.

Any member who uses an AED should contact Dispatch as soon as possible and request response by EMS.

##### **428.8.2 AED REPORTING**

Any member using an AED will complete an incident report detailing its use.

##### **428.8.3 AED TRAINING AND MAINTENANCE**

The Training Sergeant should ensure appropriate training is provided to members authorized to use an AED.

The officer assigned the responsibility of maintaining AEDs will ensure AED devices are appropriately maintained and will retain records of all maintenance in accordance with the established records retention schedule.

#### **428.9 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION**

Only officers who receive training in the recognition of signs of opiate overdose and the use of opiate antagonists may administer opioid overdose medication. Officers may administer opioid overdose medication in accordance with protocol specified by the physician who prescribed the overdose medication for use by the officer (Minn. Stat. § 151.37; Minn. Stat. § 604A.04).

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##### **428.9.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES**

Officers who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Officers should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Supply Supervisor.

##### **428.9.2 OPIOID OVERDOSE MEDICATION REPORTING**

Any officer administering opioid overdose medication should detail its use in an appropriate report.

##### **428.9.3 OPIOID OVERDOSE MEDICATION TRAINING**

The Training Sergeant should ensure training is provided to officers authorized to administer opioid overdose medication (Minn. Stat. § 151.37).

##### **428.10 FIRST AID TRAINING**

Subject to available resources, the Training Sergeant should ensure officers receive periodic first aid training appropriate for their position.

## Crisis Intervention Incidents

### 429.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

#### 429.1.1 DEFINITIONS

Definitions related to this policy include:

**Person in crisis** - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

### 429.2 POLICY

The Fairmont Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

### 429.3 SIGNS

Members should be alert to any of the following possible signs of mental health issues or crises:

- (a) A known history of mental illness
- (b) Threats of or attempted suicide
- (c) Loss of memory
- (d) Incoherence, disorientation or slow response
- (e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas
- (f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt
- (g) Social withdrawal
- (h) Manic or impulsive behavior, extreme agitation, lack of control
- (i) Lack of fear
- (j) Anxiety, aggression, rigidity, inflexibility or paranoia

Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

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#### **429.4 FIRST RESPONDERS**

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer responding to a call involving a person in crisis should:

- (a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.
- (b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.
- (c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
- (d) Attempt to determine if weapons are present or available.
- (e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.
- (f) Secure the scene and clear the immediate area as necessary.
- (g) Employ tactics to preserve the safety of all participants.
- (h) Determine the nature of any crime.
- (i) Request a supervisor, as warranted.
- (j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.
- (k) If circumstances reasonably permit, consider and employ alternatives to force.

#### **429.5 DE-ESCALATION**

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.

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- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

#### **429.6 INCIDENT ORIENTATION**

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

- (a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.
- (b) Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous police response.
- (c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

#### **429.7 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to the scene of any interaction with a person in crisis when possible.

Responding supervisors should:

- (a) Attempt to secure appropriate and sufficient resources.
- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- (c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
- (d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.
- (e) Evaluate whether a critical incident stress management debriefing for involved members is warranted.

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#### **429.8 INCIDENT REPORTING**

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

#### **429.9 CIVILIAN INTERACTION WITH PEOPLE IN CRISIS**

Civilian members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.
- (c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

#### **429.10 TRAINING**

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis.

Additionally, the Training Sergeant will coordinate training for officers, including part-time officers, with in-service training in crisis intervention and mental illness crisis as required by Minn. Stat. § 626.8469 and Minn. Stat. § 626.8474.

## First Amendment Assemblies

### 430.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

### 430.2 POLICY

The Fairmont Police Department respects the rights of people to peaceably assemble. It is the policy of this department not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

### 430.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills, leafleting and loitering. However, officers shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Officers should not:

- (a) Engage in assembly or demonstration-related discussion with participants.
- (b) Harass, confront or intimidate participants.
- (c) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.

Supervisors should continually observe department members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.



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##### **430.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS**

Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating department performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious or social views of associations, or the activities of any individual, group, association, organization, corporation, business or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

##### **430.4 UNPLANNED EVENTS**

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to Dispatch, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

##### **430.5 PLANNED EVENT PREPARATION**

For planned events, comprehensive, incident-specific operational plans should be developed when applicable. The ICS should be considered for such events.

##### **430.5.1 INFORMATION GATHERING AND ASSESSMENT**

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.

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- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

#### 430.5.2 OPERATIONAL PLANS

The on duty supervisor is responsible for event planning and management establishment when applicable.. The planning team should develop an operational plan for the event.

The operational plan will minimally provide for the following:

- (a) Command assignments, chain of command structure, roles and responsibilities
- (b) Staffing and resource allocation
- (c) Management of criminal investigations
- (d) Designation of uniform of the day and related safety equipment (e.g., helmets, shields)
- (e) Deployment of specialized resources
- (f) Event communications and interoperability in a multi jurisdictional event
- (g) Liaison with demonstration leaders and external agencies
- (h) Liaison with City government and legal staff
- (i) Media relations
- (j) Logistics: food, fuel, replacement equipment, duty hours, relief and transportation
- (k) Traffic management plans
- (l) First aid and emergency medical service provider availability
- (m) Prisoner transport and detention
- (n) Review of policies regarding public assemblies and use of force in crowd control
- (o) Parameters for declaring an unlawful assembly
- (p) Arrest protocol, including management of mass arrests
- (q) Protocol for recording information flow and decisions
- (r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force
- (s) Protocol for handling complaints during the event

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- (t) Parameters for the use of body-worn cameras and other portable recording devices.

#### **430.5.3 MUTUAL AID AND EXTERNAL RESOURCES**

The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Outside Agency Assistance Policy).

#### **430.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS**

If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event.

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he/she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

#### **430.7 USE OF FORCE**

Use of force is governed by current department policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices, and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and TASER (TM) devices should be considered only when the participants' conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and the Conducted Energy Device policies).

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Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

#### **430.8 ARRESTS**

The Fairmont Police Department should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

- (a) Reasonable measures to address the safety of officers and arrestees.
- (b) Dedicated arrest, booking and report writing teams.
- (c) Timely access to medical care.
- (d) Timely access to legal resources.
- (e) Timely processing of arrestees.
- (f) Full accountability for arrestees and evidence.
- (g) Coordination and cooperation with the prosecuting authority, jail and courts (see the Citation Releases Policy).

#### **430.9 MEDIA RELATIONS**

The Chief of Police or the authorized designee should use all available avenues of communication, including press releases, briefings, press conferences and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

#### **430.10 DEMOBILIZATION**

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.

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#### **430.11 POST EVENT**

The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

- (a) Operational plan
- (b) Any incident logs
- (c) Any assignment logs
- (d) Vehicle, fuel, equipment and supply records
- (e) Incident, arrest, use of force, injury and property damage reports
- (f) Photographs, audio/video recordings, Dispatch records/tapes
- (g) Media accounts (print and broadcast media)

##### **430.11.1 AFTER-ACTION REPORTING**

The Incident Commander should work with City legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

- (a) Date, time and description of the event
- (b) Actions taken and outcomes (e.g., injuries, property damage, arrests)
- (c) Problems identified
- (d) Significant events
- (e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

#### **430.12 TRAINING**

Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management. The Department should, when practicable, train with its external and mutual aid partners.

## Civil Disputes

### 431.1 PURPOSE AND SCOPE

This policy provides members of the Fairmont Police Department with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic Abuse Policy will address specific legal mandates related to domestic violence court orders. References in this policy to “court orders” apply to any order of a court that does not require arrest or enforcement by the terms of the order or by Minnesota law.

### 431.2 POLICY

The Fairmont Police Department recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, members of this department will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, members will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

### 431.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial.

While not intended to be an exhaustive list, members should give considerations to the following when handling civil disputes:

- (a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.
- (b) Members should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.
- (c) Members shall not provide legal advice, however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.
- (d) Members are reminded that they shall not enter a residence or other non-public location without legal authority including valid consent.
- (e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts longer than 30 minutes are warranted.

### 431.4 COURT ORDERS

Disputes involving court orders can be complex. Where no mandate exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent

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court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating officer should document the following:

- (a) The person's knowledge of the court order or whether proof of service exists.
- (b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor. The report should also be forwarded to the court issuing the order with a notice that the report was also forwarded to the prosecutor for review.

#### **431.4.1 STANDBY REQUESTS**

Officers responding to a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person should be advised that items that are disputed will not be allowed to be removed. The member may advise the person to seek private legal advice as to the distribution of disputed property.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party would remove the property.

If the other party is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Officers should not order the other party to allow entry or the removal of any items. If there is a restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location, the member will not allow entry into the location or the removal of property from the location unless explicit consent to the member is given by the other party.

#### **431.5 VEHICLES AND PERSONAL PROPERTY**

Officers may be faced with disputes regarding possession or ownership of vehicles or other personal property. Officers may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal property can be complex. Generally, officers should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented.

#### **431.6 REAL PROPERTY**

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.

## Medical Cannabis

### 432.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the possession or use of medical cannabis under Minnesota's medical cannabis laws.

#### 432.1.1 DEFINITIONS

Definitions related to this policy include (Minn. Stat. § 152.22):

**Medical cannabis** - Any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins in the form of a liquid, oil, pill, or dried raw cannabis that is properly packaged and labeled with:

- (a) The name and address of the authorized manufacturer.
- (b) The patient's registry identification number, name, date of birth, and address.
- (c) The chemical composition of medical cannabis.
- (d) Recommended dosage.
- (e) Directions for use.
- (f) Batch number.
- (g) Date of manufacture.

**Patient** - A Minnesota resident who has been diagnosed with a qualifying medical condition by a health care practitioner and who has met any other requirements for patients under Minn. Stat. § 152.22 et seq.

**Caregiver** - A person who has been approved by the Minnesota Commissioner of Health to assist a patient who is unable to self-administer medication or acquire medical cannabis from a distribution facility, and who is authorized to assist the patient with the use of medical cannabis.

### 432.2 POLICY

It is the policy of the Fairmont Police Department to prioritize resources to avoid making arrests related to medical cannabis that the arresting officer reasonably believes would not be prosecuted by state or federal authorities.

Minnesota medical cannabis laws are intended to provide protection from prosecution to those who use or possess medical cannabis for medical purposes. The Fairmont Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under Minnesota law and the resources of the Department.

### 432.3 INVESTIGATION

Investigations involving the possession or use of cannabis generally fall into one of two categories:

- (a) Investigations when no person makes a medicinal claim.
- (b) Investigations when a person claims to be a patient or caregiver.



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##### **432.3.1 INVESTIGATIONS WITH NO MEDICAL CLAIM**

In any investigation involving the possession, delivery, production or use of a cannabis product or drug paraphernalia where no person claims that the cannabis is used for medicinal purposes, the officer should proceed with a criminal investigation. A medicinal claim may be raised at any time, so officers should document any statements and observations that may be relevant to whether the cannabis was possessed or produced for medicinal purposes.

##### **432.3.2 INVESTIGATIONS INVOLVING A PATIENT OR CAREGIVER**

Arrest shall not be made for the possession of medical cannabis by a patient, a caregiver or the parent or legal guardian of a patient (Minn. Stat. § 152.32).

Possession of medical cannabis properly packaged and labeled by an authorized manufacturer should suffice for verification of a person's status as a patient. The possession of medical cannabis registry verification from the Minnesota Department of Health should also suffice for verification a person's status as a patient or caregiver (Minn. Stat. § 152.22; Minn. Stat. § 152.27).

##### **432.3.3 EXCEPTIONS**

This policy does not apply to the following offenses. Officers may take enforcement action if the person (Minn. Stat. § 152.23):

- (a) Possesses or engages in the use of medical cannabis on a school bus or van, on the grounds of any preschool or primary or secondary school, in any correctional facility, or on the grounds of any child care facility or home daycare.
- (b) Vaporizes or smokes medical cannabis on any form of public transportation, where the vapor or smoke would be inhaled by a non-patient minor child, or in any public place or a place of employment.
- (c) Operates any motor vehicle, aircraft, train, or motorboat, or works on transportation property, equipment, or facilities while under the influence of medical cannabis.

##### **432.4 FEDERAL LAW ENFORCEMENT**

Officers should provide information regarding a medical cannabis investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

##### **432.5 PROPERTY AND EVIDENCE SECTION SUPERVISOR RESPONSIBILITIES**

The Records/Evidence Technician(s) shall ensure that medical cannabis, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical cannabis is not destroyed. Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Records/Evidence Technician(s) shall as soon as practicable return to the person from whom it was seized any medical cannabis, drug paraphernalia or other related property.

The Records/Evidence Technician(s) may not destroy medical cannabis except upon receipt of a court order.

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The Records/Evidence Technician(s) may release medical cannabis to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Investigations supervisor.

#### **432.6 REPORTING**

Officers aware of a person experiencing a negative medical condition or a death related to a cannabis overdose, including as a result of an unauthorized access to medical cannabis, must contact the Minnesota Department of Health's Office of Medical Cannabis within five business days. If discovered as part of an ongoing investigation, the report must be made within 72 hours of the conclusion of the investigation (Minn. R. 4770.4002; Minn. R. 4770.4004).

Officers having reasonable suspicion of unauthorized possession of medical cannabis or of violations of cannabis laws by individuals authorized to possess medical cannabis, must report to the Office of Medical Cannabis using the designated online form. Reports related to unauthorized possession must be submitted within 72 hours, unless discovered as part of an ongoing investigation, in which case reporting must be made within 72 hours of the conclusion of the investigation. Reports of violations by persons authorized to possess medical cannabis must be submitted within 15 days (Minn. R. 4770.4010).

# OPIOID OVERDOSE RESPONSE

## 433.1 PURPOSE AND SCOPE

This policy establishes broad guidelines and regulations governing the use of Naloxone (Narcan) by trained personnel. The objective is to treat and reduce injuries and fatalities due to suspected opioid-involved overdoses and accidental exposure.

Naloxone is a valuable tool that can assist the Department in preventing overdose deaths. Naloxone helps mitigate the effects of opioid exposure and allows time for more advanced medical treatment by trained Emergency Medical Services (EMS) personnel.

### 433.1.1 DEFINITIONS

**Opioid:** A medication or drug that is derived from the opium poppy or that mimics the effect of an opiate. Opiate drugs are narcotic sedatives that depress activity of the central nervous system; these will reduce pain, induce sleep, and in overdose, will cause people to stop breathing. First responders often encounter opiates in the form of morphine, methadone, codeine, heroin, fentanyl, oxycodone, and hydrocodone.

**Naloxone:** An opioid antidote such as naloxone hydrochloride or any other similarly acting and equally safe drug approved by the US Food and Drug Administration for the treatment of drug overdose. Naloxone is a medication which acts as an opioid antagonist and counters the effects of opioid overdoses. It is marked under the trade name Narcan.

**Intranasal:** Administered through the nose. The nasal cavity is covered by a thin mucosa, which is extremely vascular and provides a direct route into the blood stream of the subject.

**Employee:** Any sworn or non-sworn member of the Fairmont Police Department who is likely to be in a location where narcotics are found, tested, or stored.

### 433.1.2 TRAINING

The Fairmont Police Department will maintain an up-to-date training curriculum and will ensure that all personnel participating in the Naloxone program have received training to properly use Naloxone. Only personnel who are trained in the recognition of signs of opiate overdose and the use of Naloxone may administer the opioid overdose medication.

### DEPARTMENT NALOXONE DEPARTMENT COORDINATOR

The Chief of designee is the department coordinator for the Naloxone program. Responsibilities of the Naloxone program coordinator shall include:

1. Coordinating and implementing the initial training for personnel participating in the Naloxone program and provide a written record that will be maintained by the Training Sergeant.
2. Implementing the proper inventory control and safeguards for Naloxone issued to staff on the Fairmont Police Department.

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3. Ensuring any use of Naloxone on a subject is documented in writing and compiling administrative records regarding the departmental use of Naloxone. Documentation in a call for service IBR and/or narrative report is

considered written documentation of Naloxone use.

4. Maintaining an adequate supply of Naloxone and replacing any product that is damaged, unusable, expired, or deployed.

#### 433.1.3 NALOXONE DEPLOYMENT

If Fairmont Police Department personnel encounter a victim of what appears to be drug overdose they shall:

1. Maintain scene safety and personal universal precautions.
2. Perform victim assessments to determine unresponsiveness, absence of breathing, and/or lack of pulse.
3. Provide basic life support practices as needed.
4. Perform situational assessment to determine, that it is more likely than not, the victim's condition is an opiate overdose.
5. Request EMS response if not already in progress.
6. Administer 4 mg Naloxone in to one nostril as trained.
7. Continue to provide basic life support care to the victim.
8. Update responding EMS service of: A) Amount given B) Any change in condition

#### 433.1.4 MANDATORY REPORTING REQUIREMENTS

1. If a call for service was required to document this incident outside of the medical intervention provided, Department personnel will document the incident to include the fact that Naloxone was deployed. If the incident would not have generated a call for service to document the incident, officers must upon completing the medical assist, generate a call for service to detail the nature of the incident, the care the patient received, and the fact that Naloxone was deployed.

2. Employees of the Fairmont Police Department authorized to use Naloxone will document in their report the individual's condition, behavior, the fact that Naloxone was deployed, medical response, hospital transport, and final outcome of the response. The report should be forwarded to the Chief and Captain for review.

## **Chapter 5 - Traffic Operations**

## Traffic Function and Responsibility

### 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 Fairmont Police Department. Information provided by the Minnesota Office of Traffic Safety (OTS) 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 citations issued by any officer shall not be used when evaluating officer performance (Minn. Stat. § 169.985; Minn. Stat. § 299D.08). 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:

#### 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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##### 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

An officer who issues a traffic citation shall ensure that the citation is properly directed to the court having jurisdiction (Minn. Stat. § 169.91 Subd. 3).

##### 500.3.4 PHYSICAL ARREST

Physical 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.

#### **500.4 HIGH-VISIBILITY VESTS**

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; 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 member.

##### 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

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as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plain clothes officer might benefit from being readily identified as an officer.

#### 500.4.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests shall be maintained in each patrol and investigation unit. Each vest should be stored inside the resealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored.

A supply of high-visibility vests will be maintained for replacement of damaged or unserviceable vests. The Supply Sergeant should be promptly notified whenever the a vest needs replacement.



## Traffic Collisions

### 501.1 PURPOSE AND SCOPE

This policy provides guidelines for responding to and investigating traffic collisions.

### 501.2 POLICY

It is the policy of the Fairmont Police Department to respond to traffic collisions and render or summon aid to injured victims as needed. The Department will investigate and prepare reports according to the established minimum reporting requirements with the goal of reducing the occurrence of collisions by attempting to identify the cause of the collision and through enforcing applicable laws. Unless restricted by law, traffic collision reports will be made available to the public upon request.

### 501.3 RESPONSE

Upon arriving at the scene, the responding member should assess the need for additional resources and summon assistance as appropriate. Generally, the member initially dispatched to the scene will be responsible for the investigation and report, if required.

A supervisor should be called to the scene when the incident:

- (a) Is within the jurisdiction of this department and there is:
  - (a) A life-threatening injury.
  - (b) A fatality.
  - (c) A Cityvehicle involved.
  - (d) Involvement of an on- or off-duty member of this department.

#### 501.3.1 MEMBER RESPONSIBILITIES

Upon arriving at the scene, the responding member should consider and appropriately address:

- (a) Traffic direction and control
- (b) Proper placement of emergency vehicles, cones, roadway flares or other devices if available to provide protection for members, the public and the scene.
- (c) First aid for any injured parties if it can be done safely.
- (d) The potential for involvement of hazardous materials.
- (e) The need for additional support as necessary (e.g., traffic control, emergency medical services, fire department, HAZMAT, tow vehicles).
- (f) Clearance and cleanup of the roadway.

### 501.4 NOTIFICATION

If a traffic collision involves a life-threatening injury or fatality, the responding officer shall notify a supervisor. The Shift Sergeant or any supervisor may assign other appropriate personnel to investigate the incident. The Shift Sergeant or OIC will ensure notification is made to the Captain.

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##### 501.4.1 NOTIFICATION OF FAMILY

In the event of a life-threatening injury or fatality, the supervisor or OIC responsible for the incident should ensure notification of the victim's immediate family or coordinate such notification with the Medical Examiner, department chaplain or another suitable person. Notification should be made as soon as practicable following positive identification of the victim. The notification should be made by a supervisor whenever possible and in person whenever possible.

The identity of any person seriously injured or deceased in a traffic collision should not be released until notification is made to the victim's immediate family.

##### **501.5 MINIMUM REPORTING REQUIREMENTS**

A collision report shall be taken when:

- (a) A fatality, any injury (including complaint of pain), impaired driving or hit and run is involved.
- (b) An on-duty member of the City of Fairmont is involved.
- (c) The collision results in any damage to any City-owned or leased vehicle.
- (d) The collision involves any other public agency driver or vehicle.
- (e) There is damage to public property.
- (f) There is damage to any vehicle estimated to be in excess of \$1000..
- (g) Prosecution or follow-up investigation is contemplated.
- (h) Directed by a supervisor.

##### 501.5.1 PRIVATE PROPERTY

Generally, reports should not be taken when a traffic collision occurs on private property unless there is an injury or fatality, a hit-and-run violation or other traffic law violation involved. Members may provide assistance to motorists as a public service, such as exchanging information and arranging for the removal of the vehicles.

##### 501.5.2 CITY VEHICLE INVOLVED

A traffic collision report shall be taken when a City vehicle is involved in a traffic collision that results in property damage or injury.

A general information report may be taken in lieu of a traffic collision report at the direction of a supervisor when the incident occurs entirely 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 Captain. The officer investigating the scene should determine what photographs should be taken of the scene and the vehicle damage.

If the vehicle is a department squad car and/or the driver is an on duty officer of the department the traffic collision report and investigation shall be completed by an outside agency (e.g. county or MSP).

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##### 501.5.3 INJURED ANIMALS

Department members should refer to the Animal Control Policy when a traffic collision involves the disposition of an injured animal.

##### 501.6 INVESTIGATION

When a traffic collision meets minimum reporting requirements the investigation should include, at a minimum:

- (a) Identification and interview of all involved parties.
- (b) Identification and interview of any witnesses.
- (c) A determination of whether a violation of law has occurred and the appropriate enforcement action.
- (d) Identification and protection of items of apparent evidentiary value.
- (e) Documentation of the incident as necessary (e.g., statements, measurements, photographs, collection of evidence and reporting) on the appropriate forms.

##### 501.6.1 INVESTIGATION BY OUTSIDE LAW ENFORCEMENT AGENCY

The investigating officers should request that the Minnesota State Patrol or other outside law enforcement agency investigate and complete a traffic collision investigation when a life-threatening injury or fatal traffic collision occurs within the jurisdiction of the Fairmont Police Department or the collision involves:

- (a) An on- or off-duty member of the Department.
  - 1. The involved member shall complete the department traffic collision form. If the member is unable to complete the form, the supervisor shall complete it.
- (b) An on-or off-duty official or employee of the City of Fairmont.

Department members shall promptly notify a supervisor when any department vehicle is involved in a traffic collision. The collision investigation and report shall be completed by the agency having jurisdiction.

##### 501.6.2 COMMERCIAL VEHICLE COLLISIONS

Commercial vehicle collisions additionally require notification to the Minnesota State Patrol if the collision results in (Minn. Stat. § 169.783):

- (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 vehicles incurring disabling damage as a result of the collision, requiring the vehicle to be transported 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).

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##### **501.7 ENFORCEMENT ACTION**

After a thorough investigation in which physical evidence or independent witness statements indicate that a violation of a traffic law contributed to the collision, authorized members should issue citation or arrest the offending driver, as appropriate.

More serious violations, such as driving under the influence of drugs or alcohol, vehicular manslaughter or other felonies, shall be enforced. If a driver who is subject to enforcement action is admitted to a hospital, a supervisor may be contacted to determine the best enforcement option.

##### **501.8 REPORTS**

Department members shall utilize forms approved by the Minnesota Department of Public Safety as required for the reporting of traffic collisions (Minn. Stat. § 169.09, Subd. 9). All such reports shall be forwarded to the Captain for approval and filing.

###### **501.8.1 REPORT MODIFICATION**

A change or modification of a written report that alters a material fact in the report may be made only by the member who prepared the report, and only prior to its approval and distribution. Once a report has been approved and distributed, corrections may be made by way of a written supplemental report or modification of original crash report by the author. A written supplemental report may be made by any authorized member.

###### **501.8.2 CAPTAIN RESPONSIBILITIES**

The responsibilities of the Captain include, but are not limited to:

- (a) Ensuring the monthly and quarterly reports on traffic collision information and statistics are forwarded to the commissioner of public safety, Patrol Captain 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 Department of Public Safety Fatality Report when a collision results in a fatality.

## Vehicle Towing

### 502.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Fairmont Police Department and under the authority of Minn. Stat. § 168B.035.

### 502.2 STORAGE AND IMPOUNDS

Vehicles may be towed for violations of Minn. Stat. § 168B.035, including parking, registration and snow emergency violations.

Vehicles may be moved or removed from a highway when in violation of Minn. Stat. § 169.32(a) or when left unattended upon any street or highway or upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic (Minn. Stat. § 169.33).

The responsibilities of those employees storing or impounding a vehicle are as follows:

#### 502.2.1 COMPLETION OF VEHICLE IMPOUND AND INVENTORY REPORT

Department members requesting towing of a vehicle shall complete a Vehicle Impound and Inventory Report, including a description of property within the vehicle. The original is to be submitted to the Records Section as soon as practicable after the vehicle is stored. A 10 day notice of vehicle impound form shall be completed by the officer managing the tow and the notice shall be served in person when possible or mailed to the registered owner and any other person(s) claiming ownership of the vehicle. An exception to completing and issuing a 10 day notice of impound would be a vehicle forfeiture where the owner cannot retrieve the vehicle as described in the notice. [See attachment: Notice of Vehicle Impoundment.pdf](#)

Approved Vehicle Impound and Inventory Report forms shall be promptly placed with the case file and a copy placed on the main floor vehicle impound clipboard so that they are immediately available for release or for information, should inquiries be made. [See attachment: Vehicle and Property Custody Form.pdf](#)

Within 48 hours, excluding weekends and holidays, of the towing of any such vehicle, it shall be the responsibility of the officer impounding the vehicle to determine through MNJIS the names and addresses of any individuals having an interest in the vehicle. Notice to all such individuals shall be sent by certified mail within five business days of impound, excluding Saturdays, Sundays, and legal holidays (Minn. Stat. § 168B.06 Subd. 1).

#### 502.2.2 REMOVAL OF VEHICLE DISABLED IN A TRAFFIC COLLISION

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if reasonably possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in Dispatch.

If the owner is incapacitated or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call a

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company selected from the rotational list of towing companies. The officer will then conduct an inventory and store the vehicle using a Vehicle Impound and Inventory Report anytime the vehicle is to be stored by the department, otherwise the towing company will store the vehicle in their impound storage.

#### 502.2.3 DRIVING A NON-CITY VEHICLE

Vehicles that have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

#### 502.3 TOWING SERVICES

The City of Fairmont periodically selects one or more firms to act as official tow services and awards contracts to those firms. Those firms will be used in the following situations:

- (a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.
- (b) When a vehicle is being held as evidence in connection with an investigation.
- (c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles and the removal of vehicles obstructing traffic in violation of state or local regulations.

If more than one firm has been awarded contracts, they shall be placed on a rotation list. Nothing in this policy shall require the Department to tow a vehicle.

#### 502.4 TOWING AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by towing the arrestee's vehicle subject to the exceptions described below. However, a vehicle shall be towed whenever it is needed for the furtherance of an investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be towed. For example, the vehicle would present a traffic hazard if it were not removed, or the vehicle is located in a high-crime area and is susceptible to theft or damage if left at the scene.

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of towing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the occupant was arrested nor may be subject to forfeiture proceedings.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene.

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In such cases, the handling employee shall note in the report that the owner was informed that the Department will not be responsible for theft or damages.

#### **502.5 VEHICLE INVENTORY**

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if they are closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practicable in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while the owner is in police custody, to provide for the safety of officers and the public, and to protect the Department against fraudulent claims of lost, stolen or damaged property.

#### **502.6 PRESERVATION OF EVIDENCE**

An officer who removes a vehicle pursuant to Minn. Stat. § 168B.035 is required to take reasonable and necessary steps to preserve evidence. If there is probable cause to believe that a vehicle or its contents constitute any evidence which tends to show that a criminal offense has been committed, or that a particular person has committed a criminal offense, officers shall ensure that all legally required and reasonably necessary efforts are taken to preserve the evidence. Such evidence is to be provided safe storage and preserved until released to the owner or otherwise disposed of according to law.

#### **502.7 SECURITY OF VEHICLES AND PROPERTY**

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officer should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cellular telephone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

## Impaired Driving

### 503.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving while impaired (DWI).

### 503.2 POLICY

The Fairmont Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of Minnesota's impaired driving laws.

### 503.3 INVESTIGATIONS

All officers are expected to enforce these laws with due diligence.

Any DWI investigation will be documented using department and state forms. Information that should be documented includes, at a minimum:

- (a) The field sobriety tests (FSTs) administered and the results.
- (b) The officer's observations that indicate impairment on the part of the individual, and the officer's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.
- (f) Any prior related convictions in Minnesota or another jurisdiction.

### 503.4 CHEMICAL TESTS

A person implies consent under Minnesota law to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Minn. Stat. § 169A.51, Subd. 1):

- (a) The arresting officer has probable cause to believe the person was driving, operating or in physical control of a vehicle while impaired as defined by Minn. Stat. § 169A.20.
- (b) The officer has probable cause to believe that the person is DWI and has been involved in a vehicle accident resulting in property damage, personal injury or death.
- (c) The officer has probable cause to believe that the person is DWI and the person has refused to take the preliminary screening test provided for by Minn. Stat. § 169A.41.
- (d) The person was administered a preliminary screening test and the results indicated an alcohol concentration of 0.08 or more.
- (e) The 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 in the person's body.



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If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

##### 503.4.1 STATUTORY NOTIFICATIONS

At the time that the officer requests the person to submit to a breath test the officer must inform the person that (Minn. Stat. § 169A.51, Subd. 2):

- (a) Minnesota law requires that he/she take the test.
- (b) Refusal to take the test is a crime.
- (c) He/she has the right to consult with an attorney unless it would unreasonably delay administration of the test.

At the time that the officer directs a person to submit to a blood or urine test pursuant to a warrant, the person must be informed that a refusal to submit to a blood or urine test is a crime (Minn. Stat. § 171.177, Subd. 1 and Subd. 2).

##### 503.4.2 BREATH SAMPLES

The Captain or designee should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested, and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Captain.

##### 503.4.3 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (Minn. Stat. § 169A.51, Subd. 7). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored as evidence and transported or mailed as required by the testing facility.

If an arrestee cannot submit to a blood test because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

##### 503.4.4 URINE SAMPLES

If a urine test will be performed the officer shall follow any directions accompanying the urine evidence collection kit.

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Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the person giving the sample. The arrestee tested should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample.

The sample shall be packaged, marked, handled, stored as evidence and transported or mailed as required by the testing facility.

#### **503.5 REFUSALS**

When an arrestee refuses to provide a chemical sample officers should:

- (a) Advise the arrestee of the requirement to provide a sample (Minn. Stat. § 169A.51; Minn. Stat. § 171.177, Subd. 1).
- (b) Audio- and/or video-record the admonishment and the response when it is legal and practicable.
- (c) Document the refusal in the appropriate report.

##### **503.5.1 STATUTORY NOTIFICATIONS UPON REFUSAL**

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of intention to revoke upon the person and invalidate the person's license in such a way that no identifying information is destroyed and immediately return the license to the person (Minn. Stat. § 169A.52, Subd. 7; Minn. Stat. § 171.177, Subd. 8).

##### **503.5.2 BLOOD SAMPLE WITHOUT CONSENT**

A blood sample may be obtained from a person who does not consent to a chemical test when any of the following conditions exist (Minn. Stat. § 169A.51, Subd. 3):

- (a) A search warrant has been obtained.
- (b) The officer can articulate that exigent circumstances exist and the officer has probable cause to believe that the person has committed DWI, including vehicular homicide or injury (Minn. Stat. § 169A.52, Subd. 1; Minn. Stat. § 171.177, Subd. 13). Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts, such as a lengthy delay in obtaining a blood sample due to a collision investigation or medical treatment of the person.

##### **503.5.3 WARRANTS FOR CONTROLLED SUBSTANCES OR INCAPACITATION**

A blood or urine test may be required pursuant to a warrant if the officer has probable cause to believe that (Minn. Stat. § 169A.51, Subd. 4):

- (a) The person's impairment is due to a controlled substance or an intoxicating substance that is not subject to testing by a breath test.
- (b) A controlled substance listed in Schedule I or II or its metabolite (other than marijuana or tetrahydrocannabinols), is present in the person's body.

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- (c) The person is unconscious or incapacitated to the point that the officer providing the breath test advisory, administering the breath test, or serving the search warrant has a good faith belief that the person is mentally or physically unable to comprehend the advisory or otherwise voluntarily submit to the chemical tests.

If a person objects to the blood or urine test as directed by the warrant or officer, the officer should offer the other type of test if the person is conscious. Action may be taken against a person refusing to submit to a blood or urine test only if an alternate test of blood or urine, as applicable, was offered (Minn. Stat. § 169A.51, Subd. 4; Minn. Stat. § 171.177, Subd. 2).

#### 503.5.4 FORCED BLOOD SAMPLE

A forced sample may not be taken except in DWI cases involving vehicular homicide or injury (Minn. Stat. § 171.177, Subd. 13). In those cases, if a person indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes, a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer), and attempt to persuade the person to submit to such a sample without physical resistance.
  - 1. This dialogue should be recorded on audio and/or video when reasonably practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure that the forced blood draw is recorded on audio and/or video when reasonably practicable.
- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:
  - 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
  - 2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
  - 3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.
- (g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform the duties of a supervisor, as set forth above.

#### 503.6 ARREST AND INVESTIGATION

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##### 503.6.1 RIGHT TO ATTORNEY CONTACTS

A person has a limited right to consult with an attorney prior to submitting to a chemical test. This right is limited to the extent that it cannot unreasonably delay administration of the test (Minn. Stat. § 169A.51, Subd. 2).

##### 503.6.2 ARREST AUTHORITY

An officer may arrest a person without a warrant and without regard to whether the offense was committed in the officer's presence if there is probable cause to believe the person committed (Minn. Stat. § 169A.40):

- (a) A DWI offense (Minn. Stat. § 169A.20).
- (b) An alcohol-related driving offense involving a school bus or a Head Start bus (Minn. Stat. § 169A.31).
- (c) An underage drinking and driving offense (Minn. Stat. § 169A.33).

##### 503.6.3 OFFICER RESPONSIBILITIES

If an officer requests that a person submit to a chemical test and the person refuses such request, the officer shall report such refusal to the Commissioner of the Department of Public Safety (DPS) and the appropriate prosecuting attorney (Minn. Stat. § 169A.52, Subd. 1; Minn. Stat. § 171.177, Subd. 3).

If a person refuses to submit to a test or in the alternative submits to a test and the results indicate a prohibited alcohol concentration, the officer shall immediately give notice to the person that his/her driving privilege will be revoked and shall (Minn. Stat. § 169A.52, Subd. 7; Minn. Stat. § 171.177, Subd. 8):

- (a) Issue the person a temporary license effective for only seven days.
  - 1. Officers are not required to issue a person a temporary license if the person's driving privilege is under withdrawal by DPS or if the person is unlicensed.
- (b) Send the notification of this action to the Commissioner of the DPS along with the certification that there was probable cause to believe the person had been driving, operating or in physical control of a motor vehicle while impaired, and that the person either refused to submit to a test or submitted to a test and the results indicated a prohibited alcohol concentration or drug presence.

Test results of a person that indicate a prohibited alcohol concentration or drug presence shall be forwarded to the Commissioner of the DPS and the appropriate prosecuting attorney (Minn. Stat. § 169A.52, Subd. 2).

##### 503.6.4 PRELIMINARY SCREENING TEST

An officer who has reason to believe the person was driving, operating or in physical control of a motor vehicle while impaired, may require the person to provide a sample of the person's breath for a preliminary screening test using a device approved by the DPS Commissioner (Minn. Stat. § 169A.41, Subd. 1).

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The officer must use the results of the preliminary screening test for the purpose of deciding whether to arrest the person and require further chemical testing pursuant to Minn. Stat. § 169A.51 (Minn. Stat. § 169A.41, Subd. 2).

#### **503.6.5 ADDITIONAL TESTING**

An officer shall permit a person required to submit to a chemical test to have a qualified person of his/her own choosing administer a separate chemical test (Minn. Stat. § 169A.51, Subd. 7(b)).

The separate chemical test shall:

- (a) Be conducted at the place where the person is in custody.
- (b) Be conducted after the officer has administered the statutorily mandated test.
- (c) Impose no expense to the state.

#### **503.6.6 ADDITIONAL REQUIREMENTS FOR BREATH SAMPLES**

All breath samples requested in accordance with this policy shall be obtained in accordance with Minn. Stat. § 169A.51, Subd. 5.

#### **503.7 RECORDS SECTION RESPONSIBILITIES**

The Captain will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

#### **503.8 ADMINISTRATIVE HEARINGS**

The Captain will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to the Driver and Vehicle Services Division (DVS) of the DPS.

Any officer who receives notice of required attendance to an administrative license suspension hearing should promptly notify the Captain and prosecuting attorney.

#### **503.9 TRAINING**

The Training Sergeant should ensure that officers participating in the enforcement of DWI laws receive training. Training should include at minimum current laws on impaired driving, investigative techniques and rules of evidence pertaining to DWI investigations. The Captain should confer with the prosecuting attorney's office and update training topics as needed.

## Traffic Citations

### 504.1 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.

### 504.2 RESPONSIBILITIES

The Captain shall be responsible for the development and design of all Departmental Directive traffic citations in compliance with state law (Minn. Stat. § 169.99 and Minn. Stat. § 169.999 Subd. 3).

The Captain shall be responsible for the supply and accounting of all traffic citations issued to employees of this department. Citations will be kept in a secure location and issued to officers by the Captain. Officers will sign for the citation books when issued and what location (squad) the citations will be stored.

### 504.3 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 Captain. Upon a review of the circumstances involving the issuance of the traffic citation, the Captain may recommend dismissal of the traffic citation. If approved, the citation will be forwarded to the appropriate prosecutor with a request for dismissal. All recipients of traffic citations whose request for dismissal of a traffic citation has been denied shall be referred to the appropriate court.

Should an officer determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate, the officer may request the prosecutor to dismiss the citation. Upon dismissal of the traffic citation by the court, the officer shall notify his/her immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork as directed or required. The citation dismissal shall then be forwarded to the Captain for review.

Members of the Department should provide a report or other verification to the owner of a stolen vehicle that may have received a citation during the time of the theft for the purpose of dismissing the citation (Minn. Stat. § 169.042 Subd. 2).

### 504.4 VOIDING TRAFFIC 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 the Captain.

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##### **504.5 CORRECTION OF TRAFFIC CITATIONS**

When a traffic citation is issued and in need of correction, the officer issuing the citation shall make the appropriate change through e-charging which tracks all changes. If the initial citation must be voided and a new citation issued the officer may do so.

##### **504.6 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE**

Disposition of notice of parking violation appeals is conducted pursuant to Minnesota state law and local regulations (Minn. Stat. § 169.04 (a) (1)).

##### **504.7 JUVENILE CITATIONS**

Completion of traffic citation forms for juveniles may vary slightly from the procedure for adults. The juvenile's age, place of residency and the type of offense should be considered before issuing the juvenile a citation.

- (a) When any juvenile is issued a citation for a drug or alcohol violation, or a juvenile 16 years of age or older is issued a citation for an adult court traffic offense, the officer shall follow the arrest procedures prescribed in Minn. Stat. § 169.91 and shall make reasonable effort to notify the child's parent or guardian of the violation and the nature of the charge. Notifications should be documented (Minn. Stat. § 260B.225 Subd. 3).
- (b) When any juvenile is issued a citation for a major traffic offense, the officer is required to file a signed copy of the citation, as provided in Minn. Stat. § 169.91, with the juvenile court of the county in which the violation occurred. The citation serves as a petition providing the juvenile court jurisdiction (Minn. Stat. § 260B.225 Subd. 5).

## Disabled Vehicles

### 505.1 PURPOSE AND SCOPE

Law enforcement and other public agencies may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

### 505.2 OFFICER RESPONSIBILITIES

When an on-duty officer observes a disabled vehicle on the roadway, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer to respond for assistance as soon as practicable.

### 505.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by Department personnel will be contingent on the time of day, the location, the availability of Department resources and the vulnerability of the disabled motorist.

#### 505.3.1 MECHANICAL REPAIRS

Department personnel shall not make mechanical repairs to a disabled vehicle.

#### 505.3.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.



## Abandoned Vehicle Violations

### 506.1 PURPOSE AND SCOPE

This policy provides procedures for the removal, recording and storage of vehicles abandoned in violation of abandoned vehicle laws, under the authority of Minn. Stat. § 168B.04.

#### 506.1.1 DEFINITION

Pursuant to Minnesota statutes, a vehicle is abandoned if:

- (a) The motor vehicle has remained illegally for more than 48 hours on any government-owned or -controlled property, or for more than four hours on that property when properly posted (Minn. Stat. § 168B.011 Subd. 2 (1)).
- (b) The motor vehicle has been properly tagged by an officer and abandoned for four hours on any highway (Minn. Stat. § 168B.04, Subd. 2 (b) (1)).
- (c) The motor vehicle has been abandoned and located so as to constitute a collision or traffic hazard (Minn. Stat. § 168B.04 Subd. 2 (b) (1)).
- (d) The motor vehicle is unattended on private residential property, that is a single-family or duplex, without permission of the property caretaker (Minn. Stat. § 168B.04 Subd. 2 (b) (2)).
- (e) The motor vehicle can be immediately removed if on private non-residential property if properly posted or after 24 hours if not posted (Minn. Stat. § 168B.04 Subd. 2 (b) (2)).
- (f) The motor vehicle remains at a service, repair or maintenance establishment of motor vehicles five days after notifying the vehicle owner by certified mail, return receipt requested, of the property owner's intention to have the vehicle removed from the property (Minn. Stat. § 168B.04 Subd. 2 (b) (2)).

### 506.2 MARKING VEHICLES

Vehicles on public roadways suspected of being abandoned in violation of Minnesota abandoned vehicle laws shall be marked and the call for service updated.

A visible chalk or crayon may be placed on the left rear tire tread at the fender level unless the vehicle is missing tires or other vehicle conditions or weather prevent marking.

If a marked vehicle has been moved or the markings have been removed during the investigation period, the vehicle shall be marked again for abandonment violation and the call for service updated. After three consecutive 24 hour parking violation tickets have been issued the vehicle may be towed in accordance with the tow policy. Captain

#### 506.2.1 MARKED VEHICLE FOLLOW UP

The officer of Community Service Officer (CSO) assigned to the Captain shall be responsible for the follow-up investigation of all abandonment violations.

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##### 506.2.2 VEHICLE STORAGE

Any vehicle in violation shall be stored in the department's impound and a vehicle storage report and notice of impound form shall be completed by the officer authorizing the storage of the vehicle.

The storage report form shall be submitted to the Records Section immediately following the storage of the vehicle. It shall be the responsibility of the Records Section to immediately notify the Minnesota Criminal Justice Information Services (MNJIS). Notification may also be made to the National Law Enforcement Telecommunications System (NLETS).

## **Chapter 6 - Investigation Operations**

## Investigation and Prosecution

### 600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

### 600.2 POLICY

It is the policy of the Fairmont Police Department to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

### 600.3 INITIAL INVESTIGATION

#### 600.3.1 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following:

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
  1. An initial statement from any witnesses or complainants.
  2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the officer shall:
  1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
  2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
  3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Shift Sergeant.
  4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
  5. Collect any evidence.
  6. Take any appropriate law enforcement action.
  7. Complete and submit the appropriate reports and documentation.
- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.

### 600.4 CUSTODIAL INTERROGATION REQUIREMENTS

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

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##### 600.4.1 AUDIO/VIDEO RECORDINGS

Any custodial interrogation of a person who is suspected of having committed a criminal offense should be electronically recorded (audio/video or both as available) in its entirety, including any information or discussion about the person's rights and any waiver of those rights. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Consideration should also be given to recording a non-custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Investigations supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

##### **600.5 DISCONTINUATION OF INVESTIGATIONS**

The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

- (a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.
- (b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.
  - (a) In these cases, the investigating officer shall document that the person was warned and why prosecution was not sought.
  - (b) Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.
- (c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.
- (d) The case has been submitted to the appropriate prosecutor, charges have been filed, and further investigation is not reasonable, warranted or requested, and there is no need to take the suspect into custody.
- (e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted or requested.
- (f) Investigation has proven that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

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The Domestic Abuse, Child Abuse, Sexual Assault Investigations and Adult Abuse policies may also require an arrest or submittal of a case to a prosecutor.

#### **600.6 COMPUTERS AND DIGITAL EVIDENCE**

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should request that computer forensic examiners assist with seizing computers and related evidence when appropriate. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

#### **600.7 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES**

Use of social media and any other Internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights and civil liberties. Information gathered via the Internet should only be accessed by members while on-duty and for purposes related to the mission of this department. If a member encounters information relevant to a criminal investigation while off-duty or while using his/her own equipment, the member should note the dates, times and locations of the information and report the discovery to his/her supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using department equipment.

Information obtained via the Internet should not be archived or stored in any manner other than department-established record keeping systems (see the Records Maintenance and Release and Criminal Organizations policies).

##### **600.7.1 ACCESS RESTRICTIONS**

Information that can be accessed from any department computer, without the need of an account, password, email address, alias or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information from any Internet source that requires the use or creation of an account, password, email address, alias or other identifier, or the use of nongovernment IP addresses, requires supervisor approval prior to access. The supervisor will review the justification for accessing the information and consult with legal counsel as necessary to identify any policy or legal restrictions. Any such access and the supervisor approval shall be documented in the related investigative report.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related investigative report.

Information gathered from any Internet source should be evaluated for its validity, authenticity, accuracy and reliability. Corroborative evidence should be sought and documented in the related investigative report.

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Any information collected in furtherance of an investigation through an Internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

#### **600.7.2 INTERCEPTING ELECTRONIC COMMUNICATION**

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Officers should seek legal counsel before any such interception.

#### **600.8 ELECTRONIC BENEFIT TRANSFER (EBT) CARDS**

Officers shall make a report any time they arrest a person who possesses more than one welfare Electronic Benefit Transfer (EBT) card. The investigating officers shall forward this report to the Minnesota Department of Human Services within 30 days of the arrest. The report shall include all of the following (Minn. Stat. § 626.5533):

- (a) The name, address and driver's license or state identification card number of the suspect
- (b) The number on each EBT card and name, if any
- (c) The date and location of any alleged offense
- (d) Any other information the Minnesota Department of Human Services may require on related state forms

#### **600.9 MODIFICATION OF CHARGES FILED**

Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended to a lesser charge or dismissed without the authorization of a Captain or the Chief of Police. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.

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## Sexual Assault Investigations

### 601.1 PURPOSE AND SCOPE

The Fairmont Police Department adopts the Investigations of Sexual Assault model policy established and published by the Minnesota Board of Peace Officer Standards and Training (MN POST) (Minn. Stat. § 626.8442).

[See attachment: Model Sexual Assault Investigation Policy 03-03-21.pdf](#)

### 601.2 COPY OF SUMMARY

The Investigations supervisor shall ensure that the victim of a sexual assault who reports an incident to this department is provided with a copy of the written summary of the allegation. If the incident occurred outside the jurisdiction of the Fairmont Police Department, a copy of the written summary shall also be provided to the law enforcement agency where the incident occurred. If the Fairmont Police Department learns that both the victim and the accused are members of the Minnesota National Guard, the Department shall provide a copy of the summary to the Bureau of Criminal Apprehension (Minn. Stat. § 609.3459).



## Asset Forfeiture

### 602.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with specified designated offenses and controlled substance offenses (Minn. Stat. § 609.531 to Minn. Stat. § 609.5318).

### 602.2 POLICY

The Fairmont Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential of revenue shall not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations or the due process rights of citizens.

It is the policy of the Fairmont Police Department that all employees of the agency, all employees assigned to another law enforcement agency's task force and all employees assigned to a task force from an outside law enforcement agency, in which this agency serves as the Fiscal Agent, follow all state and federal laws pertaining to forfeiture.

### 602.3 DEFINITIONS

Definitions related to this policy include:

**Cash** - Money in the form of bills or coins, traveler's checks, money orders, checks, or other forms of electronic money or stored value cards, including but not limited to gift cards, debit cards, gift cards/certificates, or other negotiable financial instruments.

**Conveyance device** - A device used for transportation. It includes but is not limited to a motor vehicle, trailer, snowmobile, airplane, and vessel, and any equipment attached to it. The term "conveyance device" does not include property which has been stolen or taken in violation of the law.

**Firearms/ammunition/firearm accessories** - A device that projects either single or multiple projectiles at high velocity. Ammunition is a term meaning the assembly of a projectile and its propellant. Accessories include but are not limited to holsters, gun cases, firearm optics, suppression devices, and cleaning supplies.

**Fiscal Agent** - The person designated by the Fairmont Police Department to be responsible for securing and maintaining seized assets and distributing any proceeds as a result of any forfeiture proceedings. This includes anytime the Fairmont Police Department seizes property for forfeiture or when the Fairmont Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

**Forfeiture** - The process by which legal ownership of an asset is transferred to a government or other authority.

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**Forfeiture Reviewer** - The Fairmont Police Department employee assigned by the Fairmont Police Department responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the prosecutor's office.

**Jewelry/precious metals/precious stones** - The term includes items of jewelry, such as rings, necklaces, and watches that reasonably appear to be made of precious metals or precious stones. Precious metals include but are not limited to gold, silver, platinum, iridium, and palladium. Precious stones, often referred to as gemstones, include but are not limited to diamonds, emeralds, and rubies.

**Property subject to administrative forfeiture** - The following property is subject to administrative forfeiture under Minnesota Law (Minn. Stat. § 609.5314):

- (a) All cash totaling \$1500 or more, precious metals, and precious stones that there is probable cause to believe represent the proceeds of a controlled substance offense, and all cash found in proximity to controlled substances when there is probable cause to believe that the cash was exchanged for the purchase of a controlled substance.
- (b) All conveyance devices containing controlled substances with a retail value of \$100 or more if there is probable cause to believe that the conveyance device was used in the transportation or exchange of a controlled substance intended for distribution or sale.
- (c) All firearms, ammunition, and firearm accessories found:
  1. In a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance.
  2. On or in proximity to a person from whom a felony amount of controlled substance is seized.
  3. On the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under Minnesota Statutes, Chapter 152.

**Seizure** - The act of law enforcement officials taking property, including cash and conveyance devices that have been used in connection with or acquired by illegal activities.

#### **602.4 ASSET SEIZURE**

Property may be seized for forfeiture as provided in this policy.

##### **602.4.1 PROPERTY SUBJECT TO SEIZURE**

The following property is subject to seizure.

- (a) The following property may be seized upon review and approval of a supervisor and in coordination with the Forfeiture Reviewer:
  1. Controlled substances and associated property as described in Minn. Stat. § 609.5311.
  2. Property intended for use to commit or facilitate the commission of a designated offense, as listed in Minn. Stat. § 169A.63, Subd. 6 and limited by Minn. Stat. §

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169A.63, Subd. 7, and as listed in Minn. Stat. § 609.531, Subd. 1(f) and limited by Minn. Stat. § 609.5312.

- (b) Property subject to administrative forfeiture may be seized without prior supervisor approval if the item has a retail value of \$50,000 or less (Minn. Stat. § 609.5314).

#### 602.4.2 PROPERTY NOT SUBJECT TO SEIZURE

The following property should not be seized for forfeiture:

- (a) Cash and property that does not meet the prosecuting agency's current minimum forfeiture thresholds.
- (b) Cash totaling less than \$1,500, unless prerecorded buy funds are included in the cash seized.

#### 602.4.3 SEIZURE OF PROPERTY TO BE FORFEITED

An officer may seize property subject to forfeiture based on a court order. An officer may also seize property without a court order under any of the following conditions (Minn. Stat. § 609.531, Subd. 4; Minn. Stat. § 169A.63, Subd. 2):

- (a) The seizure is incident to a lawful arrest or a lawful search.
- (b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding.
- (c) The officer has probable cause to believe that a delay to obtain a warrant or other process would result in the removal or destruction of the property and that either of the following apply:
  1. The property was used or is intended to be used in commission of a felony.
  2. The property is dangerous to health or safety.

#### **602.5 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS**

When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

- (a) If the retail value of the asset to be seized is \$50,000 or less, completely and accurately prepare the Notice of Seizure and Intent to Forfeit Property Form (seizure form) and present it to the person from whom the property is to be seized for that person's signature. If the person refuses to sign, the officer shall indicate on the seizure form that the person refused. The seizure form is not used when the value of the seized property exceeds \$50,000.
- (b) Prepare and provide a receipt for the items seized to the person from whom the property is being seized.
  1. If cash or property is seized from more than one person, a separate property inventory receipt must be completed for each person specifying the amount of cash seized. The receipt shall include a detailed description of all property, checks, money orders, traveler's checks or other financial instruments.

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- (c) Complete and submit a report within 24 hours of the seizure if practicable. The report must include, at minimum, the following:
  - 1. A description of the items seized
  - 2. The location where the property was turned in or stored
  - 3. The name of the individual who was served with the seizure form
  - 4. The date that the seizure form was served
  - 5. The name of the officer making the seizure
  - 6. Whether the individual signed the seizure form
- (d) If property is seized from multiple individuals, a separate seizure form will be completed for each individual. A copy of the receipt and seizure form must be given to the individual from whom the property was seized.
- (e) When property is seized and no one claims possession of the property, the officer must leave a receipt in the place where the property was found if it is reasonably possible to do so.
- (f) The officer will book seized property into the Property and Evidence Section as evidence, with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.
- (g) Forward the original and the pink copy of the seizure form, and any seized property processing worksheets, property receipts and reports to the Forfeiture Reviewer within 10 days of seizure.
- (h) Inform the Forfeiture Reviewer of the estimated retail value of drugs found in proximity to the asset seized.

#### 602.5.1 CASH HANDLING

It is the responsibility of the seizing officer to secure and count cash consistent with this policy and the Cash Handling, Security and Management Policy. All cash shall be counted in the presence of another officer and the envelope initialed by both officers. A supervisor shall be contacted for cash in excess of \$1,000. The supervisor shall also witness the count, and will initial and date the property documentation and specify any additional security procedures to be used.

All forfeitable cash seized will be turned over to the Forfeiture Reviewer or property/evidence room as soon as practicable.

Prior to deposit with the Forfeiture Reviewer, officers shall examine all cash seized to determine whether it contains any prerecorded buy funds. Officers shall document the recovery of all buy funds and deposit those funds with the Forfeiture Reviewer to be returned to the appropriate buy fund account.

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##### **602.5.2 JEWELRY/PRECIOUS METALS/PRECIOUS STONES**

Officers seizing jewelry, precious metals and/or precious stones will write a detailed description of each item on the property inventory receipt. A copy of the property inventory receipt and any photographs of the jewelry, precious metals and/or precious stones shall be delivered to the Forfeiture Reviewer.

Officers seizing jewelry, precious metals and/or precious stones shall book those items according to current property and evidence procedures as soon as practicable.

##### **602.5.3 VEHICLES**

Any conveyance device seized for forfeiture shall be taken to a secure designated area or to a department-approved impound facility as soon as practicable.

Officers shall inventory the conveyance device and its contents in accordance with the Vehicle Towing Policy. Officers shall also complete applicable report forms and distribute them appropriately. A copy of the vehicle storage report shall be included with the seizure documentation that is submitted to the Forfeiture Reviewer.

##### **602.5.4 FIREARMS/AMMUNITION/FIREARM ACCESSORIES**

When firearms, ammunition or firearms accessories are seized, they shall be inventoried and delivered to the Property and Evidence Section in accordance with the current booking procedures and the Property and Evidence Section Policy.

#### **602.6 MAINTAINING SEIZED PROPERTY**

The Property and Evidence Section supervisor is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition (Minn. Stat. § 609.531 Subd. 5).
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or returned to the claimant or person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.

#### **602.7 FORFEITURE REVIEWER**

The Chief of Police will appoint an officer as the Forfeiture Reviewer. Prior to assuming duties, or as soon as practicable thereafter, the Forfeiture Reviewer should attend a department-approved course on asset forfeiture.

The responsibilities of Forfeiture Reviewer include the following:

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- (a) Confer regularly with the prosecuting attorney's office to remain familiar with forfeiture laws, particularly Minn. Stat. § 609.531 through Minn. Stat. § 609.5318, Minn. Stat. § 169A.63, and the forfeiture policies of the prosecuting agency.
- (b) Make reasonable efforts to obtain annual training that includes best practices in pursuing, seizing, and tracking forfeitures.
- (c) Ensure responsibilities, including designation of a Fiscal Agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (d) Ensure that a seizure form, property inventory receipt, and a forfeited property processing worksheet is available and appropriate for department use. The seizure form will minimally include the following (Minn. Stat. § 609.5314):
  - 1. Space for an itemized list of items seized
  - 2. The location and date of the seizure
  - 3. A place for the name of the individual served with the seizure form
  - 4. The date and signature of the officer conducting the seizure
  - 5. The agency case number
  - 6. A space for the signature of the person from whom property is seized or an appropriate space or check box for the officer to indicate that the person refused to sign
  - 7. At least an original and the pink copy
  - 8. Information in English, Hmong, Somali and Spanish explaining the right to obtain judicial review and the procedure provided by Minn. Stat. § 609.5314.
- (e) Ensure that officers who may be involved in asset forfeiture receive training in the proper use of the seizure form and the forfeiture process. The training should be developed in consultation with the prosecuting attorney and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins, or department directives. The training should be based on this policy and address any relevant statutory changes and court decisions.
- (f) Review each asset forfeiture case to ensure the following:
  - 1. Written documentation of the seizure and items seized is present in the case file.
  - 2. Independent prosecutorial review of the circumstances and propriety of the seizure is made in a timely manner.
  - 3. A timely notice of seizure has been given to interest holders of seized property.
  - 4. Property is promptly released to those entitled to its return.
- (g) Forward all changes to forfeiture status to any supervisor who initiates a forfeiture case.
- (h) Deposit any cash received with the Fiscal Agent.
- (i) Ensure the current minimum forfeiture thresholds are communicated appropriately to officers.

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- (j) Annually review and update this policy and any related policies to reflect current federal and state statutes and case law.
- (k) Prepare a written plan for the Chief of Police to address any extended absence of the Forfeiture Reviewer to ensure that contact information for other law enforcement officers and attorneys who may assist in these matters is available.
- (l) Ensure the Department disposes of property as provided by law following any forfeiture (Minn. Stat. § 609.5315).
- (m) Ensure that any forfeited property used in an undercover capacity, or that is sold or added to the department inventory is done so according to Minnesota law.
- (n) Ensure that all forfeited property is used or disposed of in a manner consistent with the use and disposition of similar property by this department.
- (o) Upon completion of any forfeiture process, ensure that no property is retained by the Fairmont Police Department unless the Fairmont Police Department authorizes in writing the retention of the property for official use.
- (p) Ensure that forfeiture proceeds are maintained in a separate fund or account subject to appropriate accounting control with regular reviews or audits of all deposits and expenditures (Minn. Stat. § 609.5315).
- (q) Ensure that records of forfeiture are retained for a minimum of six years.
- (r) Ensure forfeiture reporting is made to the state auditor in the manner prescribed by the auditor (Minn. Stat. § 609.5315, Subd. 6).

#### **602.8 DISPOSITION OF FORFEITED PROPERTY**

Legal disposition may include (Minn. Stat. § 609.5315; Minn. Stat. § 169A.63, Subd. 10):

- (a) Retention by the Department and/or prosecuting agency.
  - 1. If a forfeited motor vehicle is kept for Department use, the Department will make a reasonable effort to ensure the vehicle is available for use and adaptation by officers who participate in the Department's Drug Abuse Resistance Education program (Minn. Stat. §609.5315).
- (b) Destruction.
- (c) Sale performed in a commercially reasonable manner.
- (d) Other disposition pursuant to applicable provisions of Minnesota Statutes.

No member of this department may use property that has been seized for forfeiture until the forfeiture action has been completed and the Fairmont Police Department has given written authorization to retain the property for official use.

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 (Minn. Stat. § 609.5315, Subd. 1(c)).

## Informants

### 603.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

#### 603.1.1 DEFINITIONS

Definitions related to this policy include:

**Informant** - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with the Fairmont Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Fairmont Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

### 603.2 POLICY

The Fairmont Police Department recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this department that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

### 603.3 USE OF INFORMANTS

The Fairmont Police Department adopts the Confidential Informants model policy established and published by the Minnesota Board of Peace Officers Standards and Training (MN POST) (Minn. Stat. 626.8476).

#### 603.3.1 INITIAL APPROVAL

Before using an individual as an informant, an officer must receive approval from his/her supervisor. The officer shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Members of this department should not guarantee absolute safety or confidentiality to an informant.

#### 603.3.2 JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited.

Juveniles under the guardianship of the state may not be used as informants.

In all cases, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

- (a) The juvenile's parents or legal guardians
- (b) The juvenile's attorney, if any
- (c) The court in which the juvenile's case is being handled, if applicable
- (d) The Chief of Police or the authorized designee



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##### **603.3.3 INFORMANT AGREEMENTS**

All informants are required to sign and abide by the provisions of the designated department informant agreement. The officer using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

##### **603.4 INFORMANT INTEGRITY**

To maintain the integrity of the informant process, the following must be adhered to:

- (a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Captain, Narcotics Resource Officer (NRO) or their authorized designees.
  - 1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.
- (b) Criminal activity by informants shall not be condoned.
- (c) Informants shall be told they are not acting as police officers, employees or agents of the Fairmont Police Department, and that they shall not represent themselves as such.
- (d) The relationship between department members and informants shall always be ethical and professional.
  - (a) Members shall not become intimately involved with an informant.
  - (b) Social contact shall be avoided unless it is necessary to conduct an official investigation.
  - (c) Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
- (e) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.
- (f) In all instances when department funds are paid to informants, a receipt shall be completed in advance, itemizing the expenses.
- (g) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

##### **603.4.1 UNSUITABLE INFORMANTS**

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the Department and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file "unsuitable" when appropriate.

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Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

- (a) The informant has provided untruthful or unreliable information in the past.
- (b) The informant behaves in a way that may endanger the safety of an officer.
- (c) The informant reveals to suspects the identity of an officer or the existence of an investigation.
- (d) The informant appears to be using his/her affiliation with this department to further criminal objectives.
- (e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.
- (f) The informant engages in any other behavior that could jeopardize the safety of officers or the integrity of a criminal investigation.
- (g) The informant commits criminal acts subsequent to entering into an informant agreement.

#### **603.5 INFORMANT FILES**

Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of department members or the reliability of the informant.

Informant files shall be maintained in a secure area by the Captain, who shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief of Police, Captain, NRO or their authorized designees.

The Captain should arrange for an audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. If the NRO is replaced, the files will be audited by the Captain before the new NRO takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy.

##### **603.5.1 FILE SYSTEM PROCEDURE**

A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file:

- (a) Name and aliases
- (b) Date of birth
- (c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features
- (d) Photograph
- (e) Current home address and telephone numbers

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- (f) Current employers, positions, addresses and telephone numbers
- (g) Vehicles owned and registration information
- (h) Places frequented
- (i) Briefs of information provided by the informant and his/her subsequent reliability
  1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.
- (j) Name of the officer initiating use of the informant
- (k) Signed informant agreement
- (l) Update on active or inactive status of informant

#### **603.6 INFORMANT PAYMENTS**

No informant will be told in advance or given an exact amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant's previous criminal activity
- The level of risk taken by the informant

The NRO will discuss the above factors with the Captain and recommend the type and level of payment subject to approval by the Chief of Police.

##### **603.6.1 PAYMENT PROCESS**

Approved payments to an informant should be in cash using the following process:

- (a) Payments of \$500 and under may be paid in cash from a NRO buy/expense fund.
  - (a) The NRO shall sign the voucher for cash payouts from the buy/expense fund.
- (b) Payments exceeding \$500 shall be made by issuance of a check, payable to the officer who will be delivering the payment.
  - (a) The check shall list the case numbers related to and supporting the payment.
  - (b) A written statement of the informant's involvement in the case shall be placed in the informant's file.
  - (c) The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
  - (d) Authorization signature from the Chief of Police is required for disbursement of the funds.

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- (c) To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form.
  - 1. The cash transfer form shall include the following:
    - (a) Date
    - (b) Payment amount
    - (c) Fairmont Police Department case number
    - (d) A statement that the informant is receiving funds in payment for information voluntarily rendered.
  - 2. The cash transfer form shall be signed by the informant.
  - 3. The cash transfer form will be kept in the informant's file.

#### **603.6.2 REPORTING OF PAYMENTS**

Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed \$600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of officers or the safety of the informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as "other income" and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant's file.

#### **603.6.3 AUDIT OF PAYMENTS**

The Captain or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

At least once every six months, the Chief of Police or the authorized designee should conduct an audit of all informant funds for the purpose of accountability and security of the funds. The funds and related documents (e.g., buy/expense fund records, cash transfer forms, invoices, receipts and logs) will assist with the audit process.

#### **603.7 TRAINING**

The Training Sergeant shall provide in-service training to officers, including part-time officers, in the recruitment, control, and use of confidential informants as required by Minn. Stat. § 626.8476.

#### **603.8 INFORMANT COORDINATOR**

The Chief of Police or the authorized designee should designate an informant coordinator responsible for remaining familiar with the requirements and guidelines set forth in Minn. Stat. § 626.8476 and the MN POST Confidential Informants Model Policy.

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The coordinator is also responsible for implementing department procedures and protocols concerning the recruitment, control, and use of informants, as adopted by the model policy, including but not limited to:

- (a) Establishing general guidelines related to the oversight of informants such as:
  1. The execution of informant agreements.
  2. The use of informants in exigent circumstances.
  3. Supervisor review of informant files and informant agreements, and attendance at debriefings and meetings.
  4. Communication strategies and plans to address the confidentiality and integrity of the department/informant relationship.
  5. The screening of informants for personal safety or mental health concerns before and after their use.
- (b) Developing procedures for determining initial and continued suitability, and preparing related reports (e.g., Initial Suitability Report, Continuing Suitability Report).
  1. Procedures should include a process for forwarding the results of initial and continuing suitability determinations to appropriate department members.
  2. The local prosecutor's office should be consulted before engaging individuals who require special review and approval (e.g., juveniles, government officials, those individuals obligated by legal privilege of confidentiality).
- (c) Creating a process for identifying individuals who may be or who may become unsuitable to serve as informants (e.g., individuals receiving in-patient or partial-hospitalization treatment for a substance use disorder or mental illness, participating in a treatment-based drug court program or treatment court, having overdosed in the last 12 months, having a physical or mental illness that impairs the ability to understand instructions and make informed decisions).
- (d) Working with department members to identify informants who should be referred to prevention or treatment services.
- (e) Addressing jurisdictional issues to ensure proper coordination in the use of informants.
- (f) Working with the Narcotics Unit supervisor to manage the informant file system, including establishing guidelines regarding access, review, and disclosure.
- (g) Establishing deactivation procedures.
- (h) Making any necessary updates to agency procedures.
- (i) Certifying annually to MN POST that the Department has adopted a policy that complies with the requirements of the model policy as required by Minn. Stat. § 626.8476, Subd. 3.

## Eyewitness Identification

### 604.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (Minn. Stat. § 626.8433).

#### 604.1.1 DEFINITIONS

Definitions related to the policy include:

**Eyewitness identification process** - Any field identification, live lineup or photographic identification.

**Field identification** - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

**Live lineup** - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

**Photographic lineup** - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

### 604.2 POLICY

The Fairmont Police Department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

#### 604.2.1 POST MODEL POLICY

It is the policy of the Fairmont Police Department to follow the requirements of the Eyewitness Identification Procedures model policy, established and published by the Minnesota Board of Peace Officer Standards and Training (POST) (Minn. Stat. § 626.8433).

[See attachment: Eyewitness Identification Procedures model policy.pdf](#)

[See attachment: FPD Eyewitness Interview Instructions.pdf](#)

### 604.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating officer should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

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#### **604.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM**

Supervisors shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide:

- (a) The date, time, and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.
- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
- (j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.
- (k) Any other direction to meet the requirements of the POST model policy.

The process and related forms should be reviewed at least annually and modified when necessary.

##### **604.4.1 POST REQUIREMENTS**

The Investigations supervisor should remain familiar with the requirements contained in the Eyewitness Identification Procedures model policy issued by POST and incorporate these, as necessary, into the eyewitness identification process for use by members when conducting photographic and live lineups.

#### **604.5 EYEWITNESS IDENTIFICATION**

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case. Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified, or failed to identify, the individual as the suspect.

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In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded and the recording should be retained according to current evidence procedures.

##### 604.5.1 PHOTOGRAPHIC AND LIVE LINEUP CONSIDERATIONS

When conducting a live lineup, the member presenting the lineup should not be involved in the investigation or know the identity of the suspect (Minn. Stat. § 626.8433).

When conducting a photographic lineup, if practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness.

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

The member presenting the lineup to a witness should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating officer should contact the appropriate prosecuting attorney before proceeding.

##### 604.5.2 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identification. A field elimination show-up or one-on-one identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

- (a) Obtain and document a complete description of the suspect from the witness.
- (b) Assess whether a witness should be included in a field identification process by considering:
  - 1. The length of time the witness observed the suspect.
  - 2. The distance between the witness and the suspect.
  - 3. Whether the witness could view the suspect's face.
  - 4. The quality of the lighting when the suspect was observed by the witness.
  - 5. Whether there were distracting noises or activity during the observation.



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6. Any other circumstances affecting the witness's opportunity to observe the suspect.
  7. The length of time that has elapsed since the witness observed the suspect.
- (c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
  - (d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.
  - (e) The person who is the subject of the show-up should not be shown to the same witness more than once.
  - (f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.
  - (g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect, or to perform other actions mimicking those of the suspect.
  - (h) If a witness positively identifies a subject of the show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

#### **604.6 DOCUMENTATION**

A thorough description of the eyewitness process and the results of any eyewitness identification should be documented in the case report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

##### **604.6.1 DOCUMENTATION RELATED TO RECORDINGS**

The member conducting the lineup should document the reason that an audio and/or video recording was not obtained, if applicable.

## Brady Material Disclosure

### 605.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called “*Brady* information”) to a prosecuting attorney.

#### 605.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** - Information known or possessed by the Fairmont Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

### 605.2 POLICY

The Fairmont 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 Fairmont 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.

### 605.3 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., informant or attorney-client information, attorney work product), 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.

### 605.4 DISCLOSURE OF REQUESTED INFORMATION

If *Brady* information is located, the following procedure shall apply:

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- (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) The prosecuting attorney or City 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 Custodian of Records should work with the appropriate 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.

#### **605.5 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.

#### **605.6 TRAINING**

Department personnel should receive periodic training on the requirements of this policy.

#### **605.7 BRADY PROCESS**

The Chief of Police shall select a member of the Department to coordinate requests for *Brady* information. This person shall be directly responsible to the Captain or the authorized designee.

The responsibilities of the coordinator include but are not limited to:

- (a) Working with the appropriate prosecutors' offices and the City Attorney's office to establish systems and processes to determine what constitutes *Brady* information and the method for notification and disclosure.
- (b) Maintaining a current list of members who have *Brady* information in their files or backgrounds.
  - 1. Updating this list whenever potential *Brady* information concerning any department member becomes known to the Department or is placed into a personnel or internal affairs file.

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### **605.8 SUBPOENA PROCESSING**

The individual processing subpoenas (or the supervisor of the subpoenaed member) shall check the subpoenaed member's name against the current list of those who are known to have *Brady* information in their files or background, and shall alert the coordinator if a person on the list is subpoenaed.

# Unmanned Aerial System (UAS) Operations

## 606.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval, and dissemination of images and data captured by the UAS (Minn. Stat. § 626.19).

### 606.1.1 DEFINITIONS

Definitions related to this policy include:

**Unmanned Aerial System (UAS)** - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled without the possibility of direct human intervention from within or on the aircraft (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording, or any other means (Minn. Stat. § 626.19).

## 606.2 POLICY

Unmanned aerial systems may not be utilized by any member of the Fairmont Police Department.. An officer assigned to the regional High Risk Entry and Arrest Team (HEAT) may use a UAS if authorized to do so as part of their duties on the team if assisting in their official capacity. They will be governed by the policy of the regional HEAT Team or the home department of the officer who is trained and authorized to use a UAS. Unmanned aerial systems may be used by members of other specialized teams or outside agencies in accordance with their agency's UAS policy when assisting the Fairmont Police Department.

## 606.3 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized (Minn. Stat. § 626.19).

### 606.3.1 ADDITIONAL PROHIBITIONS

Unless authorized by a warrant, a UAS shall not be deployed with facial recognition or biometric-matching technology (Minn. Stat. § 626.19).

Unless authorized by a warrant or for purposes of a permitted use outlined in this policy, a UAS shall not be used to collect data on public protests or demonstrations (Minn. Stat. § 626.19).

## Warrant Service

### 607.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this department. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol officers.

### 607.2 POLICY

It is the policy of the Fairmont Police Department to balance the safety needs of the public, the safety of department members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

### 607.3 SEARCH WARRANTS

The officer will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. The officer should have the affidavit and search warrant reviewed by another officer for accuracy whenever possible prior to submitting it to the court.

### 607.4 ARREST WARRANTS

Officers are encouraged to be proactive in locating and apprehending persons who have valid warrants for their arrest. Officers shall follow current case law as well as Minnesota 629.31 when executing a warrant for arrest. If an officer reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should contact a supervisor when possible so the HEAT Team commander can be advised and consult on whether deployment of HEAT Team is necessary. Officers shall complete all required or appropriate paperwork upon the completion of any warrant arrest.

If the warrant is classified as high risk, service will be coordinated by a supervisor. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

### 607.5 WARRANT PREPARATION

An officer who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

- (a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime or no-knock warrant execution.

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1. No-knock search warrant applications shall comply with the requirements, including the reporting requirements to the Commissioner of Public Safety, as provided by Minn. Stat. § 626.14.
  - (b) A clear explanation of the affiant's training, experience, and relevant education.
  - (c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.
  - (d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.
  - (e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.
  - (f) A specific description of the location to be searched, including photographs of the location, if reasonably available.
  - (g) A sufficient description of the items to be seized.
  - (h) Full disclosure of any known exculpatory information relevant to the warrant application (refer to the *Brady* Material Disclosure Policy).

#### **607.6 HIGH-RISK WARRANT SERVICE**

A supervisor or the authorized designee shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of officers deployed.

The member responsible for directing the service should ensure the following as applicable:

- (a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.
- (b) The warrant service is audio- and video-recorded when practicable and reasonable to do so.
- (c) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.
- (d) Reasonable efforts are made during the search to maintain or restore the condition of the location.
- (e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.

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- (f) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).
- (g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.
- (h) A copy of the search warrant is left at the location.
- (i) The condition of the property is documented with video recording or photographs after the search.

#### **607.7 DETENTIONS DURING WARRANT SERVICE**

Officers must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, officers must be mindful that only reasonable force may be used and weapons should be displayed no longer than the officer reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Officers should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

#### **607.8 ACTIONS AFTER WARRANT SERVICE**

The supervisor shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

#### **607.9 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS**

A supervisor will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the operations director. The supervisor should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The supervisor should ensure that members of the Fairmont Police



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Department are utilized appropriately. Any concerns regarding the requested use of Fairmont Police Department members should be brought to the attention of the Chief of Police or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If officers intend to serve a warrant outside Fairmont Police Department jurisdiction, the supervisor should provide reasonable advance notice to the applicable agency, request assistance as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy. Officers will remain subject to the policies of the Fairmont Police Department when assisting outside agencies or serving a warrant outside Fairmont Police Department jurisdiction.

#### **607.10 MEDIA ACCESS**

No advance information regarding warrant service operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

#### **607.11 TRAINING**

The Department should ensure officers receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

# Operations Planning and Deconfliction

## 608.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction and execution of high-risk operations.

Additional guidance on planning and serving high-risk warrants is provided in the Warrant Service Policy.

### 608.1.1 DEFINITIONS

Definitions related to this policy include:

**High-risk operations** - Operations, including service of search and arrest warrants and sting operations, that are likely to present higher risks than are commonly faced by officers on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

## 608.2 POLICY

It is the policy of the Fairmont Police Department to properly plan and carry out high-risk operations, including participation in a regional deconfliction system, in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

## 608.3 OPERATIONS DIRECTOR

The Chief of Police or their designee will designate a member of this department to be the operations director.

The operations director will develop and maintain a risk assessment form to assess, plan and coordinate operations. This form should provide a process to identify high-risk operations.

The operations director will review risk assessment forms with involved supervisors to determine whether a particular incident qualifies as a high-risk operation. The director will also have the responsibility for coordinating operations that are categorized as high risk.

## 608.4 RISK ASSESSMENT

### 608.4.1 RISK ASSESSMENT FORM PREPARATION

Officers assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk assessment form.

When preparing the form, the officer should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records. Where appropriate, the officer should also submit information to these resources.

The officer should gather available information that includes, but is not limited to:

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- (a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.
- (b) Maps of the location.
- (c) Diagrams of any property and the interior of any buildings that are involved.
- (d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).
- (e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).
- (f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).
- (g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).
- (h) Other available options that may minimize the risk to officers and others (e.g., making an off-site arrest or detention of the subject of investigation).

#### 608.4.2 RISK ASSESSMENT REVIEW

Officers will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the operations director.

The supervisor and operations director shall confer and determine the level of risk. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

#### 608.4.3 HIGH-RISK OPERATIONS

If the operations director, after consultation with the involved supervisor, determines that the operation is high risk, the operations director should:

- (a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:
  - 1. HEAT (HEAT)
  - 2. Additional personnel
  - 3. Outside agency assistance
  - 4. Special equipment
  - 5. Medical personnel
  - 6. Persons trained in negotiation
  - 7. Additional surveillance

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8. Canines
  9. Property and Evidence Section or analytical personnel to assist with cataloguing seizures
  10. Forensic specialists
  11. Specialized mapping for larger or complex locations
- (b) Contact the appropriate department members or other agencies as warranted to begin preparation.
  - (c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.
  - (d) Coordinate the actual operation.

#### **608.5 DECONFLICTION**

Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations.

The officer who is the operations lead shall ensure the subject of investigation and operations information have been entered in an applicable deconfliction system to determine if there is reported conflicting activity. This should occur as early in the process as practicable, but no later than two hours prior to the commencement of the operation. The officer should also enter relevant updated information when it is received.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

#### **608.6 OPERATIONS PLAN**

The operations director should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

- (a) Operation goals, objectives and strategies.
- (b) Operation location and people:
  1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)
  2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces,

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- availability of keys/door combinations), including aerial photos, if available, and maps of neighboring yards and obstacles, diagrams and other visual aids
3. Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service)
  4. Identification of other people who may be present in or around the operation, such as other criminal suspects, innocent third parties and children
- (c) Information from the risk assessment form by attaching a completed copy in the operational plan.
1. The volume or complexity of the information may indicate that the plan includes a synopsis of the information contained on the risk assessment form to ensure clarity and highlighting of critical information.
- (d) Participants and their roles.
1. An adequate number of uniformed officers should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.
  2. How all participants will be identified as law enforcement.
- (e) Whether deconfliction submissions are current and all involved individuals, groups and locations have been deconflicted to the extent reasonably practicable.
- (f) Identification of all communications channels and call-signs.
- (g) Use of force issues.
- (h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).
- (i) Plans for detaining people who are not under arrest.
- (j) Contingencies for handling children, dependent adults, animals and other people who might be at the location in accordance with the Child Abuse, Adult Abuse, Child and Dependent Adult Safety and Animal Control policies.
- (k) Communications plan.
- (l) Responsibilities for writing, collecting, reviewing and approving reports.

#### **608.6.1 OPERATIONS PLAN RETENTION**

Since the operations plan contains intelligence information and descriptions of law enforcement tactics, it shall not be filed with the report. The operations plan shall be stored separately and retained in accordance with the established records retention schedule.

#### **608.7 OPERATIONS BRIEFING**

A briefing should be held prior to the commencement of any high-risk operation to allow all participants to understand the operation, see and identify each other, identify roles and responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

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- (a) The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.
- (b) All participants should be provided a copy of the operations plan and search warrant, if applicable. Participating personnel should be directed to read the search warrant and initial a copy that is retained with the operation plan. Any items to be seized should be identified at the briefing.
- (c) The operations director shall ensure that all participants are visually identifiable as law enforcement officers.
  - 1. Exceptions may be made by the operations director for officers who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.
- (d) The briefing should include details of the communications plan.
  - 1. It is the responsibility of the operations director to ensure that Dispatch is notified of the time and location of the operation, and to provide a copy of the operation plan prior to officers arriving at the location.
  - 2. If the radio channel needs to be monitored by Dispatch, the dispatcher assigned to monitor the operation should attend the briefing, if practicable, but at a minimum should receive a copy of the operation plan.
  - 3. The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

#### **608.8 HEAT PARTICIPATION**

If the operations director determines that HEAT participation is appropriate, the director and the HEAT supervisor shall work together to develop a written plan. The HEAT supervisor shall assume operational control until all persons at the scene are appropriately detained and it is safe to begin a search. When this occurs, the HEAT supervisor shall transfer control of the scene to the handling supervisor. This transfer should be communicated to the officers present.

#### **608.9 MEDIA ACCESS**

No advance information regarding planned operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

#### **608.10 OPERATIONS DEBRIEFING**

High-risk operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible. This debrief may be separate from any HEAT debriefing.

## Scrap Metal Theft Investigation

### 609.1 PURPOSE AND SCOPE

This policy provides guidance regarding scrap metal theft investigations.

#### 609.1.1 DEFINITIONS

Definitions related to this policy include:

**Scrap vehicle operator or operator** - A person described in Minn. Stat. § 168A.1501 who engages in a transaction involving the purchase or acquisition of a scrap vehicle.

**Scrap metal dealer or dealer** - A person engaged in the business of buying or selling scrap metal, or both, as defined in Minn. Stat. § 325E.21.

### 609.2 POLICY

The Fairmont Police Department recognizes the difficulty in preventing scrap metal theft and may investigate, place holds on or confiscate items as provided in this policy.

### 609.3 INSPECTIONS

An officer engaged in scrap metal theft investigations may (Minn. Stat. § 168A.1501; Minn. Stat. § 325E.21):

- (a) Conduct inspections of any purchase and acquisition records maintained by scrap vehicle operators or scrap metal dealers.
- (b) Inspect scrap vehicle or scrap metal received by an operator or dealer at any reasonable time.
- (c) Inspect any video or still camera and any recordings or images required to be maintained by an operator or dealer.

Any refusal to allow such inspections should be referred to the City attorney for criminal prosecution.

### 609.4 INVESTIGATIVE HOLDS

An officer who has probable cause to believe that a scrap vehicle or motor vehicle parts in the possession of a scrap vehicle operator, or that scrap metal in the possession of a scrap metal dealer, is stolen or is evidence of a crime may verbally order the operator or dealer not to process, sell, remove or allow the removal of the item for 30 days (Minn. Stat. § 168A.1501; Minn. Stat. § 325E.21).

The officer issuing the order is responsible for ensuring that the order to hold the item is confirmed in writing within 72 hours. If the item is identified as evidence in an active criminal case, the officer may extend the hold in writing. This extension must occur within 30 days of the original order and may remain in effect for as long as the investigation or prosecution is active.

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#### *Scrap Metal Theft Investigation*

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##### **609.5 SEIZING ITEMS**

The investigating officer should confer with the prosecuting attorney to determine whether the item should be confiscated. If the item is evidence or otherwise needed for an investigation or prosecution, the officer may issue a written notice to confiscate any time during the investigative hold. The officer shall take custody of the item within 15 days of the notice to confiscate (Minn. Stat. § 168A.1501; Minn. Stat. § 325E.21).

When an item is confiscated, the officer shall:

- (a) Provide the operator or dealer a property receipt that includes at least the following:
  1. The name and telephone number of the Department.
  2. The name and telephone number of the officer.
  3. The case number related to the confiscation.
- (b) Deliver the item to the Property and Evidence Section.

When a confiscated item is no longer needed for an investigation or prosecution, it may be returned to a registered owner only after giving the operator or dealer from whom the item was seized written notice of intent to do so. The written notice should include notice of the right of the operator or dealer to make a written request for return of the item and that if the Department does not return the item within 48 hours of the request, excluding Saturday, Sunday or legal holidays, the operator or dealer may file a petition for the return of the item in the district court in the district in which the property was seized (Minn. Stat. § 626.04).

##### **609.6 TERMINATION OF HOLD OR NOTICE TO CONFISCATE**

At the conclusion of any investigation and prosecution, the officer who issued the investigative hold or a notice to confiscate property not yet confiscated shall notify the operator or dealer in writing that the hold or notice is no longer in effect (Minn. Stat. § 168A.1501; Minn. Stat. § 325E.21).



## Chapter 7 - Equipment

## Department-Owned and Personal 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 as appropriate and receipt acknowledged by signature. Upon an employee's separation from the Department, all issued equipment shall be returned and documentation of the return signed by the Captain or his/her representative. The initial equipment form used upon hiring will be used and signed by both the employee and supervisor. The initial equipment issue form will be on file with the City Clerk.

#### 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 Captain 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 review by the Captain 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, 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.
- (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.

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#### *Department-Owned and Personal Property*

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### **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 written report shall be submitted before the employee goes off-duty whenever possible 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 Captain.

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## Personal Communication Devices

### 701.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices whether issued or funded by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCD) but is intended to include all mobile telephones, personal digital assistants (PDA) and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, e-mailing, using video or camera features, playing games and accessing sites or services on the Internet.

### 701.2 POLICY

The Fairmont Police Department allows employees to utilize department-issued or funded PCDs and to possess personally owned PCDs in the workplace subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally employees are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the employee and the employee's PCD records to civil or criminal discovery or disclosure under applicable data practices laws and rules of civil or criminal procedures.

Employees who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

### 701.3 PRIVACY POLICY

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities. The use of any department-provided or -funded PCD, computer, Internet service, telephone service or other wireless service while on-duty is without any expectation of privacy that the employee might otherwise have in any communication, including the content of any such communication. Communications or data reception on personal, password-protected, web-based e-mail accounts and any other services are subject to monitoring if department equipment is used.

In accordance with this policy supervisors are authorized to conduct a limited administrative search of electronic files without prior notice, consent or a search warrant, on department-issued that have been used to conduct department-related business. Administrative searches can take place for work-related purposes that may be unrelated to investigations of employee misconduct and, as reasonably practicable, will be done in the presence of the affected employee. Prior to conducting

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#### *Personal Communication Devices*

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any search of personally owned devices, supervisors shall consult with the Chief of Police or designee. All such searches shall be fully documented in a written report.

#### **701.4 DEPARTMENT-ISSUED PCD**

Depending on an employee's assignment and the needs of the position, the Department may at its discretion issue or fund a PCD. Such devices and the associated telephone number shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

#### **701.5 PERSONALLY OWNED PCD**

Employees may carry a personally owned PCD while on-duty subject to the following conditions and limitations:

- (a) Carrying a personally owned PCD is a privilege, not a right.
- (b) The Department accepts no responsibility or liability for loss of or damage to a personally owned PCD.
- (c) Employees shall promptly notify the Department in the event the PCD is lost or stolen.
- (d) The PCD and any associated services shall be purchased, used and maintained solely at the employee's expense.
- (e) The device should not be used for work-related purposes except in exigent circumstances, (e.g. unavailability of radio communications). Employees have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.
  - 1. Members may use personally owned PCDs on-duty for routine administrative work as authorized by the Chief of Police.
- (f) The device shall not be utilized to record or disclose any business-related data, including photographs, video or the recording or transmittal of any data or material obtained or made accessible as a result of employment with the Department, without the express authorization of the Chief of Police or the authorized designee.
- (g) If the PCD is carried on-duty, employees may be directed to provide the Department or the court if the circumstances are required under Minnesota State Data Practices Laws or directed by a court order with all telephone access numbers of the device.
- (h) All work-related documents, e-mails, photographs, recordings or other public records created or received on a member's personally owned PCD should be transferred to the Fairmont Police Department and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

##### **701.5.1 PUBLIC RECORDS**

Work related information including data created, received, recorded or stored on a personally owned PCD in the course of department duties is considered government data subject to the requirements of the Minnesota Government Data Practices Act and discovery obligations (Minn. Stat. § 13.01 et seq.).

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##### **701.6 SUPERVISORY RESPONSIBILITIES**

Supervisors should ensure that members under their command are provided appropriate training on the use of PCDs consistent with this policy. Supervisors should monitor, to the extent reasonably practicable, PCD use in the workplace and take prompt corrective action if an employee is observed or reported to be improperly using a PCD. An investigation into improper conduct should be promptly initiated when circumstances warrant.

If, when carrying out any provision of this policy, the need to contact an employee who is off-duty arises, supervisors should consider delaying the contact, if reasonably practicable, until the employee is on-duty if practical.

##### **701.7 USE WHILE DRIVING**

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices to matters involving official duties and, where reasonably practicable, stop the vehicle at an appropriate location to use the PCD (Minn. Stat. § 169.475).

Except in an emergency, employees who are operating non-emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (Minn. Stat. § 169.475). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

## Vehicle Maintenance

### 702.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, maintained, refueled and present a clean appearance inside and out.

### 702.2 DEFECTIVE VEHICLES

When a department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. An on duty supervisor should be notified of any issues and with supervisor approval, a department maintenance form with the appointment and repair shall be completed. All documentation shall be forwarded to the supervisor responsible for vehicle maintenance.

#### 702.2.1 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged or perform poorly shall be removed from service for inspection and repair as soon as practicable. An on duty supervisor shall be notified of the damage or problem immediately whenever practical.

#### 702.2.2 SEVERE USE

Vehicles operated under severe use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as reasonably possible. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits or prolonged high-speed operation.

#### 702.2.3 REMOVAL OF WEAPONS

All firearms, weapons, and laptop computers shall be removed from a vehicle and properly secured in the department safe or office prior to the vehicle being released for maintenance, service or repair.

### 702.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all Department vehicles for emergency purposes and to perform routine duties.

### 702.4 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not place a vehicle in service that has less than one-half of a tank of fuel. Whenever practicable, vehicles should be fully fueled when placed into service and refueled before the level falls below one-half of a tank. Patrol vehicles shall be refueled at the end of any patrol shift unless other circumstances prevent this from being completed.

Vehicles shall only be refueled at an authorized location.

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### **702.5 WASHING OF VEHICLES**

All units shall be kept clean at all times and, weather conditions permitting, shall be washed as necessary to enhance their appearance.

Employees using a vehicle shall remove any trash or debris at the end of the shift. Any public data should be placed in a designated receptacle provided for the shredding of this material.

### **702.6 CIVILIAN EMPLOYEE USE**

Civilian employees shall not operate a marked patrol vehicle unless expressly authorized by a supervisor for an emergency purpose or authorized for a specific incident or activity.



## Vehicle Use

### 703.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure department vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of department vehicles and shall not be construed to create or imply any contractual obligation by the City of Fairmont to provide assigned take-home vehicles.

### 703.2 POLICY

The Fairmont Police Department provides vehicles for department-related business and may assign patrol and unmarked vehicles based on a determination of operational efficiency, economic impact to the Department, requirements for tactical deployments and other considerations.

### 703.3 USE OF VEHICLES

#### 703.3.1 OTHER USE OF VEHICLES

Members utilizing a vehicle for any purpose other than their normally assigned duties or normal vehicle assignment (e.g., transportation to training, community event) shall first notify the Shift Sergeant.

#### 703.3.2 INSPECTIONS

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

The interior of any vehicle that has been used to transport any person other than a member of this department should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner or arrestee, the transporting member shall search all areas of the vehicle that are accessible by the person before and after that person is transported.

All department vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

#### 703.3.3 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. Officers who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

Members shall ensure all weapons are secured while the vehicle is unattended.

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##### 703.3.4 MOBILE DIGITAL COMPUTER

Members assigned to vehicles equipped with a Mobile Digital Computer (MDC) shall log onto the MDC with the required information when going on-duty. If the vehicle is not equipped with a working MDC, the member shall notify Dispatch and an on duty supervisor. Use of the MDC is governed by the Mobile Digital Computer Use Policy.

##### 703.3.5 VEHICLE LOCATION SYSTEM

Patrol and other vehicles, at the discretion of the Chief of Police, may be equipped with a system designed to track the vehicle's location. While the system may provide vehicle location and other information, members are not relieved of their responsibility to use required communication practices to report their location and status.

Members shall not make any unauthorized modifications to the system. At the start of each shift, members shall verify that the system is on and report any malfunctions to their supervisor. If the member finds that the system is not functioning properly at any time during the shift, he/she should exchange the vehicle for one with a working system, if available.

System data may be accessed by supervisors at any time. However, access to historical data by personnel other than supervisors will require the Chief of Police or Captain's approval.

All data captured by the system shall be retained in accordance with the established records retention schedule.

##### 703.3.6 KEYS

Members approved to operate marked patrol vehicles should be issued a copy of the key as part of their initial equipment distribution. Members who are assigned a specific vehicle should be issued keys for that vehicle.

Member shall get permission from a supervisor to make any duplicate keys. The loss of a key shall be promptly reported in writing through the member's chain of command.

##### 703.3.7 AUTHORIZED PASSENGERS

Members operating department vehicles shall not permit persons other than City personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Along Policy or unless approved by the Chief or Captain

##### 703.3.8 ALCOHOL

Members who have consumed alcohol are prohibited from operating any department vehicle unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

##### 703.3.9 PARKING

Except when responding to an emergency or when urgent department-related business requires otherwise, members driving department vehicles should obey all parking regulations at all times.

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Department vehicles should be backed in to LE designated parking stalls. Members shall not park privately owned vehicles in stalls assigned to department vehicles or in other areas of the parking lot that are not so designated unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas on the south side of the Martin County Courthouse.

#### 703.3.10 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories without written permission from the Chief of Police or their designee.

#### **703.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES**

Department vehicles may be assigned to individual members at the discretion of the Chief of Police. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the member is unable to perform his/her regular assignment.

#### 703.4.1 ON-DUTY USE

Vehicle assignments shall be based on the nature of the member's duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other department members at the discretion of the Chief of Police or the authorized designee.

#### 703.4.2 UNSCHEDULED TAKE-HOME USE

Circumstances may arise where department vehicles must be used by members to commute to and from a work assignment. Members may take home department vehicles only with prior approval of a supervisor and shall meet the following criteria:

- (a) The circumstances are unplanned and were created by the needs of the Department.
- (b) Other reasonable transportation options are not available.
- (c) Vehicles will be locked when not attended.
- (d)

#### 703.4.3 ASSIGNED VEHICLES

Assignment of take-home vehicles shall be based on the location of the member's residence; the nature of the member's duties, job description and essential functions; and the member's employment or appointment status. Residence in the City of Fairmont is a prime consideration for assignment of a take-home vehicle. Members who reside outside the City of Fairmont may be required to secure the vehicle at a designated location or the Department at the discretion of the Chief of Police.

Members are cautioned that under federal and local tax rules, personal use of a City vehicle may create an income tax liability for the member. Questions regarding tax rules should be directed to the member's tax adviser.

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Criteria for use of take-home vehicles include the following:

- (a) Vehicles shall only be used for work-related purposes and shall not be used for personal errands or transports, unless special circumstances exist and the Chief of Police or Captain gives authorization.
- (b) Vehicles may be used to transport the member to and from the member's residence for work-related purposes.
- (c) Vehicles will not be used when off-duty except:
  - (a) In circumstances when a member has been placed on call by the Chief of Police or Captain and there is a high probability that the member will be called back to duty.
  - (b) When the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or traveling to or from a work-related activity or function.
  - (c) When the member has received permission from the Chief of Police or Captain.
  - (d) When the vehicle is being used by the Chief of Police, Captain or members who are in on-call administrative positions.
  - (e) When the vehicle is being used by on-call investigators.
- (d) While operating the vehicle, authorized members will carry and have accessible their duty firearms and be prepared to perform any function they would be expected to perform while on-duty.
- (e) The two-way communications radio, MDC and global positioning satellite device, if equipped, must be on and set to an audible volume when the vehicle is in operation.
- (f) Unattended vehicles are to be locked and secured at all times.
  - (a) All weapons shall be secured while the vehicle is unattended.
  - (b) All department identification, portable radios and equipment should be secured.
- (g) Vehicles are to be parked off-street at the member's residence when possible.
- (h) Vehicles are to be secured at the member's residence or the appropriate department facility, at the discretion of the Department when a member will be away (e.g., on vacation) for periods exceeding one week.
  - (a) If the vehicle remains at the residence of the member, the Department shall have access to the vehicle.
  - (b) If the member is unable to provide access to the vehicle, it shall be parked at the Department indoor impound.
- (i) The member is responsible for the care and maintenance of the vehicle.

#### 703.4.4 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Fairmont Police Department or while off-duty, an officer shall not initiate enforcement actions except in

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those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

Officers may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

Officers driving take-home vehicles shall be armed, appropriately attired and carry their department-issued identification. Officers should also ensure that department radio communication capabilities are maintained to the extent feasible.

#### **703.4.5 MAINTENANCE**

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the Department. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment.

The following should be performed as outlined below:

- (a) Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage.
- (b) It is the member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.
- (c) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the department supervisor in charge of vehicle maintenance.
- (d) The Department shall be notified of problems with the vehicle and approve any major repairs before they are performed.
- (e) All weapons and MDC shall be removed from any vehicle left for maintenance.
- (f) Shift Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

#### **703.5 UNMARKED VEHICLES**

Unmarked vehicles are assigned to various divisions and their use is restricted to the respective division and the assigned member, unless otherwise approved by a supervisor. Any use of unmarked vehicles by those who are not assigned to the division to which the vehicle is assigned shall notify the on duty supervisor of such use and the purpose for it.

#### **703.6 DAMAGE, ABUSE AND MISUSE**

When any department vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any collision report shall be filed with the agency having jurisdiction (see the Traffic Collisions Policy).

Damage to any department vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in an email and forwarded to the Shift Sergeant. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.

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### **703.7 ATTIRE AND APPEARANCE**

When operating any department vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Department.

## Assigned Patrol Use Vehicle Policy

### 704.1 PURPOSE AND SCOPE

The Department may assign a patrol use vehicle to full-time officers. This policy shall not be construed to create or imply any contractual obligation by City to assign patrol use vehicles and such assignment is at the discretion of the Chief of Police or designee. Assigned patrol use vehicles have demonstrated a long-term fiscal and service benefit to the City. Vehicles are provided better care during operation and storage and accumulate fewer service miles and hours of operation. This vehicle assignment results in an extended vehicle service life over pool patrol use vehicle assignment. Vehicles subsequently require less frequent replacement and reduced frequency of transfer and replacement of support equipment (radios, emergency, safety equipment). Ultimately per-mile operational costs are reduced.

### 704.2 LOGISTICS

The Department recognizes that the placement of all patrol vehicles in one location or a select few locations renders an increased risk of fleet damage due to act of nature or disaster (e.g., hail damage, tornado, floods, snowstorms) as well as planned or opportunity-based intentional damage and vandalism, domestic destruction and/or terrorism. These conditions could render the entire Department fleet unavailable for deployment.

### 704.3 DEFINITION

**Patrol Use Vehicle** - Includes, but is not limited to, any marked or unmarked squad car, transport, truck, plow, ATV, snowmobile, boat, SERT vehicle, undercover or unmarked vehicle or deployment trailers provided by the Department for the purpose of the job duties required by public safety or emergency response duties or essential job functions.

### 704.4 ASSIGNMENT OF PATROL USE VEHICLES

Assignment of Police patrol use vehicles shall be governed solely by the City and the Department under the discretion of the Chief of Police.

#### 704.4.1 ELIGIBILITY

Eligibility for assignment of a patrol use vehicle requires the officer to be in good standing with Department.

#### 704.4.2 ASSIGNMENT GUIDELINES AND USE CRITERIA

Guidelines for assignment determination and criteria for use of patrol use vehicles include the following:

- (a) The location of the officer's home, nature of the officer's duties, job description and essential functions and employment status. Residence in the City is a prime consideration.
- (b) The Chief of Police retains the right to assign/revoke any or all assigned patrol use vehicle.

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#### *Assigned Patrol Use Vehicle Policy*

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- (c) Patrol use vehicles should be operated in accordance with Department policy and state law.
- (d) Patrol use vehicles shall not be used for unapproved use, either on- or off-duty and are restricted to operation by City employees, peace officers assigned to the City or by peace officers under their direction.
- (e) Take home vehicles are to be parked off-street at the officer's residence when possible.
- (f) All department vehicles are subject to inspection, search and validation of location at all times by the Chief of Police, designee or any on-duty supervisor.
- (g) Take home vehicles are to be secured at the officer's home or the Department when an officer is on extended vacation. If the vehicle remains at the home of the officer, the Department shall have access to the vehicle, including if garaged. If the officer is unable to provide access the vehicle it shall be parked and secured at the department's indoor impound.
- (h) A patrol use vehicle despite assignment to an officer for specific duties may be re-assigned or utilized by other Department personnel at the discretion of the Department.
- (i) The assignment of patrol use vehicles may be suspended when the officer is unable to perform his/her regular assignment.
- (j) Patrol use vehicles will not be used by members when off-duty with the following exceptions:
  - 1. On-call administrative positions.
  - 2. On-call investigators.
  - 3. In circumstances when an officer has been placed on call by the Chief of Police or Captain and there is a high possibility the officer will be called back to duty.
  - 4. When the officer is performing a work-related function while off-duty, including patrol use vehicle maintenance or travelling to or from a work-related activity or function.
  - 5. When the officer has received permission for the use of the patrol use vehicle from the Chief of Police or Captain.
- (k) An officer's family members or other persons will not be allowed to ride in any City vehicle except as stated in the Ride Along Policy with prior approval from the Captain.
- (l) Officers are prohibited from operating a City-owned vehicle when on- or off-duty if the officer is or has been consuming alcohol, unless required by their duty assignment (task force, undercover work, etc.). However, regardless of assignment employees may not violate state law regarding vehicle operation while intoxicated.
- (m) Whenever operating vehicles owned by the Department whether on- or off-duty the officer will carry and have accessible his/her duty firearm and be prepared to perform any function they would be expected to perform while on duty.



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- (n) The two-way communications radio, MDC and Global Positioning Satellite device, if equipped, must be on and set to an audible volume when the vehicle is in operation.
- (o) Officers shall ensure all weapons are secure while the patrol use vehicle is unattended.
- (p) Unattended patrol use vehicles are to be locked and secure at all times. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine environmental safety and charging) or the vehicle is parked and secure at the Law Enforcement Center.

The Chief of Police or designee may make exceptions to these provisions.

#### **704.5 VEHICLE ALTERATIONS**

Alterations of any type to a department owned vehicle requires prior written authorization of the Chief of Police or designee.

#### **704.6 OFFICER MAINTENANCE RESPONSIBILITIES**

Officers will be responsible for the upkeep of patrol use vehicles. Failure to adhere to these requirements may result in discipline and loss of patrol use vehicle assignment. The following should be performed as outlined below:

- (a) When in operation the officer must be prepared and reasonably available to respond to an emergency. If officers are summoned to, or involved in, a law enforcement activity shall notify dispatch of their response or activity and should continue the action until canceled or concluded.
- (b) Vehicles should be fueled at the end of each shift to prepare for an emergency response at the next use.
- (c) Upon start of shift check all fluid levels, tires, all safety and emergency equipment, interior and exterior to make verify the vehicle is in a safe operating condition and prepared for emergency service.
- (d) At the start and end of any use inspect the vehicle for any damage. If damage is discovered, advise your immediate supervisor.
- (e) Vehicle is kept clean both inside and out as is reasonable and all work-related and issued equipment is in the patrol use vehicle. The appearance of the vehicle reflects directly upon the officer and the entire Department.
- (f) Ensure all scheduled vehicle maintenance and car washes are performed as necessary as approved by the Department supervisor in charge of vehicle maintenance. The Department shall be notified of problems with Department-owned vehicles and approve any major repairs before they are performed. Scheduled regular maintenance, unless specified otherwise, is to perform vehicle maintenance as set by the vehicle manufacturer.

#### **704.7 ATTIRE AND APPEARANCE**

When operating a patrol use vehicle off-duty officers may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public attire and appearance regardless of the activity should be suitable to reflect positively upon the Department.

## Cash Handling, Security and Management

### 705.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure department members handle cash appropriately in the performance of their duties.

This policy does not address cash-handling issues specific to the Property and Evidence Section and Informants policies.

### 705.2 POLICY

It is the policy of the Fairmont Police Department to properly handle and document cash transactions and to maintain accurate records of cash transactions in order to protect the integrity of department operations and ensure the public trust.

### 705.3 PETTY CASH FUNDS

The Chief of Police shall designate a person as the fund manager responsible for maintaining and managing the petty cash fund.

Each petty cash fund requires the creation and maintenance of an accurate and current transaction ledger and the filing of invoices, receipts, cash transfer forms and expense reports by the fund manager.

### 705.4 PETTY CASH TRANSACTIONS

The fund manager shall document all transactions on the ledger and other appropriate forms. Each person participating in the transaction shall sign or otherwise validate the ledger, attesting to the accuracy of the entry. Transactions should include the filing of an appropriate receipt, invoice or cash transfer form. Transactions that are not documented by a receipt, invoice or cash transfer form require an expense report.

### 705.5 PETTY CASH AUDITS

The fund manager shall perform an audit no less than once every six months. This audit requires that the manager and at least one other command staff member, selected by the Chief of Police, review the ledger and verify the accuracy of the accounting. The fund manager and the participating member shall sign or otherwise validate 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.

Transference of fund management to another member shall require a separate petty cash audit and involve a command staff member.

A separate audit of each petty cash fund should be completed on a random date, approximately once each year by the City.

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##### **705.6 ROUTINE CASH HANDLING**

Those who handle cash as part of their property or Narcotics Unit supervisor duties shall discharge those duties in accordance with the Property and Evidence Section and Informants policies.

Members who routinely accept payment for department services shall discharge those duties in accordance with the procedures established for those tasks.

##### **705.7 OTHER CASH HANDLING**

Members of the Department who, within the course of their duties, are in possession of cash that is not their property or is outside their defined cash-handling responsibilities shall, as soon as practicable, verify the amount, summon another member to verify their accounting, and process the cash for safekeeping or as evidence or found property, in accordance with the Property and Evidence Section and Informants policies.

Cash in excess of \$1,000 requires immediate notification of a supervisor, special handling, verification and accounting by the supervisor. Each member involved in this process shall properly document the process and record entry in their narrative report or the case file..

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# Personal Protective Equipment

## 706.1 PURPOSE AND SCOPE

This policy identifies the different types of personal protective equipment (PPE) provided by the Department as well the requirements and guidelines for the use of PPE.

This policy does not address ballistic vests or protection from communicable disease, as those issues are addressed in the Body Armor and Communicable Diseases policies.

### 706.1.1 DEFINITIONS

Definitions related to this policy include:

**Personal protective equipment (PPE)** - Equipment that protects a person from serious workplace injuries or illnesses resulting from contact with chemical, radiological, physical, electrical, mechanical, or other workplace hazards.

**Respiratory PPE** - Any device that is worn by the user to protect from exposure to atmospheres where there is smoke, low levels of oxygen, high levels of carbon monoxide, or the presence of toxic gases or other respiratory hazards. For purposes of this policy, respiratory PPE does not include particulate-filtering masks such as N95 or N100 masks.

## 706.2 POLICY

The Fairmont Police Department endeavors to protect members by supplying certain PPE to members as provided in this policy.

## 706.3 OFFICER RESPONSIBILITIES

Members are required to use PPE as provided in this policy and pursuant to their training.

Members are responsible for proper maintenance and storage of issued PPE. PPE should be stored in an appropriate location so that it is available when needed.

Any member who identifies hazards in the workplace is encouraged to utilize the procedures in the Workplace Accident and Injury Reduction Policy to recommend new or improved PPE or additional needs for PPE.

## 706.4 HEARING PROTECTION

Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed industry standards for use at firing ranges (29 CFR 1910.95; Minn. R. 5205.0010).

## 706.5 EYE PROTECTION

Approved eye protection shall be used by members during firearms training. Eye protection for members who wear prescription lenses shall incorporate the prescription (e.g., eye protection that can be worn over prescription lenses). Members shall ensure their eye protection does not interfere with the fit of their hearing protection.

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The Firearms Instructor shall ensure eye protection meets or exceeds consensus standards set by the American National Standards Institute (29 CFR 1910.133; Minn. R. 5205.0010).

#### **706.6 RESPIRATORY PROTECTION**

The Captain is responsible for ensuring a respiratory protection plan is developed and maintained by a trained and qualified member. The plan shall include procedures for (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) Selecting appropriate respiratory PPE based on hazards and risks associated with functions or positions.
- (b) Fit testing, including identification of members or contractors qualified to conduct fit testing.
- (c) Medical evaluations.
- (d) PPE inventory control.
- (e) PPE issuance and replacement.
- (f) Cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respiratory PPE, including schedules for these activities.
- (g) Regularly reviewing the PPE plan.
- (h) Remaining current with applicable National Institute for Occupational Safety and Health (NIOSH), American National Standards Institute (ANSI), Occupational Safety and Health Administration (OSHA), Environmental Protective Agency (EPA), and state PPE standards and guidelines.

##### **706.6.1 RESPIRATORY PROTECTION USE**

Designated members may be issued respiratory PPE based on the member's assignment (e.g., a narcotics investigator who is involved in clandestine lab investigations).

Respiratory PPE may be worn when authorized by a scene commander who will determine the type and level of protection appropriate at a scene based upon an evaluation of the hazards present.

Scene commanders are responsible for monitoring members using respiratory PPE and their degree of exposure or stress. When there is a change in work area conditions or when a member's degree of exposure or stress may affect respirator effectiveness, the scene commander shall reevaluate the continued effectiveness of the respirator and direct the member to leave the respirator use area when the scene commander reasonably believes (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) It is necessary for the member to wash his/her face and the respirator facepiece to prevent eye or skin irritation associated with respirator use.
- (b) The member detects vapor or gas breakthrough, or there is a change in breathing resistance or leakage of the facepiece.
- (c) The member needs to replace the respirator, filter, cartridge, or canister.

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##### 706.6.2 MEMBER RESPONSIBILITIES FOR RESPIRATORY PROTECTION

Members shall not use self-contained breathing apparatus (SCBA), full-face respirators, or cartridge respirators unless they have completed training requirements for the equipment.

Members exposed to environments that are reasonably known to be harmful due to gases, smoke, or vapors shall use respiratory PPE.

Members using respiratory PPE shall (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) Ensure that they have no facial hair between the sealing surface of the facepiece and the face that could interfere with the seal or the valve function. Members also shall ensure that they have no other condition that will interfere with the face-to-facepiece seal or the valve function.
- (b) Not wear corrective glasses, goggles, or other PPE that interferes with the seal of the facepiece to the face, or that has not been previously tested for use with that respiratory equipment.
- (c) Perform a user seal check per department-approved procedures recommended by the respirator manufacturer each time they put on a tight-fitting respirator.
- (d) Leave a respiratory use area whenever they detect vapor or gas breakthrough, changes in breathing resistance or leakage of their facepiece and ensure that the respirator is replaced or repaired before returning to the affected area.

##### 706.6.3 GAS MASK

Full-face air-purifying respirators, commonly referred to as gas masks, may be fitted with mechanical pre-filters or combination cartridge/filter assemblies for use in areas where gases, vapors, dusts, fumes, or mists are present. Members must identify and use the correct cartridge based on the circumstances (29 CFR 1910.134; Minn. R. 5205.0010).

A scene commander may order the use of gas masks in situations where the use of an SCBA is not necessary. These incidents may include areas where tear gas has or will be used or where a vegetation fire is burning. Gas masks shall not be used if there is a potential for an oxygen-deficient atmosphere.

Members shall ensure their gas mask filters are replaced whenever:

- (a) They smell, taste, or are irritated by a contaminant.
- (b) They experience difficulty breathing due to filter loading.
- (c) The cartridges or filters become wet.
- (d) The expiration date on the cartridges or canisters has been reached.

##### 706.6.4 SELF-CONTAINED BREATHING APPARATUS

Scene commanders may direct members to use SCBA when entering an atmosphere that may pose an immediate threat to life, would cause irreversible adverse health effects, or would impair an individual's ability to escape from a dangerous atmosphere. These situations may include but are not limited to:

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- (a) Entering the hot zone of a hazardous materials incident.
- (b) Entering any area where contaminant levels may become unsafe without warning, or any situation where exposures cannot be identified or reasonably estimated.
- (c) Entering a smoke- or chemical-filled area.

The use of SCBA should not cease until approved by a scene commander.

#### **706.6.5 RESPIRATOR FIT TESTING**

No member shall be issued respiratory PPE until a proper fit testing has been completed by a designated member or contractor (29 CFR 1910.134; Minn. R. 5205.0010).

After initial testing, fit testing for respiratory PPE shall be repeated (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) At least once every 12 months.
- (b) Whenever there are changes in the type of SCBA or facepiece used.
- (c) Whenever there are significant physical changes in the user (e.g., obvious change in body weight, scarring of the face seal area, dental changes, cosmetic surgery, or any other condition that may affect the fit of the facepiece seal).

All respirator fit testing shall be conducted in negative-pressure mode.

#### **706.6.6 RESPIRATORY MEDICAL EVALUATION QUESTIONNAIRE**

No member shall be issued respiratory protection that forms a complete seal around the face until (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) The member has completed a medical evaluation that includes a medical evaluation questionnaire.
- (b) A physician or other licensed health care professional has reviewed the questionnaire.
- (c) The member has completed any physical examination recommended by the reviewing physician or health care professional.

#### **706.7 RECORDS**

The Training Sergeant is responsible for maintaining records of all:

- (a) PPE training.
- (b) Initial fit testing for respiratory protection equipment.
- (c) Annual fit testing.
- (d) Respirator medical evaluation questionnaires and any subsequent physical examination results.

1. These records shall be maintained in a separate confidential medical file.

The records shall be maintained in accordance with the department records retention schedule, 29 CFR 1910.1020, and Minn. R. 5205.0010.

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### **706.8 TRAINING**

Members should be trained in the respiratory and other hazards to which they may be potentially exposed during routine and emergency situations.

All members shall be trained in the proper use and maintenance of PPE issued to them, including when the use is appropriate; how to put on, remove, and adjust PPE; how to care for the PPE; and the limitations (29 CFR 1910.132; Minn. R. 5205.0010).

Members issued respiratory PPE shall attend annual training on the proper use of respiratory protection devices (29 CFR 1910.134; Minn. R. 5205.0010).



## **Chapter 8 - Support Services**

## Property and Evidence Section

### 800.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove and/or destroy property. Property belonging to persons in custody should be handled pursuant to policies guiding Juvenile Temporary Custody, Temporary Holding Facility, Jail Operations, and the operations procedures for each facility or operation.

#### 800.1.1 PROPERTY AND EVIDENCE SECTION SECURITY

The Property and Evidence Section shall maintain secure storage and control of all property necessitating custody by the Department. The property and evidence technician reports to the Captain and is responsible for the security of the Property and Evidence Section. Property and Evidence Section keys are maintained only by the property and evidence technician. The property and evidence technicians shall not loan Property and Evidence Section keys to anyone and shall maintain keys in a secure manner.

Any individual entering the Property and Evidence Section other than the property and evidence technician must be accompanied by the property and evidence technician.

### 800.2 DEFINITIONS

**Property** - Includes all items of evidence, items taken for safekeeping and found property.

**Evidence** - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

**Safekeeping** - Includes the following types of property:

- Property obtained by the Department for safekeeping, such as a firearm.
- Personal property of an arrestee not taken as evidence.
- Property taken for safekeeping under authority of a law.

**Found Property** - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

### 800.3 PROPERTY HANDLING

Any employee who first comes into possession of any property, shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room, along with the property label. Care shall be taken to maintain the chain of custody for all evidence.

Any property seized by an officer with or without a warrant shall be safely kept for as long as necessary for the purpose of being produced as evidence (Minn. Stat. § 626.04 (a)). Seized property held as evidence shall be returned to its rightful owner unless subject to lawful detention

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or ordered destroyed or otherwise disposed of by the court (Minn. Stat. § 626.04 (b) and Minn. Stat. § 629.361).

An officer arresting a person for burglary, robbery or a theft offense shall use reasonable diligence to secure the property that was alleged to have been stolen and shall be answerable for it while it remains in his/her custody (Minn. Stat. § 629.361).

Where ownership can be established as to found property that has no apparent evidentiary value, such property may be released to the owner without the need for booking. The property documentation must be completed to document the release of property not booked. The owner shall sign the documentation acknowledging receipt of the item(s).

#### 800.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty. Employees booking property shall observe the following guidelines:

- (a) Complete the property label describing each item of property separately, listing all serial numbers, owner's name, finder's name and other identifying information or markings.
- (b) The employee shall mark each item of evidence with initials and date.
- (c) Items too small to mark, or that will be damaged or degraded or devalued by marking, should be individually packaged, labeled and the package marked with initials and date.
- (d) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (e) The property documentation shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if it is stored somewhere other than a property locker.
- (f) When the property is too large to be placed in a temporary property locker, the item may be temporarily stored in any department supply room or other location that can be secured from unauthorized entry. The location shall be secured to prevent entry and a completed property label placed into a numbered property locker indicating the location of the property.

#### 800.3.2 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify the immediate supervisor or the Shift Sergeant. The Bomb Squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the police facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials.

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##### 800.3.3 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) Bodily fluids such as blood or semen stains shall be air-dried prior to booking.
- (b) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property may be released directly to the property and evidence technician, or placed in the bicycle storage area (Fairmont Impound).
- (c) All cash shall be counted in the presence of another officer whenever possible and the envelope initialed by both officers. A supervisor shall be contacted for cash in excess of \$1,000. The supervisor shall also witness the count, and will initial and date the property documentation and specify any additional security procedures to be used.
- (d) All evidence collected by personnel processing a crime scene requiring specific storage requirements pursuant to laboratory procedures should clearly indicate storage requirements on the property label.

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

##### 800.3.4 COURT-ORDERED FIREARM SURRENDERS

- (a) Although not required, this department generally will accept firearms surrendered by an abusing party or defendant pursuant to a court order. A decision to refuse a surrendered firearm should be approved by a supervisor (Minn. Stat. § 260C.201, Subd. 3; Minn. Stat. § 518B.01, Subd. 6; Minn. Stat. § 609.2242, Subd. 3; Minn. Stat. § 609.749, Subd. 8).
- (b) Members accepting surrendered firearms should complete an Evidence/Property form and include the following information:
  1. Whether the firearm is being transferred temporarily or permanently
  2. The abusing party or defendant's name
  3. The date and time of the transfer
  4. Complete description of all firearms surrendered (e.g., make, model, serial number, color, identifying marks)
- (c) In certain circumstances, a court may issue an order for the immediate transfer of firearms of an abusing party or defendant.
  1. FPD may serve the court order either by assignment or when an officer comes into contact with an abusing party or defendant for which a court order has been issued but has not been served, or for which they are in violation. In such cases, if there are firearms that may be lawfully seized, they should be seized and submitted to the Property and Evidence Section pursuant to standard protocol.

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2. If the abusing party or defendant is not cooperative, seek guidance from legal counsel to ensure that firearms are seized lawfully.
  3. Permits possessed by the abusing party or defendant should be returned to the Sheriff where the person resides.
- (d) The Property and Evidence Section shall develop and maintain a process to store, transfer or release firearms ordered surrendered by a court. The procedures shall:
1. Provide for adequate storage and protection so as to preserve the condition of the firearms.
  2. Require a valid court order or written notice from the abusing party or defendant to be presented before any transfer of the firearms.
  3. Ensure that recipients of transferred firearms are not legally prohibited from possession of firearms under state or federal law.
  4. Ensure that proper affidavits or proof of transfer are obtained from any designated firearms dealer or third party.
  5. Ensure that prior to disposition of unclaimed firearms, abusing parties or defendants are notified via certified mail.

#### **800.4 PACKAGING OF PROPERTY**

Packaging will conform to the Property Packaging Procedures. Certain items require special consideration and shall be booked separately as follows:

- (a) Controlled substances
- (b) Firearms (ensure they are unloaded and booked separately from ammunition)
- (c) Property with more than one known owner
- (d) Drug paraphernalia
- (e) Fireworks
- (f) Contraband

##### **800.4.1 PACKAGING CONTAINER**

Employees shall package all property in a suitable container available for its size. Knife boxes should be used to package knives, handgun boxes should be used for handguns and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

##### **800.4.2 PACKAGING CONTROLLED SUBSTANCES**

The officer seizing controlled substances shall retain such property in his/her possession until it is properly weighed, packaged, tagged and placed in the designated drug locker. Prior to

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packaging and if the quantity allows, a presumptive test should be made on all suspected controlled substances. If conducted, the results of this test shall be included in the officer's report.

Controlled substances shall be packaged in an envelope of appropriate size, available in the evidence room. The booking officer shall initial the sealed envelope. Controlled substances shall not be packaged with other property.

The booking officer shall weigh the suspected narcotics or dangerous drugs in the container in which it was seized. A full description of the item, along with packaging and total weight of the item as seized, will be placed in the case report and on the property label. After packaging and sealing as required, the booking officer will initial and date the packaging by the officer.

A completed property tag shall be attached to the outside of the container.

#### **800.4.3 RIGHT OF REFUSAL**

The property and evidence technician has the right to refuse any piece of property that is not properly documented or packaged. Should the property and evidence technician refuse an item, he/she shall maintain secure custody of the item in a temporary property locker and inform the supervisor and the submitting officer.

#### **800.5 RECORDING OF PROPERTY**

The property and evidence technician receiving custody of evidence or property shall track all evidence and property using the department's current evidence software. The date and time the property was received and where the property will be tracked using the evidence software and digital copies attached to the corresponding digital case file.

A property software shall maintain a unique property number created for each piece of property received. The log shall record by property number, the date received, case number, tag number, item description, item location and date disposed. A unique property number shall be obtained for each item or group of items from the log. This number shall be recorded on the property tag and the property log.

Any changes in the location of property held by the Fairmont Police Department shall be noted in the property log.

#### **800.6 PROPERTY CONTROL**

Each time the property and evidence technician receives property or releases property to another person, he/she shall enter this information on the property log. Officers desiring property for court shall contact the property and evidence technician at least one day prior to the court day whenever possible.

##### **800.6.1 RESPONSIBILITIES OF OTHER PERSONNEL**

Every time property is released or received, an appropriate entry on the evidence package shall be completed to maintain the chain of possession. No property or evidence is to be released without first receiving authorization from a supervisor or the investigating officer.

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Request for analysis for items shall be completed on the appropriate forms and submitted to the property and evidence technician. This request may be filled out any time after booking of the property or evidence.

#### 800.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting employee will check the evidence out of property, indicating the date and time on the property log and the request for laboratory analysis.

The property and evidence technician releasing the evidence must complete the required information on the property log and the evidence. The lab forms will be transported with the property to the examining laboratory. A copy of the lab form will remain with the evidence and the copy will be returned to the Records Section for filing with the case. A property or evidence technician may submit evidence items for analysis upon request from an officer.

#### 800.6.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card, stating the date, time and to whom it was released.

The property and evidence technician shall obtain the signature of the person to whom property was released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property log, indicating date, time and the person who returned the property.

#### 800.6.4 AUTHORITY TO RELEASE PROPERTY

Property held as evidence for a pending criminal investigation or proceeding shall be retained for a period of time no less than that required pursuant to Minn. Stat. § 628.26.

For property in custody of the Department for investigatory or prosecutorial purposes and owned by a victim or witness, a property and evidence technician shall, upon the request of the owner:

- (a) Provide a list describing the property unless such release would seriously impede an investigation.
- (b) Return the property expeditiously unless the property is required as evidence.

Upon the direction of a prosecuting attorney, property held as evidence of a crime may be photographed and released to the owner of the property in accordance with the requirements of Minn. Stat. § 609.523.

#### 800.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

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Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. Release of all property shall be properly documented.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction, which may be conducted as an Internet-based auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed. The final disposition of all such property shall be fully documented in related reports.

A property and evidence technician shall release the property upon proper identification being presented by the owner for which an authorized release has been received. The owner shall also pay any costs incurred by the agency, including costs for advertising or storage if applicable. A signature of the person receiving the property shall be recorded on a property receipt card. . After release of all property entered on the property receipt card, the card shall be forwarded to the Records Section for filing with the case. If some items of property have not been released, the property card will remain with the Property and Evidence Section.

Upon release or other form of disposal, the proper entry shall be recorded in all property documentation and logs.

#### 800.6.6 STOLEN OR EMBEZZLED PROPERTY

Stolen or embezzled property or property believed to be stolen or embezzled that is in the custody of this department shall be restored to the owner (Minn. Stat. § 609.523 Subd. 3). Such property may be released from law enforcement custody when the following are satisfied:

- (a) Photographs of the property are filed and retained by the Property and Evidence Section.
- (b) Satisfactory proof of ownership of the property is shown by the owner.
- (c) A declaration of ownership is signed under penalty of perjury.
- (d) A receipt for the property is obtained from the owner upon delivery.

#### 800.6.7 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a court order or other proof of the undisputed right to the involved property.

All parties should be advised that their claims are civil. In extreme situations, legal counsel for the Department may be asked to file an interpleader in court to resolve the disputed claim.



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##### 800.6.8 RELEASE AND DISPOSAL OF FIREARMS

A firearm may not be released until it has been verified that the person receiving the weapon is not prohibited from receiving or possessing the weapon by 18 USC § 922.

The Department shall make best efforts for a period of 90 days after the seizure of an abandoned or stolen firearm to protect the firearm from harm and return it to the lawful owner (Minn. Stat. § 609.5315 Subd. 7). At the expiration of such period, the firearm or other deadly weapon may be processed for disposal consistent with this policy.

##### **800.7 DISPOSITION OF PROPERTY**

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The property and evidence technician shall request a disposition or status on all property that has been held in excess of 120 days and for which no disposition has been received from a supervisor or investigator.

##### 800.7.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances.
- Animals, birds and equipment related to their care and containment that have been ordered forfeited by the court.
- Counterfeiting equipment.
- Gaming devices.
- Obscene matter ordered to be destroyed by the court.
- Altered vehicles or component parts.
- Controlled substances.
- Unclaimed, stolen or embezzled property.
- Destructive devices.

Money found in gambling devices by any peace officer, other than a municipal police officer, shall be paid into the county treasury. Money found in gambling devices by a municipal police officer shall be paid into the treasury of the municipality (Minn. Stat. § 626.04 (b)).

##### 800.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the money is presumed abandoned property and is reportable as specified in § 804.8, Minn. Stat. § 345.38 and Minn. Stat. § 345.75).

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#### *Property and Evidence Section*

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##### **800.7.3 RETENTION OF BIOLOGICAL EVIDENCE**

The Property and Evidence Section Supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor
- (d) Any sexual assault victim
- (e) The Investigation Division Supervisor

Biological evidence shall be retained for a minimum period established by law, the Property and Evidence Section Supervisor or the expiration of any sentence imposed related to the evidence (Minn. Stat. § 590.10), whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Investigation Division Supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

Bulk evidence may be destroyed prior to these minimum retention periods only pursuant to a court order or if the Property and Evidence Section Supervisor determines that such destruction is consistent with Minn. Stat. § 590.10 and the above notices have been made.

##### **800.8 REPORT OF ABANDONED PROPERTY (MONEY)**

The Investigations supervisor shall complete an annual report of presumed abandoned property as described in law to the Commissioner of Commerce. The report is to cover the 12-month period ending July 1 each year and is to be filed before October 31 each year (Minn. Stat. § 345.41).

##### **800.9 INSPECTIONS OF THE PROPERTY AND EVIDENCE SECTION**

- (a) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.
- (b) An annual audit of evidence held by the Department shall be conducted by a Captain who is not routinely or directly connected with evidence control, as assigned by the Chief of Police.
- (c) Whenever a change is made in personnel who have access to the Property and Evidence Section, an inventory of all evidence/property shall be made by an individual(s) not associated with the Property and Evidence Section or function to ensure that records are correct and all evidence property is accounted for.

## Records Section Procedures

### **801.1 PURPOSE AND SCOPE**

The Captain shall maintain the Department Records Section Procedures Manual on a current basis to reflect the procedures being followed within the Records Section. Policies and procedures that apply to all employees of this department are contained in this chapter.

#### **801.1.1 NUMERICAL FILING SYSTEM**

Case reports are filed numerically within the Records Section by Records Section personnel.

Reports are numbered commencing with the last two digits of the current year followed by a sequential number beginning with 1 starting at midnight on the first day of January of each year. As an example, case number 21-1- would be the first new case beginning January 1, 2021.

### **801.2 FILE ACCESS AND SECURITY**

All reports including, but not limited to, initial, supplemental, follow-up, evidence and all reports related to a case shall be maintained in a secure area within the Records Section. Access to report files after hours or when records personnel are otherwise not available may be obtained through the Shift Sergeant.

#### **801.2.1 REQUESTING ORIGINAL REPORTS**

Generally, original reports shall not be removed from the Records Section. Should an original report be needed for any reason, the requesting employee shall first obtain authorization from the Captain. All original reports removed from the Records Section shall be recorded on the Report Check-Out Log, which shall constitute the only authorized manner by which an original report may be removed from the Records Section.

### **801.3 RECORDS MANAGER TRAINING**

The Captain shall receive training in records management, including proper maintenance, retention and disposal of records and the proper release of records under the Minnesota Government Data Practices Act (MGDPA).

### **801.4 REQUISITION OF SUPPLIES**

All personnel in need of supplies shall notify the Record Section in person or via email. Purchases over \$50 shall require approval from a supervisor before ordering.

## Records Maintenance and Release

### 802.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

#### 802.1.1 DEFINITIONS

Definitions related to this policy include:

**Confidential Data on Individuals** - Data classified as confidential by state or federal law and that identifies individuals and cannot be disclosed to the public or even to the individual who is the subject of the 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 classified as private by state or federal law and that identifies individuals that are only available to the individual who is the subject of the data or with the individual's consent (Minn. Stat. § 13.02, Subd. 12).

### 802.2 POLICY

The Fairmont Police Department is committed to providing public access to records and data in a manner that is consistent with the Minnesota Government Data Practices Act (MGDPA) and Official Records Act (Minn. Stat. § 13.03; Minn. Stat. § 15.17).

### 802.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Chief of Police shall designate a Custodian of Records. The responsibilities of the Custodian of Records include, but are not limited to:

- (a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department data (Minn. Stat. § 15.17; Minn. Stat. § 138.17, Subd. 7).
- (b) Maintaining and updating the department records retention schedule, including:
  1. Identifying the minimum length of time the Department must keep data.

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#### *Records Maintenance and Release*

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2. Identifying the department division responsible for the original data.
- (c) Establishing rules regarding the inspection and copying of department data as reasonably necessary for the protection of such data.
- (d) Identifying data or portions of data that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of data.
- (f) Ensuring a current schedule of fees for public data as allowed by law is available.
- (g) Ensuring the posting or availability to the public a document that contains the basic rights of a person who requests government data, the responsibilities of the Department, and any associated fees (Minn. Stat. § 13.025).
- (h) Ensuring data created by the Department is inventoried and subject to inspection and release pursuant to lawful requests consistent with the MGDPA requirements (Minn. Stat. § 13.03, Subd. 1).

#### **802.4 PROCESSING REQUESTS FOR PUBLIC RECORDS**

Any department member who receives a request for data shall route the request to the Custodian of Records or the authorized designee.

##### **802.4.1 REQUESTS FOR RECORDS**

The processing of requests for data is subject to the following:

- (a) A person shall be permitted to inspect and copy public government data upon request at reasonable times and places and shall be informed of the data's meaning if requested (Minn. Stat. § 13.03, Subd. 3).
  1. The Department may not charge or require the requesting person to pay a fee to inspect data. Inspection includes, but is not limited to, the visual inspection of paper and similar types of government data. Inspection does not include printing copies, unless printing a copy is the only method to provide for inspection of the data (Minn. Stat. § 13.03, Subd. 3(b)).
  2. For data stored and made available in electronic form via remote access, public inspection includes allowing remote access by the public to the data and the ability to print copies or download the data. A fee may be charged for remote access to data where either the data or the access is enhanced at the request of the person seeking access (Minn. Stat. § 13.03, Subd. 3(b)).
- (b) Government data maintained by this department using a computer storage medium shall be provided in that medium in electronic form, if a copy can be reasonably made. The Department is not required to provide the data in an electronic format or program that is different from the format or program in which the data is maintained (Minn. Stat. § 13.03, Subd. 3 (e)).
- (c) The Department is not required to create records that do not exist.
- (d) The Custodian of Records or designee processing the request shall determine if the requested data is available and, if so, whether the data is restricted from release or

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denied. The Custodian of Records or designee shall inform the requesting person of the determination either orally at the time of the request or in writing as soon after that time as reasonably possible. The Custodian of Records or designee shall cite the specific statutory section, temporary classification or specific provision of state or federal law on which the determination is based. Upon the request of any person denied access to data, the denial shall be certified in writing (Minn. Stat. § 13.03, Subd. 3 (f)).

- (e) When a record contains data with release restrictions and data that is not subject to release restrictions, the restricted data shall be redacted and the unrestricted data released.
  - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.

#### **802.5 RELEASE RESTRICTIONS**

Examples of release restrictions include:

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver's license record, motor vehicle record, or any department record, including traffic collision reports, is restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Private data on the following individuals (Minn. Stat. § 13.82, Subd. 17):
  - 1. An undercover law enforcement officer.
  - 2. A victim or alleged victim of criminal sexual conduct, or sex trafficking, or of a violation of Minn. Stat. § 617.246, Subd. 2.
  - 3. A paid or unpaid informant if the Department reasonably believes revealing the identity would threaten the personal safety of the informant.
  - 4. A victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, unless the Department reasonably determines that revealing the identity of the victim or witness would not threaten the personal safety or property of the individual.
  - 5. A person who placed a call to a 9-1-1 system or the identity of the person whose phone was used to place a call to the 9-1-1 system when revealing the identity may threaten the personal safety or property of any person or the purpose of the call was to receive help in a mental health emergency. A voice recording of a call placed to the 9-1-1 system is deemed to reveal the identity of the caller.
  - 6. A juvenile witness when the subject matter of the investigation justifies protecting the identity of the witness.

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7. A mandated reporter.
- (c) Audio recordings of calls placed to the 9-1-1 system requesting law enforcement, fire, or medical agency response, except that a written transcript of the call is public unless it reveals the identity of protected individuals (Minn. Stat. § 13.82, Subd. 4).
- (d) Criminal investigative data involving active cases and inactive investigative data (Minn. Stat. § 13.82, Subd. 7):
  1. If the release of the data would jeopardize another ongoing investigation or would reveal the identity of protected individuals or is otherwise restricted.
  2. Images and recordings, including photographs, video, and audio records that are clearly offensive to common sensibilities. However, the existence of any such image or recording shall be disclosed.
  3. As otherwise restricted by law.
- (e) Juvenile records and data (Minn. Stat. § 260B.171).
- (f) State criminal history data held in the Bureau of Criminal Apprehension (BCA) database, including but not limited to fingerprints, photographs, identification data, arrest data, prosecution data, criminal court data, and custody and supervision data (Minn. Stat. § 13.87).
- (g) Traffic collision reports and related supplemental information (Minn. Stat. § 169.09, Subd. 13).
- (h) Corrections and detention data (Minn. Stat. § 13.85).
- (i) Personnel data except, unless otherwise restricted (Minn. Stat. § 13.43, Subd. 2):
  1. Name, employee identification number, and some aspects of compensation.
  2. Job title, bargaining unit, job description, education and training background, and previous work experience.
  3. Date of first and last employment.
  4. Existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action.
  5. Final disposition of any disciplinary action together with the specific reasons for the action, and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of this department.
  6. Terms of any agreement settling any dispute arising out of an employment relationship.
  7. Work location, work telephone number, badge number, and honors and awards received.
  8. Time sheets or other comparable data only used to account for an employee's work time for payroll purposes, excluding the use of sick or other medical leave or other nonpublic data.

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9. All other personnel data regarding employees of this department are private data and may only be released as authorized by that classification.
  - (j) Any data that was created under the direction or authority of the City Attorney exclusively in anticipation of potential litigation involving this department shall be classified as protected nonpublic or confidential data while such action is pending (Minn. Stat. § 13.39).
  - (k) All data collected by an Automated License Plate Reader (ALPR) on individuals or nonpublic data absent an exception (Minn. Stat. § 13.82; Minn. Stat. § 13.824).
  - (l) Response or incident data, so long as the Custodian of Records determines that public access would likely endanger the physical safety of an individual or cause a perpetrator to flee, evade detection, or destroy evidence (Minn. Stat. § 13.82, Subd. 14).
  - (m) Any data on individuals receiving peer counseling or critical incident stress management services (Minn. Stat. § 13.02, Subd. 12; Minn. Stat. § 181.9731; Minn. Stat. § 181.9732).

Any other record not addressed in this policy shall not be subject to release where such record is classified as other than public data. All public data shall be released as required by the MGDPA (Minn. Stat. § 13.03, Subd. 1).

#### **802.6 SUBPOENAS AND DISCOVERY REQUESTS**

Any member who receives a subpoena duces tecum or discovery request for data should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested data.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the Prosecuting Attorney, City Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

#### **802.7 RELEASED RECORDS TO BE MARKED**

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the department name and to whom the record was released.

Each audio/video recording released shall include the department name and to whom the record was released.

#### **802.8 EXPUNGEMENT**

A petition for expungement and expungement orders received by the Department shall be reviewed for appropriate action by the Custodian of Records.



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##### **802.8.1 PETITION FOR EXPUNGEMENT**

When responding to a petition for expungement, the Custodian of Records shall inform the court and the individual seeking expungement that the response contains private or confidential data (Minn. Stat. § 609A.03, Subd. 3).

##### **802.8.2 ORDERS OF EXPUNGEMENT**

The Custodian of Records shall expunge such records as ordered by the court. Records may include, but are not limited to, a record of arrest, investigation, detention or conviction. Once a record is expunged, members shall respond to any inquiry as though the record did not exist.

Upon request by the individual whose records are to be expunged, the Custodian of Records must send a letter at an address provided by the individual confirming the receipt of the expungement order and that the record has been expunged (Minn. Stat. § 609A.03, Subd. 8).

Expunged records may be opened only by court order (Minn. Stat. § 609A.03, Subd. 7).

Expunged records of conviction may be opened for purposes of evaluating a prospective employee of the Department without a court order.

The Custodian of Records shall inform any law enforcement, prosecution or corrections authority, upon request, of the existence of a sealed record and of the right to obtain access to it.

##### **802.9 MAINTENANCE OF CLOSED RECORDS**

Records such as offense reports, arrest reports, juvenile records or other sensitive records shall be secured in such a manner as to reasonably protect them from unauthorized disclosure. Closed records shall be kept separate from public records and shall remain confidential.

## Protected Information

### 803.1 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 Fairmont 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 Maintenance and Release Policy.

#### 803.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by members of the Fairmont 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.

### 803.2 POLICY

Members of the Fairmont 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.

### 803.3 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, Minnesota Bureau of Criminal Apprehension (BCA) and the Minnesota Comprehensive Incident-Based Reporting System (CIBRS).
- (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.

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- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.
- (g) Ensuring a comprehensive security assessment of any personal information maintained by the Fairmont Police Department is conducted at least annually (Minn. Stat. § 13.055, Subd. 6).
- (h) Ensuring CIBRS is notified within 10 days that an investigation in CIBRS has become inactive (Minn. Stat. § 299C.40).

#### **803.4 ACCESS TO PROTECTED INFORMATION**

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Fairmont 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; Minn. Stat. § 299C.40).

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.

#### **803.5 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 Captain for information regarding a formal request.

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 Section to ensure proper documentation of the release (see the Records Maintenance and Release 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.

##### **803.5.1 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)).

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##### **803.5.2 REVIEW OF CIBRS DATA**

An individual who is the subject of private data held by CIBRS may request access to the data by making a request to the Captain. If the request is to release the data to a third party, the individual who is the subject of private data must appear in person at the Department to give informed consent to the access or release.

Private data provided to the individual must also include the name of the law enforcement agency that submitted the data to CIBRS and the name, telephone number and address of the agency responsible for the data.

A person who is the subject of private data may challenge the data. The Captain shall review the challenge and determine whether the data should be completed, corrected or destroyed. The corrected data must be submitted to CIBRS and any future dissemination must be of the corrected data.

The Captain must notify BCA as soon as reasonably practicable whenever data held by CIBRS is challenged. The notification must identify the data that was challenged and the subject of the data.

##### **803.6 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.

##### **803.6.1 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).

##### **803.7 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

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was conducted by an employee, contractor or agent of Fairmont, 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).

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 reasonably 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 email.

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).

#### **803.8 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 authorized access and use of protected information, as well as its proper handling and dissemination.

#### **803.9 DATA POLICY & AGREEMENTS: (CJIS) CRIMINAL JUSTICE INFORMATION SYSTEMS POLICY AND (CJDN) CRIMINAL JUSTICE DATA COMMUNICATIONS NETWORK POLICY**

All members authorized to access or release protected information related to CJIS and/or CJDN will read and follow the attached policies governing the access and dissemination of this data. All users will sign a written acknowledgement of each policy/agreement which will be maintained by the Chief of Police.

[See attachment: FPD CJIS Security Policy.pdf](#)

[See attachment: FPD CJDN Policy.pdf](#)

[See attachment: CJDN Misuse Policy.pdf](#)

## Civilian Community Service Officer (CSO)

### 804.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for interacting with animals & municipal code/ ordinance violations and responding to calls for service that require assistance or correction that involve animal or ordinance violations..

### 804.2 POLICY

It is the policy of the Fairmont Police Department to be responsive to the needs of the community regarding animal and ordinance related issues. This includes enforcing local, state and federal laws relating to animals and ordinances and appropriately resolving or referring problems, as outlined in this policy.

### 804.3 COMMUNITY SERVICE OFFICER RESPONSIBILITIES

Animal control & ordinance enforcement services are generally the primary responsibility of the CSO but also all members and include the following:

- (a) Animal & ordinance related matters during periods when the CSO is available.
- (b) Ongoing or persistent animal or ordinance nuisance complaints. Such complaints may be scheduled, if reasonable, for handling during periods that the CSO is available for investigation and resolution.
- (c) Follow-up on animal & ordinance related calls, such as locating owners of injured animals or advising a property owner of ordinance violation to correct.

### 804.4 MEMBER RESPONSIBILITIES

Members who respond to or assist with animal-related calls for service should evaluate the situation and determine appropriate actions to control the situation.

Members may consider acting before the arrival of such assistance when:

- (a) There is a threat to public safety.
- (b) An animal has bitten someone; members should take measures to confine the animal and prevent further injury.
- (c) An animal is creating a traffic hazard.
- (d) An animal is seriously injured.
- (e) The owner/handler has been arrested or is incapacitated. In such circumstances, the member should find appropriate placement for the animal.
  - (a) This is only necessary when the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animal.
  - (b) With the owner's consent, locating appropriate placement may require contacting relatives or neighbors to care for the animal.

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- (c) If no person can be found or the owner does not or cannot give consent, the animal should be taken to a designated animal care facility.

1. This is only necessary when the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animal.

2. With the owner's consent, locating appropriate placement may require contacting relatives or neighbors to care for the animal.

3. If no person can be found or the owner does not or cannot give consent, the animal should be taken to a designated animal care facility.

#### **804.5 ANIMAL CRUELTY COMPLAINTS**

Laws relating to the cruelty to animals should be enforced, including but not limited to (Minn. Stat. § 343.21 et seq.):

- (a) An investigation should be conducted on all reports of animal cruelty.
- (b) Legal steps should be taken to protect an animal that is in need of immediate care or protection from acts of cruelty (Minn. Stat. § 343.29).
  - 1. 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.
  - 2. An animal taken into care during an animal cruelty investigation may be euthanized following a determination by a doctor of veterinary medicine that the animal is suffering and is beyond cure through reasonable care and treatment.

#### **804.6 ANIMAL BITE REPORTS**

Members investigating an animal bite should obtain as much information as necessary to complete an investigation in to the incident. Efforts should be made to capture or otherwise have the animal placed under control. Members shall make every effort to advise the victim of an animal bite whether the animal has the required current shots (i.e. rabies) as soon as possible to assist in any medical care the victim may need when a human is bitten. Members should attempt to identify and notify the owner of the final disposition of the animal. If an animal bite is investigated when the CSO is not on duty the member will share any information related to the incident with the CSO (i.e. via email, reports, etc).

##### **804.6.1 ANIMAL BITES TO HUMANS**

Members should coordinate with appropriate animal authorities to ensure that animals who have bitten a human are quarantined for rabies observation as required by Minn. R. 1721.0580. [See attachment: Notice of Dangerous Dog Form.pdf](#)

#### **804.7 STRAY DOGS**

If the dog has a license or can otherwise be identified, the owner should be contacted (Minn. Stat. § 343.29), if possible. If the owner is contacted, the dog should be released to the owner and a

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citation may be issued, if appropriate. If a dog is taken into custody, it shall be transported to the appropriate shelter/holding pen.

Members shall provide reasonable treatment to animals in their care (e.g., food, water, shelter).

#### **804.8 DANGEROUS ANIMALS**

In the event responding members cannot fulfill a request for service because an animal is difficult or dangerous to handle, the Shift Sergeant will be contacted to determine available resources, including requesting the assistance of animal control services from an allied agency.

#### **804.9 PUBLIC NUISANCE CALLS RELATING TO ANIMALS**

Members should diligently address calls related to nuisance animals (e.g., barking dogs), as such calls may involve significant quality of life issues.

#### **804.10 DECEASED ANIMALS**

When a member becomes aware of a deceased animal all reasonable attempts should be made to preliminarily determine if the death of the animal is related to criminal activity.

- (a) Deceased animals on public property. Members should notify the street department to advise of the need for disposal.
- (b)
- (c) Members should not climb onto or under any privately owned structure for the purpose of removing a deceased animal.

#### **804.11 INJURED ANIMALS**

When a member becomes aware of an injured domesticated animal, all reasonable attempts shall be made to contact the owner or responsible handler.

If an owner or responsible handler cannot be located, the animal should be taken to a designated animal care facility if practical.

#### **804.12 DESTRUCTION OF ANIMALS**

When it is necessary to use a firearm to euthanize a badly injured animal or stop an animal that poses an imminent threat to human safety, the Firearms Policy shall be followed.



## **Chapter 9 - Custody**

## Temporary Custody of Adults

### 900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Fairmont Police Department for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy.

Custodial searches are addressed in the Custodial Searches Policy.

#### 900.1.1 DEFINITIONS

Definitions related to this policy include:

**Holding cell/cell** - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Department.

**Safety checks** - Direct, visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of adults in temporary custody.

**Temporary custody** - The time period an adult is in custody at the Fairmont Police Department prior to being released or transported to a housing or other type of facility.

### 900.2 POLICY

The Fairmont Police Department is committed to releasing adults from temporary custody as soon as reasonably practicable and to keeping adults safe while in temporary custody by the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

### 900.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than four hours (Minn. R. 2945.0100; Minn. R. 2945.0120).

#### 900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody by the Fairmont Police Department, but should be transported to a jail facility, a medical facility or other type of facility as appropriate. These include:

- (a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.
- (b) Any individual who has a medical condition, including pregnancy, or who may require medical attention, supervision or medication while in temporary custody.
- (c) Any individual who is seriously injured.
- (d) Individuals who are a suspected suicide risk (see the Civil Commitments Policy).

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1. If the officer taking custody of an individual believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release or a transfer to an appropriate facility is completed.
  - (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
  - (f) Individuals who are under the influence of alcohol, a controlled substance or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health..
  - (g) Any individual who has exhibited extremely violent or continuously violent behavior.
  - (h) Any individual who has claimed, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk.
  - (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to his/her health or safety.

Officers taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody by the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

#### **900.3.2 ENTRY RESTRICTIONS**

Entry into any location where a person is held in custody should be restricted to:

- (a) Authorized members entering for official business purposes.
- (b) Emergency medical personnel when necessary.
- (c) Any other person authorized by the Shift Sergeant or Officer in Charge.

When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

#### **900.4 INITIATING TEMPORARY CUSTODY**

The officer responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others.

The officer should promptly notify the Shift Sergeant of any conditions that may warrant immediate medical attention or other appropriate action. The Shift Sergeant shall determine whether the individual will be immediately released or transported to jail or other facility.

#### **900.4.1 CONSULAR NOTIFICATION**

Consular notification may be mandatory when certain foreign nationals are arrested. The Patrol Captain will ensure that the U.S. Department of State's list of countries and jurisdictions that require mandatory notification is readily available to department members. There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be transmitted and then retained for documentation.

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Prominently displayed signs informing foreign nationals of their rights related to consular notification should also be posted in areas used for the temporary custody of adults.

Department members assigned to process a foreign national shall:

- (a) Inform the individual without delay he/she may have his/her consular officers notified of the arrest or detention and may communicate with them.
  - 1. This notification should be documented.
- (b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.
  - 1. If the country is on the mandatory notification list, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
    - (b) Tell the individual this notification has been made and inform him/her without delay he/she may communicate with consular officers.
    - (c) Forward any communication from the individual to his/her consular officers without delay.
    - (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
  - 2. If the country is not on the mandatory notification list and the individual requests his/her consular officers be notified, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
    - (b) Forward any communication from the individual to his/her consular officers without delay.

## **900.5 SAFETY, HEALTH AND OTHER PROVISIONS**

### 900.5.1 TELEPHONE CALLS

Every individual in temporary custody should be allowed to make a reasonable number of completed telephone calls as soon as possible after arrival.

- (a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at his/her own expense.
  - 1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).
- (b) The individual should be given sufficient time to contact whomever he/she desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.

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1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use his/her judgment in determining the duration of the calls.
- (c) Calls between an individual in temporary custody and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded.

#### **900.5.2 FIREARMS AND OTHER SECURITY MEASURES**

Firearms and other weapons and control devices shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, and upon approval of a supervisor.

All perimeter doors to secure areas shall be kept locked at all times except during routine cleaning when no individuals in custody are present or in the event of an emergency, such as an evacuation.

#### **900.6 USE OF RESTRAINT DEVICES**

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk handcuffs should generally be removed when the person is in a cell.

The use of restraints other than handcuffs or leg irons generally should not be used for individuals in temporary custody at the Fairmont Police Department unless the person presents a heightened risk and then only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

#### **900.6.1 PREGNANT ADULTS**

Women who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

#### **900.7 TRAINING**

Department members should be trained and familiar with this policy and any supplemental procedures.

## **Chapter 10 - Personnel**

## Recruitment and Selection

### 1000.1 PURPOSE AND SCOPE

The policy and framework for employee recruiting efforts and identifying job-related standards for the selection process is outlined in the Fairmont Police Civil Service Commission handbook.

### 1000.2 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Fairmont Police Department.

The background investigation must determine whether the candidate meets the standards established by the Minnesota Board of Peace Officer Standards and Training (POST) as well as the security standards established to access state and national computerized record and communication systems (Minn. Stat. § 626.87; Minn. R. 6700.0700).

#### 1000.2.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and Minnesota law (15 USC § 1681d; Minn. Stat. § 13C.02).

#### 1000.2.2 STATE NOTICES

Upon initiation of a candidate's background investigation, the department shall provide written notice to POST that includes the candidate's full name and date of birth and the candidate's peace officer license number, if applicable (Minn. Stat. § 626.87).

#### 1000.2.3 REVIEW OF SOCIAL MEDIA SITES

Due to the potential for accessing unsubstantiated, private or protected information, the background investigator should not require candidates to provide passwords, account information or access to password-protected social media accounts.

The Captain may consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches and/or review information from social media sites to ensure that:

- (a) The legal rights of candidates are protected.
- (b) Material and information to be considered are verified, accurate and validated.
- (c) The Department fully complies with applicable privacy protections and local, state and federal law.

Regardless of whether a third party is used, the Captain should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

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##### 1000.2.4 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file.

##### 1000.2.5 RECORDS RETENTION

The background report and all supporting documentation shall be maintained in accordance with the established records retention schedule (Minn. R. 6700.0700, Subp. 2).

#### **1000.3 DISQUALIFICATION GUIDELINES**

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

#### **1000.4 EMPLOYMENT STANDARDS**

All candidates shall meet the minimum standards required by state law. Candidates will be evaluated based on merit, ability, competence and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community.

Validated, job-related and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Office of the Chief should maintain validated standards for all positions.



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##### 1000.4.1 STANDARDS FOR OFFICERS

Candidates shall meet the minimum standards established by Minnesota POST (Minn. R. 6700.0700):

- (a) Citizen of the United States (Minn. R. 6700.0700, Subp. 1)
- (b) Possess a valid driver's license
- (c) Free of any felony conviction
- (d) Not be required to register as a predatory offender under state law
- (e) Free of conviction of any controlled substance law or of any misdemeanor conviction listed in Minn. R. 6700.0700
- (f) Fingerprinted for purposes of disclosure of any felony convictions
- (g) Submit to a medical examination and psychological evaluation to ensure that the candidate is free from any physical, emotional or mental condition which might adversely affect his/her performance of peace officer duties
- (h) Successfully complete a physical strength and agility examination
- (i) Successfully complete an oral examination

##### 1000.4.2 NOTIFICATION TO POST

The Chief of Police shall notify the POST Board of any candidate appointed to the position of peace officer before the first day of employment on a form provided by POST. The appointee may not exercise peace officer powers until the notification form is received and approved by POST Board (Minn. R. 6700.0800).

##### 1000.5 PROBATIONARY PERIODS

The Captain should coordinate with the Chief of Police to identify positions subject to probationary periods and procedures for:

- (a) Appraising performance during probation.
- (b) Assessing the level of performance required to complete probation.
- (c) Extending probation.
- (d) Documenting successful or unsuccessful completion of probation.

## Evaluation of Employees

### 1001.1 PURPOSE AND SCOPE

The Department's employee performance evaluation system is designed to record work performance for both the Department and the employee, providing recognition for good work and developing a guide for improvement.

### 1001.2 POLICY

The Fairmont Police Department utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

### 1001.3 EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on documented performance during that period. Evaluation reports will be completed by each employee's immediate supervisor. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for their input.

Each supervisor should discuss the tasks of the position, standards of performance expected and the evaluation criteria with each employee at the beginning of the rating period. Supervisors should document this discussion in the prescribed manner.

Assessment of an employee's job performance is an ongoing process. Continued team meetings, feedback, and coaching provides supervisors and employees with opportunities to correct performance issues as they arise.

Non-probationary employees demonstrating repeated substandard performance shall be notified in writing of such performance as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity.

Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so in writing in the prescribed format and time period.

### 1001.4 EVALUATION FREQUENCY

#### 1001.4.1 PART-TIME OFFICER EVALUATIONS

Part-time officer evaluations are covered in the Part-Time Officer Policy and their direct supervisory is the Investigations/Operations Sergeant.

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#### **1001.5 FULL-TIME REGULAR STATUS PERSONNEL**

Regular employees are subject to three types of performance evaluations:

**Regular** - An Employee Performance Evaluation shall be completed once each year by the employee's immediate supervisor following the end of each calendar year.

**Special** - A special evaluation may be completed any time the rater or the rater's supervisor determine one is necessary due to employee performance that is deemed less than standard. Generally, the special evaluation will be the tool used to demonstrate those areas of performance deemed less than standard when follow-up action is planned (e.g., action plan, remedial training, retraining). The evaluation form and the attached documentation shall be submitted as one package.

##### 1001.5.1 RATINGS

When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance. The definition of each rating category is as follows:

**Exceptional** - Actual performance that is well beyond that required for the position. It is exceptional performance, definitely superior or extraordinary.

**Exceeds Expectations** - Represents performance that is better than expected of a fully competent employee. It is superior to what is expected but is not of such rare nature to warrant outstanding.

**Meets Expectations** - Performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position.

**Area for Improvement** - A level of performance less than that expected of a fully competent employee and less than the standards required of the position. A needs-improvement rating must be thoroughly discussed with the employee.

**Unsatisfactory** - Performance is inferior to the standards required of the position. It is very inadequate or undesirable performance that cannot be tolerated.

Space for written comments is provided at the end of the evaluation in the rater comments section. This section allows the rater to document the employee's strengths, weaknesses and suggestions for improvement. Any rating under any job dimension marked unsatisfactory or outstanding shall be substantiated in the rater comments section.

#### **1001.6 EVALUATION INTERVIEW**

When the supervisor has completed the preliminary evaluation, arrangements shall be made for a private discussion of the evaluation with the employee. The supervisor should discuss the results of the recently completed rating period and clarify any questions the employee may have. If the employee has valid and reasonable protests of any of the ratings, the supervisor may make appropriate changes to the evaluation. Areas needing improvement and goals for reaching the expected level of performance should be identified and discussed. The supervisor should also provide relevant counseling regarding advancement, specialty positions and training

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opportunities. The supervisor and employee will sign and date the evaluation. Employees may also write comments in the Employee Comments section of the performance evaluation report.

#### **1001.7 EVALUATION REVIEW**

After the supervisor finishes the discussion with the employee, the signed performance evaluation is forwarded to the Captain. The Captain shall review the evaluation for fairness, impartiality, uniformity and consistency. The Captain shall evaluate the supervisor on the quality of ratings given.

#### **1001.8 EVALUATION DISTRIBUTION**

The original performance evaluation shall be maintained in the employee's personnel file in the office of the Chief of Police for the tenure of the employee's employment. A copy will be given to the employee and a copy will be forwarded to City Office of the Chief.

## Special Assignments and Promotions

### 1002.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Fairmont Police Department.

### 1002.2 POLICY

The Fairmont Police Department determines assignments and promotions in a non-discriminatory manner based upon job-related factors and candidate skills and qualifications. Assignments and promotions are made by the Chief of Police.

### 1002.3 SPECIAL ASSIGNMENT POSITIONS

The following conditions are considered special assignments and not promotions:

- (a) HEAT member
- (b) Investigator & Operations Sergeant
- (c) Investigator
- (d) Field Training Officer
- (e) Firearms Instructor
- (f) Use of Force Instructor
- (g) Taser Instructor
- (h) Community Relations Officer
- (i) School Resource Officer

#### 1002.3.1 GENERAL REQUIREMENTS

The following requirements should be considered when selecting a candidate for a special assignment:

- (a) Three years as a member of the Fairmont Police Department
- (b) Off probationary status
- (c) Possession of or ability to obtain any certification required by the Minnesota Board of Peace Officer Standards and Training or law
- (d) The ability to excel and expand knowledge in the skills, experience, or abilities related to the special assignment

#### 1002.3.2 EVALUATION CRITERIA

The following criteria will be used in evaluating candidates for a special assignment:

- (a) Presents a professional, neat appearance.
- (b) Maintains a physical condition that aids in his/her performance.
- (c) Expressed an interest in the assignment.

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(d) Demonstrates the following traits:

1. Emotional stability and maturity
2. Stress tolerance
3. Sound judgment and decision-making
4. Personal integrity and ethical conduct
5. Leadership skills
6. Initiative
7. Adaptability and flexibility
8. Ability to conform to [departmentoffice] goals and objectives in a positive manner

#### **1002.4 PROMOTIONAL REQUIREMENTS**

Requirements and information regarding any promotional process are listed in the Police Civil Service Commission Rules & Regulations for the Fairmont Police Department.

## Grievance Procedure

### **1003.1 PUNITIVE ACTION**

At no time will punitive action be taken against a peace officer for exercising any rights during the grievance procedure (see generally Minn. Stat. § 626.89, Subd. 14).

### **1003.2 GRIEVANCE RECORDS**

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded to Administration for inclusion into a secure file for all written grievances. The grievance process for full time licensed peace officers is outlined in the LELS #176 Labor Agreement and Department Civil Service Rules.

### **1003.3 JUDICIAL RELIEF**

Any employee or representative may, after exhausting the internal grievance procedure, and, if applicable, arbitration, apply to the proper court for judicial relief as allowed by contract or law.

## Anti-Retaliation

### 1004.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or collective bargaining agreement.

### 1004.2 POLICY

The Fairmont Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

### 1004.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.



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#### **1004.4 COMPLAINTS OF RETALIATION**

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, or Chief of Police.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

#### **1004.5 SUPERVISOR RESPONSIBILITIES**

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule change made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

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##### **1004.6 COMMAND STAFF RESPONSIBILITIES**

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

##### **1004.7 WHISTLE-BLOWING**

The Minnesota Whistleblower Act protects an employee who, in good faith (Minn. Stat. § 181.932):

- (a) Communicates a violation of any law or rule to the Department or to any government body or law enforcement official.
- (b) Participates in an investigation, hearing, or inquiry at the request of a public body or office.
- (c) Refuses an order to perform an act that the employee objectively believes violates a law, rule, or regulation, and informs the employer of the reason.
- (d) Reports a situation where the quality of health care services provided by a health care facility or provider violates a state or federal standard and potentially places the public at risk of harm.
- (e) Communicates the findings of a technical or scientific study that the employee believes, in good faith, to be truthful and accurate.

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Professional Standards Division for investigation pursuant to the Personnel Complaints Policy.

##### **1004.8 RECORDS RETENTION AND RELEASE**

The Captain shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

##### **1004.9 TRAINING**

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

# Reporting of Employee Convictions and Court Orders

## 1005.1 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. Employees shall also notify the Department of any new, pending, or anticipated criminal charges no later than within 24 hours of contact with a law enforcement agency.

## 1005.2 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.

## 1005.3 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.

### 1005.3.1 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. All notices shall be given to the Captain.

## 1005.4 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.

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#### *Reporting of Employee Convictions and Court Orders*

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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 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 or current criminal proceedings 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.

#### **1005.5 CHEMICAL DEPENDENCY TREATMENT**

If an officer is informally admitted to a treatment facility or program pursuant to Minn. Stat. § 253B.04 for chemical dependency he/she is not eligible to possess a pistol, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility (Minn. Stat. § 624.713 Subd. 1(6)).

Officers in this situation shall promptly notify the Captain.

## Drug- and Alcohol-Free Workplace

### 1006.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103).

### 1006.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

### 1006.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Shift Sergeant or appropriate supervisor as soon as the member is aware that the member will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, the member shall be immediately removed and released from work (see the Work Restrictions section in this policy).

#### 1006.3.1 USE OF MEDICATIONS

Members should not use any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to the member's immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the Department while taking any medication that has the potential to impair the member's abilities, without a written release from the member's physician.

#### 1006.3.2 MEDICAL CANNABIS

Possession, use, or being under the influence of medical cannabis on-duty is prohibited and may lead to disciplinary action.

### 1006.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

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#### *Drug- and Alcohol-Free Workplace*

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Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

#### **1006.5 EMPLOYEE ASSISTANCE PROGRAM**

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Office of the Chief, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

#### **1006.6 WORK RESTRICTIONS**

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

#### **1006.7 SCREENING TESTS**

The Department may request or require drug or alcohol testing in the following circumstances (Minn. Stat. § 181.951; Minn. Stat. § 181.952):

- (a) **Reasonable suspicion** - The Shift Sergeant may request or require an employee to undergo drug and alcohol testing if there is a reasonable suspicion of any of the following:
  1. The employee is under the influence of drugs or alcohol.
  2. The employee has violated department rules prohibiting the use, possession, sale, or transfer of drugs or alcohol while the employee is working, is on department property, or is operating a vehicle owned by the department.
  3. The employee has sustained an injury arising out of and in the course of employment, or has caused another employee to sustain an injury (full definition of personal injury in Minn. Stat. § 176.011, Subd. 16).
  4. The employee has caused a work-related accident, or the employee's use of a vehicle, firearm, or safety equipment involved a work-related accident.
- (b) Following a conditional job offer
- (c) As part of an employee's routine physical examination

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#### *Drug- and Alcohol-Free Workplace*

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- (d) Under a random testing program of employees
- (e) When the employee has been referred for an evaluation or treatment, or is participating in a treatment program under an employee benefit plan
- (f) The employee discharges a firearm issued by the Department while off-duty, resulting in injury, death, or substantial property damage.

#### 1006.7.1 DRUG- AND ALCOHOL-TESTING PROGRAM

The following applies to the department's drug and alcohol testing procedures (Minn. Stat. § 181.951; Minn. Stat. § 181.952; Minn. Stat. § 181.953):

- (a) An employee or applicant has the right to refuse a test but the consequences of a refusal may result in discipline, up to and including termination, or a decision not to hire the applicant.
- (b) Initial screening tests must be verified by a confirmatory test for the purpose of discipline.
- (c) Employees will have an opportunity to participate in an appropriate alcohol or drug program for their first confirmed positive test. The program may be in lieu of other discipline unless the employee fails the program or refuses to participate (Minn. Stat. § 181.953).
- (d) A confirmed positive test may result in discipline, up to and including termination.
- (e) An employee or job applicant will have the opportunity to explain a positive test result and may request and pay for a second confirmatory retest.
- (f) All disciplinary procedural safeguards in this manual apply, including the post-discipline appeal procedures (see the Personnel Complaints Policy).
- (g) Employees and job applicants shall receive required written notice, including posting, of the drug- and alcohol-testing policies and procedures as set forth in Minn. Stat. § 181.952.
- (h) The safeguards of Minn. Stat. § 181.953 will be followed for any testing and any related discipline process.

Notice of the adopted drug and alcohol testing policy shall be posted in an appropriate and conspicuous location and copies shall be available for inspection to all employees and job applicants (Minn. Stat. 181.952).

#### 1006.7.2 SUPERVISOR RESPONSIBILITIES

The supervisor shall prepare a written record documenting the specific facts that led to the decision to require the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.
- (b) The result of the test is not admissible in any criminal proceeding against the employee.

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- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

#### **1006.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT**

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

#### **1006.9 CONFIDENTIALITY**

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained in the member's confidential medical file in accordance with the Personnel Records Policy.



## Sick Leave

### 1007.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the City personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) and the Minnesota Pregnancy and Parenting Leave Act (29 USC § 2601 et seq.; Minn. Stat. § 181.941).

### 1007.2 POLICY

It is the policy of the Fairmont Police Department to provide eligible employees with a sick leave benefit.

### 1007.3 USE OF SICK LEAVE

Sick leave is intended to be used for qualified absences. Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick leave benefits, or both.

Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity or other activity that may impede recovery from the injury or illness (see the Outside Employment Policy).

Qualified appointments should be scheduled during a member's non-working hours when it is reasonable to do so.

#### 1007.3.1 NOTIFICATION

All members should notify the Shift Sergeant or appropriate supervisor as soon as they are aware that they will not be able to report to work and no less than one hour before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor.

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the Department with notice of the impending absence without delay.

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

### 1007.4 EXTENDED ABSENCE

Members absent from duty for three or more consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. All health care statements shall be provided to the Captain without delay. Members on

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an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of fewer than three days.

#### **1007.5 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) Attempting to determine whether an absence of three or more days may qualify as family medical leave and consulting with legal counsel or the Office of the Chief as appropriate.
- (c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
  - 1. Negatively affected the member's performance or ability to complete assigned duties.
  - 2. Negatively affected department operations.
- (d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.

# Communicable Diseases

## 1008.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

### 1008.1.1 DEFINITIONS

Definitions related to this policy include:

**Communicable disease** - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

**Exposure** - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Fairmont Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

## 1008.2 POLICY

The Fairmont Police Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

## 1008.3 EXPOSURE CONTROL OFFICER

The Exposure Control Officer (ECO) for all employees is the City of Fairmont HR Department. The ECO shall develop an exposure control plan that includes:

- (a) Exposure-prevention and decontamination procedures.
- (b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.
- (c) The provision that department members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them.
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
  1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
  2. Exposure control mandates in 29 CFR 1910.1030 (Minn. R. 5206.0600).

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3. Reporting cases and suspected cases of communicable diseases to the Department of Public Health (Minn. R. 4605.7070; Minn. Stat. § 144.4804).
4. Notifying appropriate medical facilities regarding member exposures and providing assistance locating source individuals, as applicable (Minn. Stat. § 144.7414)

The ECO should also act as the liaison with the Minnesota Occupational Safety and Health Administration (MNOSHA) and may request voluntary compliance inspections. The ECO should annually review and update the exposure control plan and review implementation of the plan.

#### **1008.4 EXPOSURE PREVENTION AND MITIGATION**

##### 1008.4.1 GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (29 CFR 1910.1030; Minn. R. 5206.0600):

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or department vehicles, as applicable.
- (b) Wearing department-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.
- (c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.
- (d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.
- (e) Using an appropriate barrier device when providing CPR.
- (f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.
  1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.
- (h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.
- (i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
- (j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

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##### 1008.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (29 CFR 1910.1030; Minn. R. 5206.0600).

##### **1008.5 POST EXPOSURE**

###### 1008.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

- (a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).
- (b) Obtain medical attention as appropriate.
- (c) Notify a supervisor as soon as practicable.

###### 1008.5.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (29 CFR 1910.1030; Minn. R. 5206.0600):

- (a) Name of the member exposed
- (b) Date and time of the incident
- (c) Location of the incident
- (d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure
- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease, Personal Injury and Death Reporting Policy).

###### 1008.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Department members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary.

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information (29 CFR 1910.1030; Minn. R. 5206.0600):

- (a) Whether the member has been informed of the results of the evaluation.

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- (b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

#### 1008.5.4 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (29 CFR 1910.1030; Minn. R. 5206.0600).

#### 1008.5.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate. Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

- (a) Obtaining consent from the individual.
- (b) Seeking testing through the procedures of Minn. Stat. § 144.7401 to Minn. Stat. § 144.7415 through a licensed hospital or other emergency medical care facility.

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the City Attorney to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

#### **1008.6 CONFIDENTIALITY OF REPORTS**

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well (Minn. Stat. § 144.7411).

#### **1008.7 TRAINING**

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (29 CFR 1910.1030; Minn. R. 5206.0700):

- (a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.
- (b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.
- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

## Smoking and Tobacco Use

### 1009.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Fairmont Police Department facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

### 1009.2 POLICY

The Fairmont Police Department recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy (Minn. Stat. § 144.414).

### 1009.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Department.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles.

### 1009.4 ADDITIONAL PROHIBITIONS

No employee shall smoke, even while out of view of the public or off-duty, in areas properly posted with "No Smoking" notices nor shall any employee use tobacco products on public school property (Minn. Stat. § 609.681; Minn. Stat. § 144.4165). The Chief of Police or the authorized designee should ensure that proper signage is in place for notice of areas where tobacco use is restricted (Minn. R. 4620.0500).

## Personnel Complaints

### 1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Fairmont Police Department (Minn. R. 6700.2200). This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

### 1010.2 POLICY

The Fairmont Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any memorandum of understanding.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

### 1010.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

#### 1010.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

**Informal** - A matter in which the Captain is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

**Formal** - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the an outside agency depending on the seriousness and complexity of the investigation.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the Captain, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.



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##### 1010.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.
- (f) The Minnesota Board of Peace Officer Standards and Training (POST) may refer complaints alleging a violation of a statute or rule that the board is empowered to enforce (Minn. Stat. § 214.10, Subd. 10).
- (g) Any person making a complaint may be accompanied by an attorney or other representative, including at the time the complaint is made.
- (h) Any person wishing to file a complaint against the Chief of Police should be referred to the City Administrator for investigation by an outside agency.

##### **1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS**

###### 1010.4.1 COMPLAINT FORMS

Personnel complaint forms will be provided upon request. [See attachment: FPD Citizen Complaint Form.pdf](#)

###### 1010.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

###### 1010.4.3 COMPLAINT COPIES

After a complaint is filed, the accepting member should sign the document, keep a copy for the department and provide a copy to the complainant.

##### **1010.5 DOCUMENTATION**

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

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The supervisor or officer that received the complaint will forward all documentation & information to the Captain for review.

#### **1010.6 ADMINISTRATIVE INVESTIGATIONS**

Allegations of misconduct will be administratively investigated as follows (Minn. R. 6700.2200).

##### 1010.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the Captain, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
  - (a) The original complaint form will be directed to the Shift Sergeant of the accused member, via the chain of command, who will take appropriate action. The complaint and supporting documentation will be forwarded to the Captain for review and follow up.
  - (b) In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall report the matter to the Captain, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
  - (a) Follow-up contact with the complainant should be made within 48 hours of the Department receiving the complaint.
  - (b) If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Shift Sergeant.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Captain and Chief of Police are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Captain or Chief of Police for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Captain, who will determine whether to contact the complainant or assign the complaint for investigation.

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- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
  - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
  - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

#### 1010.6.2 EXTERNAL INVESTIGATIONS

The Chief of Police may request that an outside agency conduct an investigation anytime the Chief of Police determines an external investigation is appropriate.

This department should not conduct an investigation when the Chief of Police is the subject of the complaint. An external investigation should be requested through the City Administrator.

#### 1010.6.3 ADMINISTRATIVE INVESTIGATION PROCEDURES

For any officer conducting an investigation, the following shall apply to members covered by the Peace Officer Discipline Procedures Act (Minn. Stat. § 626.89):

- (a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty (Minn. Stat. § 626.89, Subd. 7). If the member is off-duty, he/she shall be compensated.
- (b) Unless waived by the member, interviews of an accused member shall be at the Fairmont Police Department or at a place agreed upon by the accused member (Minn. Stat. § 626.89, Subd. 4).
- (c) No more than two interviewers should ask questions of an accused member.
- (d) Prior to any interview, a member should be informed of the nature of the investigation.
  - 1. The member shall be given a copy of any written complaint signed by the complainant (Minn. Stat. § 626.89, Subd. 5).
- (e) All interviews should be for a reasonable period and the member's personal needs should be accommodated (Minn. Stat. § 626.89, Subd. 7).
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
  - 1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Garrity* advisement. Administrative investigators

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should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer shall record all interviews of members and witnesses. The member may also record the interview. A complete copy or transcript of the interview must be made available to the member upon written request without charge or undue delay. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview (Minn. Stat. § 626.89, Subd. 8).
  - (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative or attorney present before or during the interview (Minn. Stat. § 626.89, Subd. 9). When a member requests a representative or attorney, no interview may be taken until a reasonable opportunity is provided for the member to obtain that person's presence. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
  - (j) All members shall provide complete and truthful responses to questions posed during interviews.
  - (k) No member may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation.
  - (l) Before a formal statement is taken, the member shall be advised in writing or on the record that admissions made may be used as evidence of misconduct or a basis for discipline (Minn. Stat. § 626.89, Subd. 10).
  - (m) A member may not be required to produce financial records (Minn. Stat. § 626.89, Subd. 11).
  - (n) A member's photograph will not be released unless allowed by law (Minn. Stat. § 626.89, Subd. 12).

#### 1010.6.4 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

**Introduction** - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

**Synopsis** - Provide a brief summary of the facts giving rise to the investigation.

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**Summary** - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

**Evidence** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

**Conclusion** - A recommendation regarding further action or disposition should be provided.

**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

#### 1010.6.5 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded.

**Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

**Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

The Chief of Police may authorize that any investigation be re-opened any time substantial new evidence is discovered concerning the complaint.

#### 1010.6.6 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation.

#### 1010.6.7 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation shall provide the complainant with periodic updates on the status of the investigation, as appropriate, and consistent with the provisions of the Minnesota Government Data Practices Act (Minn. Stat. § 13.43, Subd. 2; Minn. R. 6700.2200).

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##### **1010.7 ADMINISTRATIVE SEARCHES**

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

##### **1010.8 ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

##### **1010.9 CRIMINAL INVESTIGATION**

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police and Captain shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The Fairmont Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

The Chief of Police may postpone making a decision on an administrative investigation until any related criminal charges are resolved. The complainant and involved member should be informed of this decision.

##### **1010.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES**

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review and include their

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comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

#### 1010.10.1 DISCIPLINE

Disciplinary action may include, but is not limited to (Minn. R. 6700.2200):

- (a) Oral reprimand.
- (b) Written reprimand.
- (c) Suspension.
- (d) Demotion.
- (e) Discharge.

#### 1010.10.2 CAPTAIN RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Captain shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Captain may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Captain may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Captain shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

#### 1010.10.3 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Captain for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
  - 1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
  - 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

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Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

#### 1010.10.4 MINNESOTA POST INVESTIGATIONS

The Minnesota POST Board may require an administrative investigation based upon a complaint alleging a violation of a statute or rule that the board is empowered to enforce. Any such misconduct allegation or complaint assigned to this department shall be completed and a written summary submitted to the POST executive director within 30 days of the order for inquiry (Minn. Stat. § 214.10, Subd. 10).

#### 1010.10.5 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint. Notice must be consistent with the provisions of the MGD (Minn. Stat. § 13.43, Subd. 2; Minn. R. 6700.2200).

#### **1010.11 PRE-DISCIPLINE EMPLOYEE RESPONSE**

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

#### **1010.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.



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##### **1010.13 POST-DISCIPLINE APPEAL RIGHTS**

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement and/or personnel rules (Minn. R. 6700.2200).

Employees covered by the Veterans Preference Act are entitled to written notice of the right to request a hearing within 30 days of receipt of the notice of intent to terminate, suspend or demote. Failure to request the hearing in the time specified waives the right to the hearing and all other legal remedies. Any hearing shall be held in compliance with law (Minn. Stat. § 197.46).

##### **1010.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS**

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy except for employees covered by the Veterans Preference Act (Minn. Stat. § 197.46). However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee (Minn. R. 6700.2200).

Any probationary period may be extended at the discretion of the Chief of Police in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate.

##### **1010.15 RETENTION OF PERSONNEL INVESTIGATION FILES**

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

###### **1010.15.1 CONFIDENTIALITY OF PERSONNEL FILES**

All active investigations of alleged misconduct and personnel complaints shall be considered confidential and maintained separately from peace officer personnel files. The contents of such files shall not be revealed to other than the involved member or authorized personnel, except pursuant to lawful process, such as Minn. R. 6700.2500. Data in closed files shall be treated as private or public data depending on whether discipline was imposed upon the member.

###### **1010.15.2 LETTERS OF DISCIPLINE AND REPRIMANDS**

Letters of discipline and reprimands may only be placed in a member's personnel file after they are received by the member (see generally Minn. Stat. § 626.89, Subd. 13).

## Seat Belts

### 1011.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in department vehicles (Minn. Stat. § 169.686).

#### 1011.1.1 DEFINITIONS

Definitions related to this policy include:

**Child restraint system** - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213 (Minn. Stat. § 169.685).

### 1011.2 POLICY

It is the policy of the Fairmont Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

### 1011.3 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including those who are not members of the Department, are properly restrained (Minn. Stat. § 169.686).

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 department member or the public. Members must be prepared to justify any deviation from this requirement.

### 1011.4 TRANSPORTING CHILDREN

All children younger than 8 years of age and shorter than 4 feet 9 inches tall shall be restrained in a child passenger safety seat system (Minn. Stat. § 169.685, Subd. 5(b)).

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, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible.

### 1011.5 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is

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not intended to be a substitute for handcuffs or other appendage restraints. If a suspect, prisoner, or arrestee is unable to be secured with a seat belt or prisoner restraint system, the reason and circumstances shall be noted in the written report of that case file.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

#### **1011.6 INOPERABLE SEAT BELTS**

Department vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Department vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

#### **1011.7 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.

#### **1011.8 VEHICLE AIRBAGS**

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

## Body Armor

### 1012.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

### 1012.2 POLICY

It is the policy of the Fairmont 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.

### 1012.3 ISSUANCE OF BODY ARMOR

The Captain shall ensure that body armor is issued to all officers when the officer begins service at the Fairmont Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Captain 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.

#### 1012.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

- (a) Officers shall only wear agency issued and/or 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.

#### 1012.3.2 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for an extended 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

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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. Body armor panels and carriers will be regularly cleaned by officers to reduce any odors and provide a professional appearance while being worn.

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.

## Personnel Records

### 1013.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel data. Personnel data includes any file maintained under an individual member's name.

Without regard to where and how stored, all data about a current or former employee or applicant for employment shall be defined and classified as personnel data consistent with Minn. Stat. § 13.43. All data relating to a criminal investigation of a current or former employee or applicant shall be defined and classified as criminal data consistent with Minn. Stat. § 13.82.

### 1013.2 POLICY

It is the policy of this department to maintain personnel data and preserve the confidentiality of personnel data pursuant to the Constitution and the laws of Minnesota (Minn. Stat. § 13.43).

### 1013.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

- (a) Personal data, including photographs, marital status, names of family members, educational and employment history or similar information. A photograph of the member should be permanently retained.
- (b) Election of employee benefits.
- (c) Personnel action reports reflecting assignments, promotions and other changes in employment/appointment status. These should be permanently retained.
- (d) Original performance evaluations. These should be permanently maintained.
- (e) Discipline records, including copies of sustained personnel complaints.
- (f) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment.
  1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment.
  2. Any member response shall be attached to and retained with the original adverse comment.
  3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file.
- (g) Commendations and awards.
- (h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

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#### **1013.4 SUPERVISORY FILE**

Supervisory files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The supervisory file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations. The contents of the supervisory file will be given to the member after the completion of their annual performance evaluation. Members may also request to view their supervisory file at any reasonable time by asking an on duty supervisor.

#### **1013.5 TRAINING FILE**

An individual training file shall be maintained by the Training Sergeant for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) The involved member is responsible for providing the Training Sergeant with evidence of completed training/education in a timely manner.
- (b) The Training Sergeant shall ensure that copies of such training records are placed in the member's training file.

#### **1013.6 INTERNAL AFFAIRS FILE**

Internal affairs files shall be maintained under the exclusive control of the office of the Chief of Police. Access to these files may only be approved by the Chief of Police..

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition. Investigations of complaints that result in the following findings shall not be placed in the member's department file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

#### **1013.7 MEDICAL FILE**

A private medical file shall be maintained separately from all other personnel data and shall contain all documents relating to the member's medical condition and history, including but not limited to:

- (a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).
- (b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.
- (c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.

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- (d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.
- (e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

#### **1013.8 EMPLOYEE ASSISTANCE PROGRAMS**

Employee assistance records must be kept separate from personnel records and shall not become part of an employee's personnel file (Minn. Stat. § 181.980, Subd. 3).

#### **1013.9 SECURITY**

Personnel data should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel data maintained in an electronic format should have adequate password protection.

Any personnel data not deemed public data is private and shall not be subject to disclosure except as provided in this policy, the Records Maintenance and Release Policy, according to applicable discovery procedures or with the member's written consent (Minn. Stat. § 13.43; Minn. Stat. § 181.967, Subd. 4).

Nothing in this policy is intended to preclude review of personnel data by the City Administrator, City Attorney or other attorneys or representatives of the City in connection with official business.

##### **1013.9.1 REQUESTS FOR DISCLOSURE**

Any member receiving a request for personnel data shall promptly notify the City Clerk or other person charged with the maintenance of such data.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made.

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member's personnel data shall be logged in the corresponding file by the City Clerk.

##### **1013.9.2 RELEASE OF PRIVATE DATA**

Except as provided by this policy, pursuant to lawful process, pursuant to state law or court order, no private data shall be disclosed without the written consent of the employee or written authorization of the Chief of Police designee (Minn. Stat. § 13.43; Minn. Stat. § 181.967, Subd. 4).

#### **1013.10 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS**

Upon request, any member may request access to his/her own personnel file as set forth in Minn. Stat. § 181.961.



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Any member seeking the removal of any item from his/her personnel files shall file a written request to the Chief of Police through the chain of command. The Department shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Department shall be retained with the contested item in the member's corresponding personnel file. If the contested item is ultimately removed, the written responses shall also be removed (Minn. Stat. § 181.962, Subd. 1). An employee not satisfied with this resolution may seek such other remedies as are authorized by the MGDPA.

Members may be restricted from accessing files containing any of the following information:

- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.
- (d) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (e) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for department planning purposes.
- (f) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (g) Records relevant to any other pending claim between the Department and the member that may be discovered in a judicial proceeding.

#### **1013.11 RETENTION AND PURGING**

Unless provided otherwise in this policy, personnel data shall be maintained in accordance with the established records retention schedule.

## Commendations and Awards

### 1014.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Fairmont Police Department and individuals from the community.

### 1014.2 POLICY

It is the policy of the Fairmont Police Department to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations and awards.

Adaptation of Departmental Awards Program Policy [See attachment: FPD Department Awards Program.pdf](#)

## **Fitness for Duty**

### **1015.1 PURPOSE AND SCOPE**

All officers are required to be free from any physical, emotional or mental condition that might adversely affect the exercise of peace officer duties. The purpose of this policy is to ensure that all officers of this department remain fit for duty and able to perform their job functions.

### **1015.2 EMPLOYEE RESPONSIBILITIES**

- (a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of the position.
- (b) Each member of this department shall perform his/her respective duties without physical, emotional and/or mental constraints.
- (c) During working hours, all employees are required to be alert, attentive and capable of performing assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

### **1015.3 SUPERVISOR RESPONSIBILITIES**

- (a) A supervisor observing an employee, or receiving a report of an employee, who is perceived to be unable to safely perform his/her duties due to a physical, medical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with the Shift Sergeant and the Captain, a determination should be made whether the employee should be temporarily relieved from his/her duties.
- (e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

### **1015.4 NON-WORK RELATED CONDITIONS**

Any employee suffering from a non-work related condition that warrants a temporary relief from duty may be required to use sick leave or other paid time off in order to obtain medical treatment or other reasonable rest period.

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##### **1015.5 WORK RELATED CONDITIONS**

Any employee suffering from a work-related condition that warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of a supervisor and concurrence of a the Chief of Police any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the well-being of the employee and until such time as the following may be completed:

- (a) A preliminary determination that the employee's conduct appears to be in compliance with policy and law.
- (b) If appropriate, the employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

##### **1015.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS**

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police may serve that employee with a written order to undergo a physical and/or psychological examination to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, list any functional limitations that limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action or grievance, the examining physician or therapist may be required to disclose any and all information that is relevant to such proceeding.
- (c) To facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's private medical file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and may subject the employee to discipline up to and including termination.
- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.
- (g) If an employee is deemed unfit for duty by the Department, the employee may submit a report from the employee's personal physician, psychiatrist, psychologist or other health care provider that will be taken into consideration.

##### **1015.7 LIMITATION ON HOURS WORKED**

Members should normally not work more than:

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- 16 hours in one day (24 hour) period or
- 30 hours in any two day (48 hour) period

Except in limited circumstances members should normally have a eight hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines. Certain conditions may require lengthy or extended shifts outside of normal recommendations. Officers may be required to adhere to immediate shift extensions or call-ins/back to respond to emergency situations for the safety of those in our community and labor contract.

Recommended limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, special events, contract work, general overtime and any other work assignments. This is only intended as general guidance as a best practice and does not relieve any officer or employee of any duty related responsibilities or obligations.

#### **1015.8 APPEALS**

Employees disputing the application or interpretation of this policy may submit a grievance as provided in the Grievance Procedure Policy of the applicable collective bargaining agreement.

## Meal Periods and Breaks

### 1016.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as reasonably possible shall conform to the policy governing all City employees pursuant to Minn. Stat. § 177.253, Minn. Stat. § 177.254 and Minn. R. § 5200.0120.

#### 1016.1.1 MEAL PERIODS

Each licensed peace officer who works for eight or more consecutive hours is entitled to sufficient time to eat a meal (Minn. Stat. § 177.254). Licensed employees shall remain on -duty subject to call during meal periods. All other employees are not on call during meal periods unless directed otherwise by a supervisor.

Uniformed officers shall take their meal periods within the City limits unless on assignment outside of the City.

The time spent for the meal period shall not exceed the authorized time allowed.

#### 1016.1.2 15 MINUTE BREAKS

Each employee is allowed adequate time from work within each four consecutive hours of work to utilize the nearest convenient restroom (Minn. Stat. § 177.253).

Employees normally assigned to the Law Enforcement Center (LEC) shall remain in the LEC for their breaks. This does not prohibit them from taking a break outside the facility if approved by their supervisor.

Licensed officers will take their breaks, subject to call, and shall monitor their radios.

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## Lactation Break Policy

### 1017.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child.

### 1017.2 POLICY

It is the policy of this department to provide, in compliance with the Fair Labor Standards Act and Minnesota law, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing child, pursuant to Minn. Stat. § 181.939 and 29 USC § 207.

### 1017.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time.

Lactation breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods. Employees desiring to take a lactation break shall notify a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Minn. Stat. § 181.939).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

### 1017.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private (Minn. Stat. § 181.939). Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207). The location must have access to an electrical outlet.

The area assigned for this purpose should not be used for storage of any devices, supplies, or expressed milk and should be returned to its original state after each use.

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

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## *Lactation Break Policy*

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### **1017.5 STORAGE OF EXPRESSED MILK**

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.



## Payroll Records

### **1018.1 PURPOSE AND SCOPE**

This policy provides the guidelines for completing and submitting payroll records of department members who are eligible for the payment of wages.

### **1018.2 POLICY**

The Fairmont Police Department maintains timely and accurate payroll records.

### **1018.3 RESPONSIBILITIES**

Members are responsible for the accurate completion and timely submission of their payroll records for the payment of wages. Members are required to submit a completed and signed time sheet to the Captain on each Thursday following the end of a pay period (two weeks) by 8:00 a.m. Members who repeatedly fail to submit their time sheet as required during a twelve month period may face progressive discipline (reminder, written warning, suspension)

The Captain is responsible for approving the payroll records for those under his/her command. If the Captain is not available, another supervisor will be designated to review and approve time sheets.

### **1018.4 TIME REQUIREMENTS**

Members who are eligible for the payment of wages are paid on a scheduled, periodic basis, generally on the same day or date each period, with certain exceptions, such as holidays. Payroll records shall be completed and submitted to Administration as established by the City payroll procedures.

### **1018.5 RECORDS**

The City Finance entity shall insure that accurate and timely payroll records are maintained as required by 29 CFR 516.2 for a minimum of three years (29 CFR 516.5).

## Outside Employment

### 1019.1 PURPOSE AND SCOPE

To avoid actual or perceived conflicts of interest for Department employees engaging in outside employment, all employees shall initially obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy.

#### 1019.1.1 DEFINITIONS

**Outside Employment** - The employment of any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

**Outside Overtime** - Overtime involving any member of this department who performs duties or services on behalf of an outside organization, company or individual within this jurisdiction on behalf of the Department. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

### 1019.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief of Police. An email notification and approval is acceptable to meet this provision. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy is grounds for disciplinary action.

To obtain approval for outside employment, the employee must complete a detailed written request for approval and be submitted to the Chief of Police. The application will then be forwarded through the appropriate chain of command to the Chief of Police for consideration.

If approved, the employee will be provided with a written response of approval.

Any employee seeking approval of outside employment whose request has been denied shall be provided with a written reason for the denial of the written request for approval at the time of the denial or within 30 days of the application.

#### 1019.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Application is denied or rescinded by the Department, the employee may file a written notice of appeal to the City Administrator within 10 days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current collective bargaining agreement if applicable.

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##### 1019.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT AUTHORIZATION

Any outside employment approval may be revoked or suspended after the employee has received written notification of the reasons for revocation or suspension. Revocation will be implemented after the employee has exhausted the appeal process.

The outside employment may be revoked:

- (a) If an employee's performance declines to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of minimum acceptable competency and the outside employment may be related to the employee's performance. The Chief of Police may, at his/her discretion, notify the employee of the intent to revoke any previously approved outside employment). After the appeal process has concluded, the revocation will remain in force until the employee's performance directly related to the outside employment has been reestablished to the minimum level of acceptable competency.
- (b) If, at any time during the term of a valid outside employment approval, an employee's conduct or outside employment conflicts with the provisions of Department policy, or any law.
- (c) The outside employment creates an actual or apparent conflict of interest with the Department or City.

##### 1019.3 PROHIBITED OUTSIDE EMPLOYMENT

The Department expressly reserves the right to deny any Outside Employment Request submitted by an employee seeking to engage in any activity that:

- (a) Involves the employee's use of Department time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage.
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act that the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department.
- (c) Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department.
- (d) Involves time demands that would render performance of the employee's duties for this department below minimum standards or would render the employee unavailable for reasonably anticipated overtime assignments and other job-related demands that occur outside regular working hours.

##### 1019.3.1 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Captain, undercover officers or officers assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity that might reasonably disclose the officer's law enforcement status.

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##### **1019.4 DEPARTMENT RESOURCES**

Employees are prohibited from using any Department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee's position with this department.

##### **1019.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS**

If an employee terminates his/her outside employment during the period of a valid approval, the employee shall promptly submit written notification of such termination to the Chief of Police through the appropriate chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material shall report the change.

##### **1019.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY OR ADMINISTRATIVE LEAVE**

Department members engaged in outside employment who are placed on disability or administrative leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether they intend to continue to engage in outside employment while on such leave or light-duty status. The Captain shall review the duties of the outside employment along with any work-related doctor's orders and make a recommendation to the Chief of Police whether such outside employment approval should continue or be suspended or revoked.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding the work approval, a notice of intent to revoke the employee's approval will be forwarded to the involved employee and a copy attached to the original work permit. The revocation process outlined in this policy shall be followed.

Criteria for revoking or suspending the outside employment permit while on disability status or administrative leave include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled employee, as indicated by the City's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty employee.
- (c) The employee's failure to make timely notice of his/her intentions to their supervisor.
- (d) The outside employment is not compatible with the reason the employee is on administrative leave.

# Occupational Disease, Personal Injury and Death Reporting

## 1020.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, personal injuries and deaths.

### 1020.1.1 DEFINITIONS

Definitions related to this policy include (Minn. Stat. § 176.011):

**Occupational disease** – A mental impairment or physical disease arising out of and in the course of employment peculiar to the occupation in which the member is engaged and due to causes in excess of the hazards ordinary of employment. The term includes diagnosis of post-traumatic stress disorder (PTSD) by a psychiatrist or psychologist; however, mental impairment is not considered a disease if it results from a disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement or similar action taken in good faith by the Department.

**Personal injury** – Any mental impairment or physical injury arising out of and in the course of employment, including personal injury caused by occupational disease, while engaged in, on or about the premises where the member's services require the member's presence as part of that service at the time of the injury and during the hours of that service. Personal injury does not include an injury caused by the act of a third person or fellow department member who intended to injure the member because of personal reasons, and not directed against the member as a member of the Fairmont Police Department, or because of the employment with the Fairmont Police Department. Mental impairment is not considered a personal injury if it results from a disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement or similar action taken in good faith by the Department.

## 1020.2 POLICY

The Fairmont Police Department will address occupational diseases, personal injuries and deaths appropriately, and will comply with applicable state workers' compensation requirements (Minn. Stat. § 176.231).

## 1020.3 RESPONSIBILITIES

### 1020.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or personal injury shall report such event as soon as practicable, but within 24 hours, to a supervisor, and shall seek medical care when appropriate.

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#### *Occupational Disease, Personal Injury and Death Reporting*

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##### **1020.3.2 SUPERVISOR RESPONSIBILITIES**

A supervisor learning of any occupational disease or personal injury should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related Citywide disease- or injury-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Workplace Accident and Injury Reduction policies apply and take additional action as required.

##### **1020.3.3 CAPTAIN RESPONSIBILITIES**

The Captain who receives a report of an occupational disease, personal injury or death should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the the City's Human Resources entity to ensure any required Minnesota Occupational Safety and Health Administration (MNOSHA) reporting is made as required in the illness and injury prevention plan identified in the Workplace Accident and Injury Reduction Policy.

##### **1020.4 OTHER DISEASE OR INJURY**

Diseases, injuries or deaths caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the Captain through the chain of command and a copy sent to the City of Fairmont's Human Resources Entity.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

##### **1020.5 SETTLEMENT OFFERS**

When a member sustains an occupational disease or personal injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

##### **1020.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL**

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational disease or personal injury, the member shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief of Police. The purpose of such notice is to permit the City to determine whether the offered settlement will affect any claim the City may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, and to protect the City's right of subrogation, while ensuring that the member's right to receive compensation is not affected.

## Personal Appearance Standards

### 1021.1 PURPOSE AND SCOPE

To project uniformity and neutrality toward the public and other members of the Department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment.

### 1021.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer health safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

#### 1021.2.1 HAIR

Hairstyles of all members shall be neat in appearance. For licensed members, hair must not extend below the top edge of the uniform collar while assuming a normal stance.

For licensed members with hair exceeding the prior notation, hair must be worn up or in a tightly wrapped braid or ponytail.

#### 1021.2.2 MUSTACHES

A neatly trimmed mustache or goatee may be worn.

#### 1021.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

#### 1021.2.4 FACIAL HAIR

Facial hair other than sideburns, mustaches, goatee and eyebrows shall not be worn, unless authorized by the Chief of Police or designee.

#### 1021.2.5 FINGERNAILS

Fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, fingernails shall be trimmed so that no point of the nail extends beyond the tip of the finger and clean.

#### 1021.2.6 JEWELRY

For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches, and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety concern for the department member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related, or obscene language is not allowed.

- (a) Necklaces shall not be visible above the shirt collar.
- (b) Earrings shall be small and worn only in or on the earlobe.

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- (c) One ring or ring set may be worn on each hand of the department member. No rings should be of the type that would cut or pose an unreasonable safety risk to the member or others during a physical altercation, if the member is assigned to a position where that may occur.
- (d) One small bracelet, including a bracelet identifying a medical condition, may be worn on one arm.
- (e) Wristwatches shall be conservative and present a professional image.
- (f) Tie tacks or tie bars worn with civilian attire shall be conservative and present a professional image.

#### **1021.3 TATTOOS**

While on-duty or representing the Fairmont Police Department in any official capacity, members should make reasonable effort to conceal tattoos or other body art. There is however, no prohibition of visible tattoos or body art that conform to this policy. At no time while the member is on-duty or representing the Department in any official capacity shall any offensive tattoo or body art be visible. Examples of offensive tattoos include but are not limited to those that exhibit or advocate discrimination; those that exhibit gang, supremacist, or extremist group affiliation; and those that depict or promote drug use, sexually explicit acts, or other obscene material.

#### **1021.4 BODY PIERCING OR ALTERATION**

Body piercing or alteration to any area of the body that is visible in any authorized uniform or attire, and is a deviation from normal anatomical features and that is not medically required is prohibited. Such body alteration includes, but is not limited to:

- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement or breast augmentation.
- (c) Abnormal shaping of the ears, eyes, nose or teeth.
- (d) Branding or scarification.



## Uniform Regulations

### 1022.1 PURPOSE AND SCOPE

The uniform policy of the Fairmont Police Department is established to ensure that uniformed officers, special assignment personnel and non-licensed employees will be readily identifiable to the public through the proper use and wearing of department uniforms. Employees should also refer to the following associated policies:

- Firearms
- Department Owned and Personal Property
- Body Armor
- Personal Appearance Standards

The uniform and equipment specifications manual is maintained and periodically updated by the Chief of Police or the authorized designee. The manual, and associated procedures, should be consulted regarding authorized equipment and uniform specifications.

The Fairmont Police Department will provide uniforms for all employees who are required to wear them in the manner, quantity and frequency agreed upon in the respective employee group's collective bargaining agreement. The uniforms for officers of this department shall be a consistent color pursuant to Minn. Stat. § 626.88 Subd. 2.

### 1022.2 ADOPTION OF PREVIOUS UNIFORM AND PROFESSIONAL APPEARANCE POLICY

See attachment: [FPD Uniform and Professional Appearance Policy.pdf](#)

## Nepotism and Conflicting Relationships

### 1023.1 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.

#### 1023.1.1 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.

### 1023.2 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.

#### 1023.2.1 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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## *Nepotism and Conflicting Relationships*

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### 1023.2.2 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.

## Department Badges

### 1024.1 PURPOSE AND SCOPE

The Fairmont Police Department badge and uniform patch as well as the likeness of these items and the name of the Fairmont Police Department are property of the Department and their use shall be restricted as set forth in this policy.

### 1024.2 POLICY

The uniform badge shall be issued to Department members as a symbol of authority. The use and display of Department badges shall be in strict compliance with this policy.

#### 1024.2.1 FLAT BADGE

Licensed officers, with the written approval of the Chief of Police, may purchase at their own expense a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of Department policy as the uniform badge.

- (a) Should the flat badge become lost, damaged or otherwise removed from the officer's control he/she shall make the proper notifications as outlined in the Department-Owned and Personal Property Policy.
- (b) An honorably retired officer may keep his/her flat badge upon retirement.
- (c) The purchase, carrying or display of a flat badge is not authorized for non-licensed personnel.

#### 1024.2.2 CIVILIAN PERSONNEL

Badges and Department identification cards issued to non- licensed personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Records Technician, Community Service Officer).

- (a) Non-licensed personnel shall not display any Department badge except as a part of his/her uniform and while on-duty or otherwise acting in an official and authorized capacity.
- (b) Non-licensed personnel shall not display any Department badge or represent him/herself, on- or off-duty, in such a manner which would cause a reasonable person to believe that he/she is a licensed officer.

#### 1024.2.3 RETIREE UNIFORM BADGE

Upon honorable retirement employees may keep their assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia, as other uses of the badge may be unlawful or in violation of this policy.

### 1024.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

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#### *Department Badges*

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Department badges are issued to all licensed employees for official use only. The Department badge, shoulder patch or the likeness thereof, or the Department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda and electronic communications, such as electronic mail or websites and web pages.

The use of the badge, uniform patch and Department name for all material (e.g., printed matter, products or other items) developed for Department use shall be subject to approval by the Chief of Police.

Employees shall not loan the badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

## Temporary Modified-Duty Assignments

### 1025.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules, or current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

### 1025.2 POLICY

Subject to operational considerations, the Fairmont Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

### 1025.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the Minnesota Human Rights Act (Minn. Stat. § 363A.01 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Fairmont Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

### 1025.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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Employees seeking a temporary modified-duty assignment should submit a written request to their Captains or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Captain will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the City Administrator or the City Attorney as appropriate.

#### **1025.5 ACCOUNTABILITY**

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with the Captain.

##### **1025.5.1 EMPLOYEE RESPONSIBILITIES**

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to the Captain that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

##### **1025.5.2 SUPERVISOR RESPONSIBILITIES**

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:



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- (a) Periodically apprising the Captain of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Captain and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

#### **1025.6 MEDICAL EXAMINATIONS**

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

#### **1025.7 PREGNANCY**

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment.

##### 1025.7.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City's personnel rules and regulations regarding family and medical care leave.

#### **1025.8 PROBATIONARY EMPLOYEES**

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

#### **1025.9 MAINTENANCE OF CERTIFICATION AND TRAINING**

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

# Employee Speech, Expression and Social Networking

## 1026.1 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.

### 1026.1.1 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.

## 1026.2 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 Fairmont 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.

## 1026.3 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 Fairmont 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 other organizations. Examples of the type of information that could reasonably be expected to compromise safety include:

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- Disclosing a photograph and name or address of an employee.
- Disclosing the address, telephone number or email address of an employee. Official City of Fairmont emails and office phone numbers are not considered a violation of this policy.
- Otherwise disclosing where another employee can be located off-duty.

#### **1026.4 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 Fairmont 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 Fairmont Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Fairmont Police Department or its employees. Examples may include:
  1. Statements that indicate disregard for the law or the state or U.S. Constitution.
  2. Expression that demonstrates support for criminal activity.
  3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (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 Fairmont 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.

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- (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 Fairmont Police 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).

#### 1026.4.1 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 Fairmont Police Department or identify themselves in any way that could be reasonably perceived as representing the Fairmont 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 Fairmont 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

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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).

#### **1026.5 PRIVACY EXPECTATION**

Members 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 (see the Information Technology Use Policy for additional guidance).

#### **1026.6 CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Department.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

#### **1026.7 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.

## POST Licensing

### 1027.1 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; Minn. R. 6700.1000).

### 1027.2 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 a schedule established by Administrative Rule (Minn. R. 6700.1000).

#### 1027.2.1 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):

- 16 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.

### 1027.3 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.

### 1027.4 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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# Workplace Accident and Injury Reduction

## 1028.1 PURPOSE AND SCOPE

The purpose of this policy is to establish an ongoing and effective plan to reduce the incidence of illness and injury for members of the Fairmont Police Department, in accordance with the requirements of Minn. Stat. § 182.653.

This policy specifically applies to illness and injury that results in lost time or that requires medical treatment beyond first aid. Although this policy provides the essential guidelines for a plan that reduces illness and injury, it may be supplemented by procedures outside the Policy Manual through directives and the City of Fairmont Employee Handbook.

This policy does not supersede, but supplements any related Citywide safety efforts, specifically the "Workers Compensation and Return to Work" program.

[See attachment: Workers Comp and Return to Work.pdf](#)

## 1028.2 POLICY

The Fairmont Police Department is committed to providing a safe environment for its members and visitors and to minimizing the incidence of work-related illness and injuries. The Department will establish and maintain a Workplace Accident and Injury Reduction (AWAIR) program and will provide tools, training and safeguards designed to reduce the potential for accidents, illness and injuries. It is the intent of the Department to comply with all laws and regulations related to occupational safety.

## 1028.3 A WORKPLACE ACCIDENT AND INJURY REDUCTION PROGRAM

The City of Fairmont Safety Program is responsible for developing an AWAIR program that shall include:

- (a) Workplace safety and health training programs.
- (b) Regularly scheduled safety meetings.
- (c) Posted or distributed safety information.
- (d) A system for members to anonymously inform management about workplace hazards.
- (e) Establishment of a safety and health committee that will (Minn. Stat. § 182.676; Minn. R. 5208.0010 et seq.):
  1. Meet regularly.
  2. Prepare a written record of safety and health committee meetings.
  3. Review the results of periodic scheduled inspections.
  4. Review investigations of accidents and exposures.
  5. Make suggestions to command staff for the prevention of future incidents.
  6. Review investigations of alleged hazardous conditions.

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7. Submit recommendations to assist in the evaluation of member safety suggestions.
  8. Assess the effectiveness of efforts made by the Department to meet applicable standards.
- (f) Establishing a process to ensure illnesses and injuries are reported as required under Minnesota Occupational Safety and Health Administration (MNOSHA) (29 CFR 1904.39; Minn. Stat. § 182.674; Minn. R. 5205.0010).
- (g) Descriptions of the following (Minn. Stat. § 182.653):
1. How managers, supervisors and members are responsible for implementing the program and how continued participation of management will be established, measured and maintained
  2. The methods used to identify, analyze and control new or existing hazards, conditions and operations
  3. How the plan will be communicated to all affected members so that they are informed of work-related hazards and controls
  4. How workplace accidents will be investigated and corrective action implemented
  5. How safe work practices and rules will be enforced

The Captain must conduct and document a review of the AWAIR program at least annually and document how the program procedures are applied (Minn. Stat. § 182.653).

#### **1028.3.1 SAFETY AND HEALTH COMMITTEE**

The City of Fairmont Safety Program will facilitate the safety and health committee and ensure applicable rules are addressed (Minn. R. 5208.0010 et seq). The committee's purpose is to assist in the implementation of the AWAIR program and to bring workplace safety concerns or complaints to the attention of Fairmont Police Department administration. Members of the committee must be selected by Fairmont Police Department members (Minn. Stat. 182.676).

Duties of the committee should, at a minimum, include the areas outlined in Minn. R. 5208.0050.

#### **1028.4 CITY OF FAIRMONT SAFETY PROGRAM RESPONSIBILITIES**

The responsibilities of the Captain and the City Safety Program Manager include but are not limited to:

- (a) Managing and implementing a plan to reduce the incidence of member illness and injury.
- (b) Ensuring that a system of communication is in place that facilitates a continuous flow of safety and health information between supervisors and members. This system shall include:
  1. New member orientation that includes a discussion of safety and health policies and procedures.
  2. Regular member review of the AWAIR program.



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- (c) Ensuring that all safety and health policies and procedures are clearly communicated and understood by all members.
- (d) Taking reasonable steps to ensure that all members comply with safety rules in order to maintain a safe work environment. This includes but is not limited to:
  - 1. Informing members of the AWAIR guidelines.
  - 2. Recognizing members who perform safe work practices.
  - 3. Ensuring that the member evaluation process includes member safety performance.
  - 4. Ensuring department compliance to meet standards regarding the following:
    - (a) Bloodborne pathogen precautions (29 CFR 1910.1030; Minn. Stat. § 182.6555; Minn. R. 5206.0600)
    - (b) Personal Protective Equipment (PPE) (see the Personal Protective Equipment Policy) (29 CFR 1910.134; Minn. R. 5205.0010)
    - (c) Appropriate barriers in law enforcement vehicles (Minn. R. 5205.0755)
    - (d) Emergency Action Plan (29 CFR 1910.38(a); Minn. R. 5205.0010)
    - (e) Walk-Working Surfaces (Minn. R. 5205.0010; 29 CFR 1910.21 et seq.)
    - (f) Personal Fall Protection Systems (Minn. R. 5205.0010; 29 CFR 1910.140)
- (e) Making available a form to document inspections, unsafe conditions, or work practices, and actions taken to correct unsafe conditions and work practices.
- (f) Making available a form to document individual incidents or accidents.
- (g) Making available a form to document the safety and health training of each member. This form will include the member's name or other identifier, training dates, type of training, and training providers.
- (h) Conducting and documenting a regular review of the illness and injury prevention plan.

#### **1028.5 SUPERVISOR RESPONSIBILITIES**

Supervisor responsibilities include, but are not limited to:

- (a) Ensuring member compliance with AWAIR guidelines and answering questions from members about this policy.
- (b) Training, counseling, instructing or making informal verbal admonishments any time safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Standards of Conduct Policy.
- (c) Establishing and maintaining communication with members on health and safety issues. This is essential for an injury-free, productive workplace.
- (d) Completing required forms and reports relating to illness and injury prevention; such forms and reports shall be submitted to the Captain.
- (e) Notifying the Captain when:

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1. New substances, processes, procedures or equipment that present potential new hazards are introduced into the work environment.
2. New, previously unidentified hazards are recognized.
3. Occupational illnesses and injuries occur.
4. New and/or permanent or intermittent members are hired or reassigned to processes, operations or tasks for which a hazard evaluation has not been previously conducted.
5. Workplace conditions warrant an inspection.

#### **1028.6 HAZARDS**

All members should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Members should make their reports to a supervisor (as a general rule, the on duty supervisor).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner, based on the severity of the hazard. These hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering members or property, supervisors should protect or remove all exposed members from the area or item, except those necessary to correct the existing condition.

Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

All significant actions taken and dates they are completed shall be documented on the appropriate form. This form should be forwarded to the Captain via the chain of command.

The Captain will take appropriate action to ensure the AWAIR program addresses potential hazards upon such notification.

#### **1028.7 INSPECTIONS**

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards and permit mitigation of those hazards. A hazard assessment checklist should be used for documentation and to ensure a thorough assessment of the work environment.

The Captain shall ensure that the appropriate documentation is completed for each inspection conducted by the City Safety Manager or their designee.

##### **1028.7.1 EQUIPMENT**

Members are charged with daily vehicle inspections of their assigned vehicles and of their PPE prior to working in the field. Members shall report to their supervisor if an unsafe condition cannot be immediately corrected. Members should forward the unsafe condition information to their supervisors for follow up as needed.

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##### 1028.7.2 FREQUENCY OF INSPECTIONS

Safety inspections shall be conducted by the safety and health committee at a frequency decided by the committee, but at least quarterly (Minn. R. 5208.0040).

##### 1028.8 INVESTIGATIONS

Any member sustaining any work-related illness or injury, as well as any member who is involved in any accident or hazardous substance exposure while on-duty shall report such event as soon as practicable to a supervisor. Members observing or learning of a potentially hazardous condition are to promptly report the condition to their immediate supervisors.

A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

- (a) A visit to the accident scene as soon as possible.
- (b) An interview of the injured member and witnesses.
- (c) An examination of the workplace for factors associated with the accident/exposure.
- (d) Determination of the cause of the accident/exposure.
- (e) Corrective action to prevent the accident/exposure from reoccurring.
- (f) Documentation of the findings and corrective actions taken.

Additionally, the supervisor should proceed with the steps to report an on-duty injury, as required under the Occupational Disease, Personal Injury and Death Reporting Policy, in conjunction with this investigation to avoid duplication and ensure timely reporting.

##### 1028.9 TRAINING

The Captain should work with the Training Sergeant to provide all members, including supervisors, with training on general and job-specific workplace safety and health practices. Training shall be provided:

- (a) To supervisors to familiarize them with the safety and health hazards to which members under their immediate direction and control may be exposed.
- (b) To all members with respect to hazards specific to each member's job assignment.
- (c) To all members given new job assignments for which training has not previously been provided.
- (d) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.
- (e) Whenever the Department is made aware of a new or previously unrecognized hazard.
- (f) Annually for training related to infectious agents and hazardous substances as required by MNOSHA (Minn. Stat. § 182.653).

##### 1028.9.1 TRAINING TOPICS

The Training Sergeant shall ensure that training includes:

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- (a) Reporting unsafe conditions, work practices and injuries, and informing a supervisor when additional instruction is needed.
- (b) Use of appropriate clothing, including gloves and footwear.
- (c) Use of respiratory equipment.
- (d) Provisions for medical services and first aid.
- (e) Handling of bloodborne pathogens and other biological hazards.
- (f) Prevention of heat and cold stress.
- (g) Identification and handling of hazardous materials, including chemical hazards to which members could be exposed, and review of resources for identifying and mitigating hazards (e.g., hazard labels, Safety Data Sheets (SDS)).
- (h) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.
- (i) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.
- (j) Avoidance of slips and falls.
- (k) Other job-specific safety concerns.

#### **1028.10 RECORDS**

Records and training documentation relating to the AWAIR program will be maintained in accordance with the established records retention schedule.

All safety and health committee recommendations and reports shall be kept for two years. The reports shall be made available to the Minnesota Department of Labor and Industry upon request (Minn. R. 5208.0050).

## Line-of-Duty Deaths

### 1029.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Fairmont Police Department in the event of the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member's survivors.

The Chief of Police may also apply some or all of this policy in situations where members are injured in the line of duty and the injuries are life-threatening.

#### 1029.1.1 DEFINITIONS

Definitions related to this policy include:

**Line-of-duty death** - The death of a sworn member during the course of performing law enforcement-related functions while on- or off-duty, or a civilian member during the course of performing their assigned duties.

**Survivors** - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

### 1029.2 POLICY

It is the policy of the Fairmont Police Department to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this department to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

### 1029.3 INITIAL ACTIONS BY COMMAND STAFF

- (a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Shift Sergeant and Dispatch.
  - 1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Public Information Officer section of this policy).
- (b) The Shift Sergeant should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.
- (c) If the member has been transported to the hospital, the Shift Sergeant or the authorized designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.
- (d) The Chief of Police or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve

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the temporary Hospital Liaison) and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

#### **1029.4 NOTIFYING SURVIVORS**

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

The Chief of Police or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Chief of Police, Captain or the authorized designee should select at least two members to conduct notification of survivors, one of which may be a clergy member.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of survivors or language barriers.
- (d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in department vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital. Notifying members should remain at the hospital while the survivors are present.
- (e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities, and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.
- (f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.
- (g) Offer to call other survivors, friends, or clergy to support the survivors and to avoid leaving survivors alone after notification.
- (h) Assist the survivors with meeting childcare or other immediate needs.
- (i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes, and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.

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- (j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Department Liaison.
- (k) Provide their contact information to the survivors before departing.
- (l) Document the survivors' names and contact information, as well as the time and location of notification. This information should be forwarded to the Department Liaison.
- (m) Inform the Chief of Police or the authorized designee once survivor notifications have been made so that other Fairmont Police Department members may be apprised that survivor notifications are complete.

#### 1029.4.1 OUT-OF-AREA NOTIFICATIONS

The Department Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

- (a) The Department Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the department member that the survivors can call for more information following the notification by the assisting agency.
- (b) The Department Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the Department to pay travel expenses without the authorization of the Chief of Police.

#### 1029.5 NOTIFYING DEPARTMENT MEMBERS

Member(s) designated by the Chief of Police will be responsible for notifying department members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shift. Members reporting for duty from their residence should be instructed to contact their supervisor as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.

#### 1029.6 LIAISONS AND COORDINATORS

The Chief of Police or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including but not limited to:

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- (a) Department Liaison.
- (b) Hospital Liaison.
- (c) Survivor Support Liaison.
- (d) Wellness Support Liaison.
- (e) Funeral Liaison.
- (f) Mutual aid coordinator.
- (g) Benefits Liaison.
- (h) Finance coordinator.

Liaisons and coordinators will be directed by the Department Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available department resources. The Department Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed.

#### 1029.6.1 DEPARTMENT LIAISON

The Department Liaison should be a Captain or of sufficient rank to effectively coordinate department resources, and should serve as a facilitator between the deceased member's survivors and the Department. The Department Liaison reports directly to the Chief of Police. The Department Liaison's responsibilities include, but are not limited to:

- (a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests. Consideration should be given to organizing the effort using the National Incident Management System (NIMS).
- (b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.
- (c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.
- (d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.
- (e) Coordinating all official law enforcement notifications and arrangements.
- (f) Making necessary contacts for authorization to display flags at half-mast.
- (g) Ensuring that department members are reminded of appropriate information-sharing restrictions regarding the release of information that could undermine future legal proceedings.
- (h) Coordinating security checks of the member's residence as necessary and reasonable.
- (i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.



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##### 1029.6.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

- (a) Arrange for appropriate and separate waiting areas for:
  1. The survivors and others whose presence is requested by the survivors.
  2. Department members and friends of the deceased member.
  3. Media personnel.
- (b) Ensure, as much as practicable, that any suspects who are in the hospital and their families or friends are not in close proximity to the member's survivors or Fairmont Police Department members (except for members who may be guarding the suspect).
- (c) Ensure that survivors receive timely updates regarding the member before information is released to others.
- (d) Arrange for survivors to have private time with the member, if requested.
  1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
  2. The Hospital Liaison should accompany the survivors into the room, if requested.
- (e) Stay with survivors and ensure that they are provided with other assistance as needed at the hospital.
- (f) If applicable, explain to the survivors why an autopsy may be needed.
- (g) Ensure hospital bills are directed to the Department, that the survivors are not asked to sign as guarantor of payment for any hospital treatment and that the member's residence address, insurance information and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include, but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting his/her actions at the conclusion of his/her duties.

##### 1029.6.3 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Department Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term department contact for survivors.

The Survivor Support Liaison should be selected by the Captain or their designee. The following should be considered when selecting the Survivor Support Liaison:

- The liaison should be an individual the survivors know and with whom they are comfortable working.
- If the survivors have no preference, the selection may be made from names recommended by the deceased member's supervisor and/or coworkers. The

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deceased member's partner or close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.

- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include but are not limited to:

- (a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes, and other locations, as appropriate.
- (b) Communicating with the Department Liaison regarding appropriate security measures for the family residence, as needed.
- (c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
- (d) Providing assistance with travel and lodging arrangements for out-of-town survivors.
- (e) Returning the deceased member's personal effects from the Department and the hospital to the survivors. The following should be considered when returning the personal effects:
  1. Items should not be delivered to the survivors until they are ready to receive the items.
  2. Items not retained as evidence should be delivered in a clean, unmarked box.
  3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
  4. The return of some personal effects may be delayed due to ongoing investigations.
- (f) Assisting with the return of department-issued equipment that may be at the deceased member's residence.
  1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.
- (g) Working with the Wellness Support Liaison to ensure that survivors have access to available counseling services.
- (h) Coordinating to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes.
- (i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal, and administrative investigations.
- (j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.
- (k) Introducing survivors to prosecutors, victim's assistance personnel, and other involved personnel as appropriate.

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- (l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).
- (m) Inviting survivors to department activities, memorial services, or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Department recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

If needed, the Survivor Support Liaison should be issued a personal communication device (PCD) owned by the Department to facilitate communications necessary to the assignment. The department-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

#### 1029.6.4 WELLNESS SUPPORT LIAISON

The Wellness Support Liaison should work with the department wellness coordinator or the authorized designee and other liaisons and coordinators to make wellness support and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the Wellness Support Liaison include but are not limited to:

- (a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for wellness support and counseling services, including:
  - 1. Members involved in the incident.
  - 2. Members who witnessed the incident.
  - 3. Members who worked closely with the deceased member but were not involved in the incident.
- (b) Ensuring that members who were involved in or witnessed the incident are relieved of department responsibilities until they can receive wellness support.
- (c) Ensuring that wellness support and counseling resources (e.g., peer support, Critical Incident Stress Debriefing) are available to members as soon as reasonably practicable following the line-of-duty death.
- (d) Coordinating with the Survivor Support Liaison to ensure survivors are aware of available wellness support and counseling services and assisting with arrangements as needed.
- (e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional wellness support or counseling services are needed.

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##### 1029.6.5 FUNERAL LIAISON

The Funeral Liaison should work with the Department Liaison, Survivor Support Liaison and survivors to coordinate funeral arrangements to the extent the survivors wish. The Funeral Liaison's responsibilities include, but are not limited to:

- (a) Assisting survivors in working with the funeral director regarding funeral arrangements and briefing them on law enforcement funeral procedures.
- (b) Completing funeral notification to other law enforcement agencies.
- (c) Coordinating the funeral activities of the Department, including, but not limited to the following:
  - 1. Honor Guard
    - (a) Casket watch
    - (b) Color guard
    - (c) Pallbearers
    - (d) Bell/rifle salute
  - 2. Bagpipers/bugler
  - 3. Uniform for burial
  - 4. Flag presentation
  - 5. Last radio call
- (d) Briefing the Chief of Police and command staff concerning funeral arrangements.
- (e) Assigning an officer to remain at the family home during the viewing and funeral.
- (f) Arranging for transportation of the survivors to and from the funeral home and interment site using department vehicles and drivers.

##### 1029.6.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the Department Liaison and the Funeral Liaison to request and coordinate any assistance from outside law enforcement agencies needed for, but not limited to:

- (a) Traffic control during the deceased member's funeral.
- (b) Area coverage so that as many Fairmont Police Department members can attend funeral services as possible.

The mutual aid coordinator should perform his/her duties in accordance with the Outside Agency Assistance Policy.

##### 1029.6.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and assist them in applying for benefits. Responsibilities of the Benefits Liaison include, but are not limited to:

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- (a) Confirming the filing of workers' compensation claims and related paperwork (see the Occupational Disease, Personal Injury and Death Reporting Policy).
- (b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the:
  - 1. Public Safety Officers' Benefits (PSOB) Programs.
  - 2. Public Safety Officers' Educational Assistance (PSOEA) Program.
  - 3. Social Security Administration.
  - 4. Department of Veterans Affairs.
- (c) Researching and assisting survivors with application for state and local government survivor benefits.
  - 1. Survivor benefits (Minn. Stat. § 353.657).
  - 2. Disability survivor benefits (Minn. Stat. § 353.656).
  - 3. Continued health insurance coverage benefit (Minn. Stat. § 299A.465).
  - 4. Death benefit (Minn. Stat. § 299A.44).
  - 5. Education benefit (Minn. Stat. § 299A.45).
- (d) Researching and assisting survivors with application for other survivor benefits such as:
  - 1. Private foundation survivor benefits programs.
  - 2. Survivor scholarship programs.
- (e) Researching and informing survivors of support programs sponsored by Police associations and other organizations.
- (f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.
  - 1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.
- (g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.
- (h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

#### 1029.6.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief of Police and the Department Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

- (a) Establishing methods for purchasing and monitoring costs related to the incident.

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- (b) Providing information on finance-related issues, such as:
  - 1. Paying survivors' travel costs if authorized.
  - 2. Transportation costs for the deceased.
  - 3. Funeral and memorial costs.
  - 4. Related funding or accounting questions and issues.
- (c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.
- (d) Providing accounting and cost information as needed.

#### **1029.8 DEPARTMENT CHAPLAIN OR CLERGY**

The Department chaplain or designated clergy member may serve a significant role in line-of-duty deaths. His/her duties may include, but are not limited to:

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting department members with counseling or emotional support, as requested and appropriate.

#### **1029.8 INVESTIGATION OF THE INCIDENT**

The Chief of Police shall ensure that line-of-duty deaths are investigated thoroughly and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

#### **1029.9 NON-LINE-OF-DUTY DEATH**

The Chief of Police may authorize certain support services for the death of a member not occurring in the line of duty.

## Wellness Program

### 1030.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance on establishing and maintaining a proactive wellness program for department members.

Additional information on member wellness is provided in the:

- Line-of-Duty Deaths Policy.
- Drug- and Alcohol-Free Workplace Policy.

#### 1030.1.1 DEFINITIONS

Definitions related to this policy include:

**Critical incident** – An event or situation that may cause a strong emotional, cognitive, or physical reaction that has the potential to interfere with daily life.

**Critical Incident Stress Debriefing (CISD)** – A standardized approach using a discussion format to provide education, support, and emotional release opportunities for members involved in work-related critical incidents.

### 1030.2 POLICY

It is the policy of the Fairmont Police Department to prioritize member wellness to foster fitness for duty and support a healthy quality of life for department members. The Department will maintain a wellness program that supports its members with proactive wellness resources, critical incident response, and follow-up support.

### 1030.3 WELLNESS COORDINATOR

The Chief of Police should appoint a wellness coordinator. The coordinator should report directly to the Chief of Police or the authorized designee and should collaborate with advisers (e.g., legal counsel, licensed psychotherapist, qualified health professionals), as appropriate, to fulfill the responsibilities of the position, including but not limited to:

- (a) Identifying wellness support providers (e.g., licensed psychotherapists, external peer support providers).
  1. Selected providers should be trained and experienced in providing mental wellness support and counseling to public safety personnel.
  2. When practicable, the Department should not use the same licensed psychotherapist for both member wellness support and fitness for duty evaluations.
- (b) Developing management and operational procedures for department peer support members, such as:
  1. Peer support member selection and retention.
  2. Training and applicable certification requirements.

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3. Deployment.
  4. Managing potential conflicts between peer support members and those seeking service.
  5. Monitoring and mitigating peer support member emotional fatigue (i.e., compassion fatigue) associated with providing peer support.
  6. Using qualified peer support personnel from other public safety agencies or outside organizations for department peer support, as appropriate.
- (c) Verifying members have reasonable access to peer support or licensed psychotherapist support.
- (d) Establishing procedures for CISDs, including:
1. Defining the types of incidents that may initiate debriefings.
  2. Steps for organizing debriefings.
- (e) Facilitating the delivery of wellness information, training, and support through various methods appropriate for the situation (e.g., phone hotlines, electronic applications).

#### **1030.4 CRITICAL INCIDENT STRESS DEBRIEFINGS**

A Critical Incident Stress Debriefing should occur as soon as practicable following a critical incident. The coordinator is responsible for organizing the debriefing. Notes and recorded statements shall not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a critical incident.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law, or a valid court order.

Attendance at the debriefing should only include support counselors and/or critical incident stress management team members, and those directly involved in the incident.

Members who witness a critical incident are prohibited from providing critical incident stress management services at a debriefing about an incident that they witnessed (Minn. Stat. § 181.9732).

##### **1030.4.1 PEER SUPPORT COUNSELOR COMMUNICATIONS**

Communications with support counselors are confidential and shall not be disclosed except as provided in Minn. Stat. § 181.9731. A support counselor is an individual who is designated by the Department and trained to provide counseling services (Minn. Stat. § 181.9731).

##### **1030.4.2 CRITICAL INCIDENT STRESS MANAGEMENT TEAM MEMBER COMMUNICATIONS**

Communications with critical incident stress management team members are confidential and shall not be disclosed except as provided in Minn. Stat. § 181.9732. A critical incident stress



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management team member is an individual who is designated by the Department and trained to provide critical incident stress management services (Minn. Stat. § 181.9732).

#### **1030.5 PHYSICAL WELLNESS PROGRAM**

The coordinator is responsible for establishing guidelines for an on-duty physical wellness program, including:

- (a) Allowable physical fitness activities.
- (b) Permitted times and locations for physical fitness activities.
- (c) Acceptable use of department-provided physical fitness facilities and equipment.
- (d) Making physical wellness information and education (e.g., nutrition, sleep habits, proper exercise, injury prevention) available to members.
- (e) Standards for fitness incentive programs.
- (f) Maintenance of physical wellness logs (e.g., attendance, goals, standards, progress).

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## Attachments

**MN POST Professional Conduct of  
Peace Officers Model Policy.pdf**

## PROFESSIONAL CONDUCT OF PEACE OFFICERS MODEL POLICY

MN STAT 626.8457

### I. POLICY

It is the policy of the \_\_\_\_\_ (law enforcement agency) to investigate circumstances that suggest an officer has engaged in unbecoming conduct, and impose disciplinary action when appropriate.

### II. PROCEDURE

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

#### A. PRINCIPLE ONE

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

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

#### 2. Rules

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

#### B. PRINCIPLE TWO

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

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

#### 2. Rules

- a) Peace officers shall carry out their duties with integrity, fairness and impartiality.

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

### **C. PRINCIPLE THREE**

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

1. **Rationale:** Law enforcement effectiveness requires public trust and confidence. Diverse communities must have faith in the fairness and impartiality of their police. Peace officers must refrain from fostering disharmony in their communities based upon diversity and perform their duties without regard to race, color, creed, religion, national origin, gender, marital status, or status with regard to public assistance, disability, sexual orientation or age.
2. **Rules**
  - a) Peace officers shall provide every person in our society with professional, effective and efficient law enforcement services.
  - b) Peace officers shall not allow their law enforcement decisions to be influenced by race, color, creed, religion, national origin, gender, marital status, or status with regard to public assistance, disability, sexual orientation or age.

### **D. PRINCIPLE FOUR**

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

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

- a) Peace officers shall not consume alcoholic beverages or chemical substances while on duty except as permitted in the performance of official duties, and under no circumstances while in uniform, except as provided for in **c**).
- b) Peace officers shall not consume alcoholic beverages to the extent the officer would be rendered unfit for the officer's next scheduled shift. A peace officer shall not report for work with the odor of an alcoholic beverage on the officer's breath.
- c) Peace officers shall not use narcotics, hallucinogens, or other controlled substances except when legally prescribed. When medications are prescribed, the officer shall inquire of the prescribing physician whether the medication will impair the officer in the performance of the officer's duties. The officer shall immediately notify the officer's supervisor if a prescribed medication is likely to impair the officer's performance during the officer's next scheduled shift.
- d) Peace officers, whether on or off duty, shall not engage in any conduct which the officer knows, or should reasonably know, constitutes sexual harassment as defined under Minnesota law, including but not limited to; making unwelcome sexual advances, requesting sexual favors, engaging in sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature.
- e) Peace officers shall not commit any acts which constitute sexual assault or indecent exposure as defined under Minnesota law. Sexual assault does not include a frisk or other search done in accordance with proper police procedures.
- f) Peace officers shall not commit any acts which, as defined under Minnesota law, constitute (1) domestic abuse, or (2) the violation of a court order restraining the officer from committing an act of domestic abuse or harassment, having contact with the petitioner, or excluding the peace officer from the petitioner's home or workplace.
- g) Peace officers, in the course of performing their duties, shall not engage in any sexual contact or conduct constituting lewd behavior including but not limited to, showering or receiving a massage in the nude, exposing themselves, or making physical contact with the nude or partially nude body of any person, except as pursuant to a written policy of the agency.
- h) Peace officers shall avoid regular personal associations with persons who are known to engage in criminal activity where such associations will undermine the public trust and confidence in the officer or agency. This rule does not prohibit those associations that are necessary to the performance of official duties or where such associations are unavoidable because of the officer's personal or family relationships.

#### **E. PRINCIPLE FIVE**

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

1. **Rationale:** Peace officers are the most visible form of local government. Therefore, peace officers must make a positive impression when interacting with the public and each other.
2. **Rules**
  - a) Peace officers shall exercise reasonable courtesy in their dealings with the public, other officers, superiors and subordinates.

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

#### **F. PRINCIPLE SIX**

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

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

#### **2. Rules**

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

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

#### **G. PRINCIPLE SEVEN**

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

1. **Rationale:** For the public to maintain its faith in the integrity and impartiality of peace officers and their agencies officers must avoid taking or influencing official actions

where those actions would or could conflict with the officer's appropriate responsibilities.

## **2. Rules**

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

## **H. PRINCIPLE EIGHT**

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

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

## **2. Rules**

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

## **I. APPLICATION**

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



**FPD CJDN Policy.pdf**

**CJDN Security Policy**  
**Fairmont Police Dept**  
**June 2022**

This document shall be considered the official CJDN Security Policy for Fairmont Police Department regarding the physical and personnel security of the CJDN system. All staff must follow the policies contained herein. This will assure proper usage of the system and adherence to all local, state, and federal regulations that govern the use of the MNJIS computer system. The Terminal Agency Coordinator (TAC) for Fairmont Police Department is the Chief Communications Officer. The TAC manages the operation of the CJDN terminal on a local agency level and is responsible for ensuring that all state and local policies are enforced regarding the use of the CJDN terminal.

**Access to CJDN System**

Access to the CJDN shall be limited to employees who have been certified by the BCA to operate the terminal. Currently, at the Fairmont Police Department, this is limited to TAC and Dispatchers employed by the Martin County Sheriff's Office. All other personnel of the Fairmont Police Department must make their Criminal Justice inquiries through the CJDN operators of the Martin County Sheriff's Office.

Staff having access to the CJDN system must meet the follow requirements:

- 1) Be an employee of Fairmont Police Department.
- 2) Successfully pass a State and National fingerprint background check.
- 3) Complete Basic Security Awareness Training and pass a Single Certification exam.

A potential new employee of the Fairmont Police Department shall have a background check completed before they are hired. Purpose code "J" will be used when running the criminal history on that person.

New employees of the Fairmont Police Department shall be fingerprinted prior to having unescorted access to areas where criminal justice information is processed. The fingerprint cards will be sent to the BCA for a background check.

The FBI fingerprint-based background check results letters on CJDN operators, appropriate IT personnel, and other agency personnel having unescorted access to the terminals are to be kept on file and available upon request during an audit.

The TAC will issue a unique username and password to authorized users with access to the CJDN and Portals XL.

### **Training**

NCIC requires personnel accessing CJI for their duties must receive basic MNJIS training and testing within the first 6 months of hire and biennial refreshers thereafter. All training must be documented.

Fairmont Police Department will meet this requirement through the viewing of the FBI's Security Awareness Training and the BCA's Single Certification testing. Additional training is provided on Launch Pad, and classroom instruction, by the BCA regarding NCIC/MNJIS applications. Training will be documented and subject to auditing.

### **Security**

Criminal Justice Information for Fairmont Police Department is maintained in a secure area. Only authorized personnel who have passed a State and National fingerprint background check are allowed unescorted access to the secure area(s).

All personnel who have direct responsibility to configure and maintain computer systems and networks with direct access to FBI CJIS systems must successfully pass a fingerprint based background check and complete level 4 Security Awareness Training .

Criminal History responses, as well as all other CJDN printouts will be destroyed when no longer needed. These documents will be shredded or degaussed at the Fairmont Police Department.

**0116\_001.pdf**

**CJDN Security Policy**  
**Fairmont Police Dept**  
**June 2022**

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**FPD CJIS Security Policy.pdf**

# CJIS Security Policy

## Fairmont Police Department CJIS Security Policy

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### CJIS Security Policy

<b>Policy Owner</b>	Martin County
<b>Policy Approver(s)</b>	
<b>Related Policies</b>	CJDN SECURITY POLICY – Fairmont Police Department
<b>Effective Date</b>	
<b>Next Review Date</b>	Annually



# CJIS Security Policy

## Purpose

The purpose of this policy is to provide an aggregate collection of standards, controls and requirements necessary to ensure full compliance with the FBI Criminal Justice Information Services Security Policy for accessing CJIS information and services consistent with all applicable laws, executive orders, directives, policies, regulations, standards, and guidance.

## Scope

This policy applies to all Fairmont Police Departments , employees, contractors, temporary staff, and other workers at Fairmont Police Department with access to LEIN/NCIC CJIS systems and/or data, sensitive and classified data, and media. This policy applies to all systems that may have access to criminal justice information that process, store, and/or transmit LEIN/NCIC CJ and classified and sensitive data owned or leased by Fairmont Police Department.

## Governing Laws and Regulations

FBI CJIS Security Policy (v5.9 dated June 1, 2020)

# CJIS Security Policy

## Policy Statements

### Relationship to Local Security Policy and Other Policies

Reference: CJIS Security Policy 1.3

- The agency has a copy of the new FBI CJIS Security Policy v5.9 (06/01/20209) and is aligning operational policies and standard operation procedures. As part, the agency will maintain written procedures of actions implemented for review upon request

### Personally Identifiable Information (PII)

Reference: CJIS Security Policy 4.3

- For the purposes of this document, PII is information which can be used to distinguish or trace an individual's identity, such as name, social security number, or biometric records, alone or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, or mother's maiden name. Any FBI CJIS provided data maintained by an agency, including but not limited to, education, financial transactions, medical history, and criminal or employment history may include PII. A criminal history record 8/4/2014 CJISD-ITS-DOC-08140-5.3 13 for example inherently contains PII as would a Law Enforcement National Data Exchange (NDEx) case file. PII shall be extracted from CJIS for the purpose of official business only.

The agency will continue to develop policies, based on state and local privacy rules, to ensure appropriate controls are applied when handling PII extracted from CJIS.

### Information Exchange

Reference: CJIS Security Policy 5.1.1

- The agency use of CJIS is only for the purpose of the agency and its employee's abilities to perform their job duties.
- Any Disseminating or sharing CJIS with anyone that is not authorized to have access to the information is strictly prohibited.
- If the agency is releasing the CJIS to another authorized agency, a dissemination log will be kept.

## Information Handling

Reference: CJIS Security Policy 5.1.1.1

- Covered in 5.8 Policy Area 8: Media Protection

## 5.3 Policy Area Incident Response

Reference: CJIS Security Policy 5.3

The agency will promptly report incident information to the appropriate party.

The agency will disconnect the infected workstation.

The agency will maintain all records around information security events.

Other information collected for completing the Incident Response Form is below

- Suspected cause for incident (Name of the malware, virus, etc.)
- Was Antivirus software running at the time of infection?
- How and when the problem was first identified?
- When was IT staff been notified?
- Number of workstations infected?
- Any other equipment infected?
- Action plan for removal.
- Was any CJIS data or personnel identification information compromised?
- Once free from infection the system can be reconnected.

**\*\*Please see the incident response reporting form on the next page\*\***

# CJIS Security Policy

## Security Incident Response Form

NAME OF PERSON REPORTING THE INCIDENT: \_\_\_\_\_

DATE OF REPORT: \_\_\_\_\_ (mm/dd/yyyy)

DATE OF INCIDENT: \_\_\_\_\_ (mm/dd/yyyy)

POINT(S) OF CONTACT (Include Phone/Extension/Email): \_\_\_\_\_  
\_\_\_\_\_

LOCATION(S) OF INCIDENT: \_\_\_\_\_

INCIDENT DESCRIPTION: \_\_\_\_\_  
\_\_\_\_\_

SYSTEM(S) AFFECTED: \_\_\_\_\_  
\_\_\_\_\_

NATURE OF INCIDENT: \_\_\_\_\_  
\_\_\_\_\_

METHOD OF DETECTION: \_\_\_\_\_

ACTIONS TAKEN/RESOLUTION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PERSONS NOTIFIED: \_\_\_\_\_

# CJIS Security Policy

## Remote Access

Reference: CJIS Security Policy 5.5.6

- The agency shall authorize, monitor, and control all methods of remote access to the information system.
- The agency shall employ automated mechanisms to facilitate the monitoring and control of remote access methods.
- The agency shall control all remote accesses through managed access control points.
- The agency may permit remote access for privileged functions only for compelling operational needs but shall document the rationale for such access.
- The agency will require advanced authentication when required.

## Personally Owned Information Systems

Reference: CJIS Security Policy 5.5.6.1

- The agency acknowledges that personally owned equipment and software introduce numerous issues that must be addressed when utilizing that equipment for processing, storing, or transmitting agency information.
- The agency requires that equipment shall meet all the requirements set forth in the CJIS Policy.
- The agency requires that all equipment be properly licensed hardware and software as well as all Copyright and intellectual property rights are complied with.
- The agency requires that the equipment be locked down by a Systems Administrator and that the user restrict any other user access.
- The agency requires a remote sanitization procedure for the device if the employee no longer carries out agency duties

## Authentication Policy and Procedures

Reference: CJIS Security Policy 5.6.2

The agency shall follow the secure password attributes, below, to authenticate an individual's unique ID. Passwords shall:

- Be a minimum length of eight (8) characters on all systems.
- Not be a dictionary word or proper name.
- Not be the same as the User id.
- Expire within a maximum of ninety (90) calendar days.
- Not be identical to the previous ten (10) passwords.
- Not be transmitted in the clear outside the secure location.
- Not be displayed when entered.

## 5.6.3.2 Authenticator Management

Reference: CJIS Security Policy 5.6.3.2

- The agency requires that its users shall take reasonable measures to safeguard authenticators issued to them including maintaining possession of their individual authenticators, not loaning or sharing authenticators with others, and immediately reporting lost or compromised authenticators.

## Policy Area 8: Media Protection

Reference: CJIS Security Policy 5.8

The agency will do the following:

- Securely store electronic and physical media within a physically secure or controlled area
- Restrict access to electronic and physical media to authorized individuals.
- Ensure that only authorized users remove printed form or digital media.
- Physically protect media end of life
- Insure end of life media is destroyed or sanitized.
- Not use personally owned information system to access, process, store, or transmit CJI unless the it has established and documented the specific terms and conditions for personally owned information system usage.
- Not utilize publicly accessible computers to access, process, store, or transmit media.
- Store all hardcopy CJI printouts maintained in a secure area accessible to only those employees whose job function require them to handle such documents.
- Safeguard all media against possible misuse by complying with all other policies.
- Take appropriate action when in possession of CJI while not in a secure area:

The agency will insure that media at rest (i.e. stored electronically) outside the boundary of the physically secure location, the data shall be protected using encryption certified to meet FIPS 140-2 standards.

The agency will require users to lock or log off computer when not in immediate vicinity of work area to protect access.

## Digital Media Sanitization and Disposal

Reference: CJIS Security Policy 5.8.3

- The agency will insure that the sanitization of electronics media or the destruction of inoperable media (via incineration, shredding, disintegrating, cutting, drilling, or grinding) is witnessed or carried out only by authorized personnel.
- The agency will require for the sanitization of media that the data clearing be done with an approved disk wiping utility using a minimum of three passes or a Security Service (NSA/CSS)-approved degausser.

# CJIS Security Policy

## Disposal of Physical Media

Reference: CJIS Security Policy 5.8.4

- The agency will insure that the disposal of physical media is done thru Physical destruction (via incineration, shredding, disintegrating, cutting, drilling, or grinding).
- The agency will insure this is witnessed or carried out only by authorized personnel.

## Policy Area 9: Physical Protection

Reference: CJIS Security Policy 5.9

- The agency will limit who has access to the physically secure location to only those personnel authorized by the agency.
- The agency will lock all areas, rooms, or storage containers when unattended.
- The agency will position information system devices and documents in such a way as to prevent unauthorized individuals from access and view.
- The agency will follow the encryption requirements found in section for electronic storage (i.e. data “at rest”).

## Encryption (Public Key Infrastructure (PKI) Technology)

Reference: CJIS Security Policy 5.10.1.2.3

- The agency shall require for the issuance of public key certificates used in the information system that in order to receive a public key certificate it was authorized by a supervisor or a responsible official and that it is accomplished by a secure process that verifies the identity of the certificate holder.

## 5.10.4.1 Patch Management

Reference: CJIS Security Policy 5.10.4.1

- The agency shall identify applications, services, and information systems containing software or components affected by recently announced software flaws and potential vulnerabilities resulting from those flaws.
- The agency (or the software developer/vendor in the case of software developed and maintained by a vendor/contractor) shall ensure prompt installation of newly released security relevant patches, service packs and hot fixes.
- When able testing of appropriate patches will occur before installation.
- Note: Patch requirements discovered during security assessments, continuous monitoring or incident response activities shall also be addressed expeditiously.

## 5.10.4.4 Security Alerts and Advisories

Reference: CJIS Security Policy 5.10.4.4

- The agency reviews information system security alerts/advisories on a regular basis.
- The agency issues alerts/advisories to appropriate personnel.
- The agency documents the types of actions to be taken in response to security alerts/advisories.
- The agency used automated mechanisms to make security alert and advisory information available throughout the agency as appropriate.

## 5.12.4 Personnel Sanctions

Reference: CJIS Security Policy 5.12.4

- If the agency becomes aware of an employee using a CJDN terminal, CJDN terminal generated information, CJDN equipment, or CJDN access in a manner that is not in accordance with the employee's job and the problem is deemed merely operator error or substandard job performance, the agency will contact the employee and advise him/her of the problem and provide additional training to correct the issue.
- If the above step does not rectify the problem, or the problem is deemed to be greater than mere operator error or sub-standard job performance, the agency will report to the misuse immediately to a supervisor. The agency will suspend the employee's CJDN access until the supervisor conducts an investigation.
- If the investigation does not substantiate that the employee was in violation the agency will reinstate the employee's CJDN terminal access.
- If the investigation substantiates that the employee was in violation, then Disciplinary action may be taken against the employee in accordance with applicable labor agreements.
- If the misconduct is deemed to be criminal, the agency will report the behavior of criminal nature to the appropriate party to determine the appropriate action.



# CJIS Security Policy

## Wireless Access Restrictions

Reference: CJIS Security Policy 5.13

- The County currently does not authorize access or transfer of CJI utilizing any wireless connection into and out of the county CJIS LAN. If and when wireless access is allowed it is to be used in combination with the County encrypted VPN client and multi-factor authentication.
- This section applies to 802.11 WLAN, cellular, WiFi, MiFi or Bluetooth or similar wireless technologies.

### Mobile Devices

- IT shall authorize mobile devices such as laptops or tablets using a Microsoft operating system access CJI if the agency has authorized the individual to do so. Any access to CJI must be done from within the secured physical location using a wired Ethernet connection or using a wireless connection in combination with the County encrypted Virtual Private Network (VPN) software client utilizing multi-factor authentication methods.

## Review Wi-Fi Logs

Reference: CJIS Security Policy 5.13.1.1(14)

- We do not currently have Wi-Fi access; If and when Wi-Fi access is installed the logs will be maintained on a central server and viewed at least monthly.

## Incident Response

Reference: CJIS Security Policy 5.13.5

- Security Incident-related information shall be obtained from a variety of sources including, but not limited to direct notification by end users, audit monitoring, network/systems monitoring, physical access monitoring, and user/administrator reports.
- In the event of an accidental or malicious information system security incident, the Agency and IT support shall work together to properly mitigate the risk of CJI access.
- Lost, stolen or compromised devices shall be immediately reported to the Department of Information Systems.
- IT Support shall immediately implement and document appropriate steps to mitigate the risk of unauthorized access to CJI.

# CJIS Security Policy

## Local Agency Security Officer (LASO) Policy

- The agency will identify a person to perform the LASO role.
- The LASO shall identify who is using approved hardware, software, and will ensure no unauthorized individuals have access to the same.
- The LASO shall document and maintain how agency equipment is connected to the state network.
- The LASO shall ensure that security screening procedures are being followed.
- The LASO shall ensure appropriate security measures are in place and working as expected.
- The LASO shall promptly notify the CSA ISO of any security incidents.

<u>LASO Name:</u> Steven McDonald	<u>LASO Phone:</u> 507-238-3133	<u>LASO email:</u> steven.mcdonald@co.martin.mn.us
<u>Agency Name:</u> Fairmont Police Department	<u>Agency Phone:</u> 507-238-4481	<u>Agency email:</u>

# CJIS Security Policy

## Agreement

I have read and understand all information and agree to comply with all requirements and expectations established in this policy. I understand that if I violate the rules explained herein, I may face legal or disciplinary action according to applicable laws or county policy.

---

Employee Name

---

Employee Signature

---

Date

## **Workers Comp and Return to Work.pdf**

**City of Fairmont**  
**Workers Compensation and Return to Work Program**

The City of Fairmont adopts the following workers compensation and return to work program to facilitate a proactive and effective workers compensation claims management program that provides for a safe return to work for employees following an occupational related injury or illness. Illnesses or injuries sustained outside of the workplace, but that interfere with an employee's performance of their job duties, may be evaluated for placement through the return to work program.

**Goals of the Return to Workers Compensation and Return to Work Program**

- To facilitate a safer worker environment for employees
- To ensure immediate action is taken to begin the workers compensation process
- To prioritize the handling of workers compensation claim management
- To provide the earliest possible safe return to work for employees after an occupational related illness or injury
- To provide a route for employees to return to work with less than a full duty release.
- To reduce cost of Worker's Compensation claims due to extended work absence.

**Training**

1. Supervisors, managers, and department heads will be trained on the worker's compensation and return to work program, so they understand the proper processing of injuries, claims, and light duty issues.
2. All employees will receive regular training on workplace safety and proper processes and procedures to reduce workplace injuries.

**Workplace Injuries**

1. Notification of Injury. All employees shall immediately notify their supervisor of an injury incurred in the course of employment. Supervisors shall provide injured employees with the Workers Comp Information form found at Appendix A at time of notification of injury, or as soon as reasonably possible following the injury accident.
2. Investigation of Accidents.
  - a. The supervisor shall ensure that all accidents are promptly investigated to determine what happened and what may have contributed to the accident. Statements should be compiled from the injured employee and any witnesses.
    - i. The accident investigation packet found at Appendix B shall be utilized to investigate all injury accidents within 48 hours of the injury.
    - ii. The completed investigation packet should be submitted to the human resources representative (HR) within 48 hours.
  - b. HR should be notified immediately of any injury accident that involves the need for immediate medical attention.
  - c. Following completion of the First Report of Injury (FROI), located in appendix B, the injured employee shall be directed that all further communications regarding the workers

compensation claim, process, medical condition, and return to work status should be handled directly with HR.

3. Injury Tracking. Upon notification of an injury accident HR will initiate tracking protocols to ensure investigations are complete, workers comp claims are filed, OSHA report is updated as appropriate, and that the safety coordinator is notified.

### **Workers Compensation Claim**

1. Claim filing. HR will file the FROI with Worker's Compensation carrier following appropriate carrier protocols.
2. Claim Management. HR will work directly with the employee through out the workers compensation process. HR will:
  - a. Keep in touch with the employee and track medical progress.
  - b. Encourage employee to stay in touch with worker's compensation claim representative.
  - c. Ensure employee's questions are being answered and they understand the process.
  - d. Monitor medical status and obtain doctor's return to work authorizations.
  - e. Initiate return to work discussions and lead development of return to work plan based on doctor's return to work authorization and any noted restrictions.
  - f. Work with workers compensation carrier to obtain second medical opinion as needed by the circumstances surrounding the claim.
  - g. Work with workers compensation carrier to close out the claim.
3. HR will explain to employee their responsibilities through out the workers compensation and return to work process.
  - a. Compliance with all doctor's orders and follow-up treatments
  - b. Keep HR informed of all changes in status and return to work authorizations, limitations, and restrictions.
  - c. Comply with all restrictions and limitations as stated by the attending licensed medical professional.

### **Return to Work**

1. Objective. The return to work program is intended to allow an injured worker to return to duty in the employee's original department or another department with pre-approved transitional assignments where he or she may perform modified duties, while under physical restrictions, as set forth by the treating physician, until he or she is capable of returning to full duty.

The program is a means of minimizing the length of time of disability resulting from a work-related injury.

The program allows the City to provide an employee who is temporarily unable to perform the full scope of the pre-injury job classification with work. If work is available for the employee who has temporary physical restrictions, and the work does not violate the restrictions, the employee can be required to work.

2. Plan Initiation. HR will initiate return to work discussions with the employee's supervisor and department head to be prepared for an employee's anticipated return. An employee may not return to work until a doctor's return to work authorization has been received noting any limitations or restrictions.
3. Plan Development.
  - a. HR will develop a transitional return to work plan with the employee's supervisor and department head. The specific job task, hours, duty assignment and physical restrictions should be included. The plan should be reviewed and approved by all. A form for the Return to work letter is found at Appendix C
  - b. When reviewing an individual employee's eligibility for return-to-work options, the following criteria should be followed:
    - i. Review the Doctor's return to work authorization and any limitations and restrictions placed upon employee's work.
    - ii. Assess the job tasks of the employee's pre-injury position and what transitional tasks are still applicable to current physical restrictions.
    - iii. If no job tasks in the position and immediate department in which the employee is working are suitable, the next immediate department should be addressed.
    - iv. If necessary, evaluate if there are additional services that can be rendered, or tasks performed by the injured employee that are not within the written description but would improve the overall function of the department.
  - c. HR will maintain a list of job duties/descriptions that may be utilized for employees throughout the city for their return to work plan. Appendix D contains some examples of job duties that may be considered for inclusion in a return to work plan.
4. Plan Implementation. The department will hold a return to work meeting with the employee before returning to work and review the plan. This plan is to be reviewed no less than every 30 days, or when new return to work authorization is received from the doctor, until the employee returns to full duty. The employee will be informed of who his/her supervisor will be while performing work under the return to work plan.
5. Return to Full Duty. The employee will notify HR upon receipt of the physician's release authorizing them to return to full duty with no restrictions. The employee is required to bring documentation of the release to HR no later than the next working day after receipt of the release. Upon receipt of the release by HR the employee will return to regular work status, with his/her originating department for normal duties within their respective job description.

#### **Review Process**

1. HR will review all ongoing worker's comp claims and return to work plans with the City Administrator on a regular basis.

**Accident Witness Statement.pdf**



# ACCIDENT WITNESS STATEMENT

----- To be completed by accident witness only -----

<b>Injured Employee's Name</b>	
<b>Witness Name</b>	<b>Phone Number</b>
<b>Job Position</b>	

**Location of Accident**

**Describe fully how the accident occurred** (include events that occurred immediately before the accident or illness occurring).

**Describe bodily injury, illness sustained, or property damage incurred** (be specific).

**Witness Signature:**

**Date:**

**Employee Sheet for Medical Facility.pdf**



EMPLOYEE PRESENT THIS FORM TO THE CLINIC ON DATE OF INJURY

**City of Fairmont  
Work Comp Injury Post Accident Clinic**

WC Approved Clinic: Mayo Urgent Care  
Address: 800 Medical Center Drive  
Fairmont, MN 56031

Clinic Telephone: 507-238-8500

---

Company Name: City of Fairmont  
Address: 100 Downtown Plaza  
Fairmont, Minnesota 56031

Company Telephone: 507-238-9461  
Company Fax: 507-238-9044

---

Work Comp Carrier: MN League of Cities  
Address: 145 University Ave W  
Saint Paul, MN 55103

Claim Telephone: 651-281-1200  
Fax: 651-281-1297  
Email: Claims@lms.org

Date of Injury: \_\_\_\_\_

Date of Clinic Visit: \_\_\_\_\_

**Reminder – All work comp related paperwork should be returned to HR.**

## Employee First Report of Injury.pdf

# First Report of Injury

See Instructions on Reverse Side



FRO 1

Print in ink or type  
 Enter dates in MM/DD/YYYY format

DO NOT USE THIS SPACE

1. <b>EMPLOYEE SOCIAL SECURITY #</b>		2. OSHA case #		3. Time employee began work on date of injury <input type="checkbox"/> am <input type="checkbox"/> pm	
4. <b>DATE OF CLAIMED INJURY</b>		5. Time of injury <input type="checkbox"/> am <input type="checkbox"/> pm		6. Date of death # of dependents (if death is related to injury)	
7. <b>EMPLOYEE</b> Name (last, suffix, first, middle)				8. Gender <input type="checkbox"/> M <input type="checkbox"/> F	
				9. Marital status <input type="checkbox"/> Married <input type="checkbox"/> Unmarried	
10. Home address			11. Home phone #		12. Date of birth
City		State		Zip Code	
14. Occupation			15. Regular department		16. Apprentice <input type="checkbox"/> Yes <input type="checkbox"/> No
17. Average weekly wage		18. Rate per hour	19. Hours per day	20. Days per week	
				Normal work schedule Sun - Sat <input type="checkbox"/> S <input type="checkbox"/> M <input type="checkbox"/> T <input type="checkbox"/> W <input type="checkbox"/> T <input type="checkbox"/> F <input type="checkbox"/> S	
21. Employment status (check all that apply) <input type="checkbox"/> Full time <input type="checkbox"/> Part time <input type="checkbox"/> Seasonal <input type="checkbox"/> Volunteer					
22. Tell us how the injury/illness occurred, what the employee was doing before the incident (give details), and what the injury/illness was. Examples: "Worker was driving lift truck with a pallet of boxes when the truck tipped, pinning worker's left leg under drive shaft." "Worker developed soreness in left wrist over time from daily computer key entry."					
23. What was the injury or illness (include the part(s) of body)? Examples: chemical burn left hand, broken left leg, carpal tunnel syndrome in left wrist.			24. What tools, equipment, machines, objects, or substances were involved? Examples: chlorine, hand sprayer, pallet lift truck, computer keyboard.		
25. Did injury occur on employer's premises? <input type="checkbox"/> Yes <input type="checkbox"/> No		26. Date of first day of any lost time		27. Employer paid for lost time on day of injury (DOI) <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No lost time on DOI	
Name and address of the place of the occurrence		28. Date employer notified of injury		29. Date employer notified of lost time	
		30. Return to work date		31. RTW same employer <input type="checkbox"/> Yes <input type="checkbox"/> No	
				32. RTW with restrictions <input type="checkbox"/> Yes <input type="checkbox"/> No	
33. Treating physician (name)		34. Extent of medical treatment (check all that apply) <input type="checkbox"/> None <input type="checkbox"/> Minor on-site by employer's medical staff <input type="checkbox"/> Minor clinic/hospital			
35. Certified Managed Care Organization (if any)		<input type="checkbox"/> Emergency room <input type="checkbox"/> Hospitalization more than 24 hours <input type="checkbox"/> Future major medical anticipated			
36. <b>EMPLOYER</b> Legal name			37. <b>EMPLOYER</b> DBA name (if different)		
38. <b>Mailing</b> address			39. Employer FEIN		40. Unemployment ID #
City		State		Zip Code	
42. <b>Physical</b> address (if different)			43. Witness (name and phone) - if more than 1 attach a separate sheet		
City		State		Zip Code	
44. NAICS code			45. Date form completed		
46. <b>INSURER</b> name			51. <b>CLAIMS ADMIN COMPANY (CA)</b> name (check one) <input type="checkbox"/> Insurer <input type="checkbox"/> TPA		
47. Insured legal name and FEIN			52. CA address		
48. Policy # (including effective dates) or self-insured certificate #			City		State Zip Code
49. Insurer FEIN		50. Date insurer received notice		53. CA FEIN	
				54. CA claim #	
55. To be completed by the CA:		Claim type code:	Type of loss code:	Late reason code:	Salary paid in lieu of comp?
					Death result of injury?

## GENERAL INSTRUCTIONS TO THE EMPLOYER

**Employers, not employees,** are responsible for completing this form. The information is needed to determine liability and entitlement to benefits. You must file this form with your insurer, and give a copy to the employee and the employee's local union office. You are required to provide the employee with a copy of the Employee Information Sheet, which is available on the Department of Labor and Industry's web site at [www.dli.mn.gov](http://www.dli.mn.gov).

**Filing this form is not an admission of liability.** You must report a claim to your insurer whenever anyone believes that a work-related injury or illness that requires medical care or where lost time from work has occurred. If the claimed injury wholly or partially incapacitates the employee for more than **three** calendar days, the claim must be made on this form and reported to your insurer within **ten** days. Your insurer may require you to file it sooner. Failure to file within the **ten** days may result in penalties. It is important to file this form quickly to allow your insurer time to investigate the claim. **Your insurer will report the injury** to the Department of Labor and Industry (Department), when necessary. Self-insured employers have 14 days to report the injury to the Department, when necessary.

**If the claim involves death or serious injury (including injuries that later result in death),** you must notify the Department and your insurer within 48 hours of the occurrence. The claim can be reported initially to the Department by telephone (651-284-5041), fax (651-284-5731), or personal notice. The initial notice must be followed by the filing of this form with the Department within **seven** days of the occurrence, at P.O. Box 64221, St. Paul, MN 55164-0221.

### SEND THIS FORM TO YOUR INSURER IMMEDIATELY – DO NOT WAIT FOR THE DOCTOR'S REPORT

#### SPECIFIC INSTRUCTIONS TO THE EMPLOYER ON COMPLETING THIS FORM

- Item 2: OSHA case #. Fill in the case number from the OSHA 300 log. This form contains all items required by the OSHA form 301.
- Items 17-21: Fill in all the wage information. If the employee does not work a regularly scheduled work week, attach a 26 week wage statement so your insurer can calculate the appropriate average weekly wage. Attach a separate sheet giving the weekly value of any meals, lodging, or 2nd income paid to the employee.
- Item 20: Fill in the average number of days per week that the employee works. Also include their normal work schedule, Sunday - Saturday, by checking the appropriate boxes. If the employee's work schedule fluctuates from week-to-week, leave the boxes blank.
- Items 22-24: Be as specific as possible in describing: the events causing the injury; the nature of the injury (cut, sprain, burn, etc.), and the part(s) of body injured (back, arm, etc.); and the tools, equipment, machines, objects or substances involved.
- Item 26: Fill in the first day the employee lost any time from work (including time lost for medical treatment), even if you paid the employee for the lost time.
- Item 27: Check the appropriate box to indicate if there was lost time on the date of injury and whether you paid for that lost time.
- Item 28: Fill in the date you first became aware of the injury or illness.
- Item 29: Fill in the date you became aware that the lost time indicated in Item 26 was related to the claimed injury.
- Item 30: Leave the box blank if the employee has not returned to work by the time you file this form. If the employee has returned to work, fill in the date and answer the questions in Items 31 and 32. Notify your insurer if the employee misses time due to this injury after that date.
- Item 34: Check all the boxes that apply AT the time you file this form.
- Item 39: Fill in your Federal Employer Identification Number (FEIN). For information, see <https://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Lost-or-Misplaced-Your-EIN>.
- Items 40 and 44: Fill in your Unemployment ID number and North American Industry Classification System (NAICS) code, which are both assigned by the Minnesota Unemployment Insurance Program (651-296-6141).
- Items 46-54: Your insurer or claims administrator will complete this information if you do not have it available.

#### INSTRUCTIONS TO THE INSURER/CLAIMS ADMINISTRATOR (For first reports of injury filed on or after Jan. 1, 2014)

Pursuant to Minnesota Statutes, section 176.231, and Minnesota Rules, part 5220.2530, insurers and self-insured employers must file with the Department's Workers' Compensation Division an electronic first report of injury, according to the requirements set out in sections 2 to 4 of the Minnesota implementation guide, in all cases where a first report of injury is required to be filed under Minnesota Statutes, chapter 176. The Minnesota implementation guide can be found on the Department's website at [www.dli.mn.gov/WC/Edi.asp](http://www.dli.mn.gov/WC/Edi.asp).

A first report of injury submitted by the insurer or self-insured employer in any other manner or format is not considered filed with the division, except for a written first report of injury on a paper form filed by a self-insured employer within seven days of death or serious injury.

If the claim does not involve lost time beyond the waiting period or potential permanent partial disability (PPD), or has not been requested to be filed by the Department, a first report of injury does **not** need to be filed.

***This material can be made available in different forms, such as large print, Braille or audio. To request, call (651) 284-5032 or 1-800-342-5354 Voice or TDD (651) 297-4198***

**ANY PERSON WHO, WITH INTENT TO DEFRAUD, RECEIVES WORKERS' COMPENSATION BENEFITS TO WHICH THE PERSON IS NOT ENTITLED BY KNOWINGLY MISREPRESENTING, MISSTATING, OR FAILING TO DISCLOSE ANY MATERIAL FACT IS GUILTY OF THEFT AND SHALL BE SENTENCED PURSUANT TO SECTION 609.52, SUBDIVISION 3.**

## Employee Information Sheet.pdf

# Minnesota Workers' Compensation System

## Employee Information Sheet

### What does workers' compensation pay for?

- Medical care for the work injury, as long as it is reasonable and necessary
- Wage-loss benefits for part of your lost income (there is a three-calendar-day waiting period before these benefits start)
- Benefits for permanent damage or loss of function of a body part
- Benefits to your spouse and/or dependents if you die of a work injury
- Vocational rehabilitation services if you cannot return to your pre-injury job or to your pre-injury employer

### How are workers' compensation benefits paid?

Your workers' compensation benefits are paid by an insurance company or your employer, if your employer is self-insured. State law sets the benefit levels. Please note: pursuant to statute, the insurer can obtain medical information specific to your work injury without your authorization.

### If the insurer accepts your claim for wage loss benefits and you have been disabled for more than three calendar days:

- The insurer will send you a copy of the *Notice of Insurer's Primary Liability Determination* form stating your claim is accepted.
- The insurer must start paying wage-loss benefits within 14 days of the date your employer knows about your work injury and lost wages. The insurer must pay benefits on time. Wage-loss benefits are paid at the same intervals as your work paychecks.

### If the insurer denies your claim for wage loss benefits:

- The insurer will send you a copy of the *Notice of Insurer's Primary Liability Determination* form stating it is denying primary liability for your claim. The form must clearly explain the facts and reasons why the insurer believes your injury or illness did not result from your work.
- If you disagree with the denial, you should talk with the insurance claims adjuster who is handling your claim. Your employer's insurance company can answer most questions about your claim.

**Insurer name:** [League of Minnesota Cities Insurance Trust](#)      **Phone:** 651-281-1200 or 1800-925-1122

- If you are not satisfied with the response you receive from the insurer and still disagree with the denial, you should contact the Department of Labor and Industry at one of the numbers listed below to see what to do next.

### If you have other questions or need more help, call:

#### Minnesota Department of Labor and Industry Worker's Compensation Hotline:

Twin Cities and Southern Minnesota: (651) 284-5005 or 1-800-342-5354; TTY (651) 297-4198  
Duluth and Northern Minnesota: (218) 733-7810 or 1-800-342-5354

Your call will be answered by experienced workers' compensation specialists, who will provide **instant, accurate information and assistance.**

Additional workers' compensation information is available on the department's Web site at:

[www.dli.mn.gov/WorkComp.asp](http://www.dli.mn.gov/WorkComp.asp)

**Your employer is required by law to give you this information. This material can be made available in different formats, such as large print, Braille or audio, by calling the numbers printed above.**



## Vehicle and Property Custody Form.pdf

# Fairmont Police Department Custody Report

<input type="checkbox"/> <b>Vehicle</b>		<input type="checkbox"/> <b>Property</b>		Case No.			Page    of	
Date		Time		Location				
License No.		Year	Make	Vehicle Year	Model	Color	VIN	
Owner			Address				Notified <input type="checkbox"/> Yes <input type="checkbox"/> No	
Driver			Address				Phone Number	
Reason for Impounding <input type="checkbox"/> Stolen <input type="checkbox"/> Accident <input type="checkbox"/> Abandoned <input type="checkbox"/> Hazard <input type="checkbox"/> Arrest <input type="checkbox"/> Other							Citation No.	
Towing Agency			Address				Towing Fees	
Keys <input type="checkbox"/> Yes <input type="checkbox"/> No		Location:			Doors Locked <input type="checkbox"/> Yes <input type="checkbox"/> No		Ignition Locked <input type="checkbox"/> Yes <input type="checkbox"/> No	
							Trunk Locked <input type="checkbox"/> Yes <input type="checkbox"/> No	

## Property Inventory

Item	Location	Description of Property (include ID)	Item	Location	Description of Property (include ID)

Vehicle Condition — Driveable: <input type="checkbox"/> Yes <input type="checkbox"/> No		Note Vehicle Damages Below:	

Officer Signature			Badge No.		
This is your authority to release to the owner as shown, or an authorized agent, the described property/vehicle					
Officer			Date		
I certify that I have received the indicated property/vehicle and that I am the lawful owner or claimant, and that it meets my approval.					
Name			Address		
Released By			Date		Time
Remarks:					
Conditions of Release:					

## **Notice of Vehicle Impoundment.pdf**

## NOTICE OF VEHICLE IMPOUNDMENT

**Fairmont Police Department  
201 Lake Avenue, Suite 199  
Fairmont, MN 56031-1845**

Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

CFS # FMP \_\_\_\_ - \_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

On (Date) \_\_\_\_ / \_\_\_\_ / \_\_\_\_ a (Make/Model/Lic. Plate) \_\_\_\_\_

VIN # \_\_\_\_\_ was impounded by the Fairmont Police Department. This vehicle was impounded because \_\_\_\_\_  
\_\_\_\_\_

**This letter is to your notice that you have 10 days from (Date) \_\_\_\_ / \_\_\_\_ / \_\_\_\_ to make arrangements to retrieve your vehicle.** Prior to the release of your vehicle, you must pay all fines (if applicable), towing fees and storage charges. In addition, before the vehicle is released you must provide proof of ownership, proof of insurance and arrangements must be made to legally remove the vehicle from impound.

Please make arrangements to remove your vehicle from the impoundment lot by \_\_\_\_ / \_\_\_\_ / \_\_\_\_ . Storage charges are \$10.00 a day effective on the day of impoundment, until it is legally removed. Failure to comply with this notice will result in your vehicle being declared an abandoned vehicle. Per Minnesota Statute 168.B the vehicle will be sold at public auction and the proceeds will go to the Fairmont Police Department.

If you have any questions, please feel free to contact me at the phone number listed below.

Sincerely,

\_\_\_\_\_  
(Officer Rank/Name)

\_\_\_\_\_  
(Owner's Signature)

\_\_\_\_\_  
(Badge #)

\_\_\_ Check if owner will not sign

Phone (507) 238-4481

Fax (507) 238-1093

## **Professional-Conduct-of-Peace-Officers-Policy.pdf**

## PROFESSIONAL CONDUCT OF PEACE OFFICERS MODEL POLICY

MN STAT 626.8457

### I. POLICY

It is the policy of the Fairmont Police Department to investigate circumstances that suggest an officer has engaged in unbecoming conduct, and impose disciplinary action when appropriate.

### II. PROCEDURE

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

#### A. PRINCIPLE ONE

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

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

#### 2. Rules

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

#### B. PRINCIPLE TWO

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

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

#### 2. Rules

- a) Peace officers shall carry out their duties with integrity, fairness and impartiality.

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

**C. PRINCIPLE THREE**

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

- 1. **Rationale:** Law enforcement effectiveness requires public trust and confidence. Diverse communities must have faith in the fairness and impartiality of their police. Peace officers must refrain from fostering disharmony in their communities based upon diversity and perform their duties without regard to race, color, creed, religion, national origin, gender, marital status, or status with regard to public assistance, disability, sexual orientation or age.
- 2. **Rules**
  - a) Peace officers shall provide every person in our society with professional, effective and efficient law enforcement services.
  - b) Peace officers shall not allow their law enforcement decisions to be influenced by race, color, creed, religion, national origin, gender, marital status, or status with regard to public assistance, disability, sexual orientation or age.

**D. PRINCIPLE FOUR**

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

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

- a) Peace officers shall not consume alcoholic beverages or chemical substances while on duty except as permitted in the performance of official duties, and under no circumstances while in uniform, except as provided for in **c**).
- b) Peace officers shall not consume alcoholic beverages to the extent the officer would be rendered unfit for the officer's next scheduled shift. A peace officer shall not report for work with the odor of an alcoholic beverage on the officer's breath.
- c) Peace officers shall not use narcotics, hallucinogens, or other controlled substances except when legally prescribed. When medications are prescribed, the officer shall inquire of the prescribing physician whether the medication will impair the officer in the performance of the officer's duties. The officer shall immediately notify the officer's supervisor if a prescribed medication is likely to impair the officer's performance during the officer's next scheduled shift.
- d) Peace officers, whether on or off duty, shall not engage in any conduct which the officer knows, or should reasonably know, constitutes sexual harassment as defined under Minnesota law, including but not limited to; making unwelcome sexual advances, requesting sexual favors, engaging in sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature.
- e) Peace officers shall not commit any acts which constitute sexual assault or indecent exposure as defined under Minnesota law. Sexual assault does not include a frisk or other search done in accordance with proper police procedures.
- f) Peace officers shall not commit any acts which, as defined under Minnesota law, constitute (1) domestic abuse, or (2) the violation of a court order restraining the officer from committing an act of domestic abuse or harassment, having contact with the petitioner, or excluding the peace officer from the petitioner's home or workplace.
- g) Peace officers, in the course of performing their duties, shall not engage in any sexual contact or conduct constituting lewd behavior including but not limited to, showering or receiving a massage in the nude, exposing themselves, or making physical contact with the nude or partially nude body of any person, except as pursuant to a written policy of the agency.
- h) Peace officers shall avoid regular personal associations with persons who are known to engage in criminal activity where such associations will undermine the public trust and confidence in the officer or agency. This rule does not prohibit those associations that are necessary to the performance of official duties or where such associations are unavoidable because of the officer's personal or family relationships.

#### **E. PRINCIPLE FIVE**

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

1. **Rationale:** Peace officers are the most visible form of local government. Therefore, peace officers must make a positive impression when interacting with the public and each other.
2. **Rules**
  - a) Peace officers shall exercise reasonable courtesy in their dealings with the public, other officers, superiors and subordinates.



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

#### **F. PRINCIPLE SIX**

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

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

#### **2. Rules**

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

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

#### **G. PRINCIPLE SEVEN**

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

**1. Rationale:** For the public to maintain its faith in the integrity and impartiality of peace officers and their agencies officers must avoid taking or influencing official actions

where those actions would or could conflict with the officer's appropriate responsibilities.

## **2. Rules**

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

## **H. PRINCIPLE EIGHT**

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

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

## **2. Rules**

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

## **I. APPLICATION**

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

**2023 AWAIR Manual.pdf**

JOB SAFETY & TRAINING

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Minnesota Municipal Utilities Association



**AWAIR**

## **City and Utility Safety Manual**

*Promoting a safe and injury free work environment for our employees*

## City and Utility Safety Manual Distribution Listing

For Immediate Emergency Assistance

**911**

Directory #	Name	Department Title	Phone
1	Cole Emler	Administration/Safety Liaison	507-238-3928
2	Dan Nath	MMUA Safety Coord	507-920-5509
3	Cathy Reynolds	City Administrator	507-236-1544
4	Brady Powers	Water Superintendent	507-822-6410
5	Brady Powers	Wastewater Superintendent	507-822-6410
6	Nick Lardy	Street Superintendent	507-236-4946
7	Nick Lardy	Park Superintendent	507-236-4946
8	Miles Heide	Electric Superintendent	507-236-2581
9	Mike Hunter	Police Department/Chief	507-236-6981
10	Bryan Kastning	Fire Department/Chief	507-236-5429
11	Betsy Steuber	Aquatic Park Manager	507-236-3565
12	Thomas Donnelly	Liquor Store Manager	480-209-4143
13	Lee Steinkamp	Airport Manager	507-848-4164

*Promoting a safe and injury free work environment for our employees*



**Minnesota Municipal Utilities Association**

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JOB SAFETY & TRAINING

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Minnesota Municipal Utilities Association

This program has been developed and  
modified for use by:



***AWAIR –***

**A Workplace Accident &**

**Injury Reduction Program**

MMUA – JOB SAFETY & TRAINING

# **AWAIR Program**

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© Minnesota Municipal Utilities Association  
3025 Harbor Lane North • Suite 400  
Plymouth, MN 55447-5142  
Phone 763.551.1230 • Fax 763.551.0459  
[www.mmua.org](http://www.mmua.org)

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## Introduction

In 1990, the State of Minnesota amended the Occupational Safety and Health Act. Minnesota Statutes Chapter 182.653 subd.8 requires employers in certain industries to develop written, comprehensive workplace safety and health programs which are based on the NAICS (North American Industry Classification System) system. This legislation is known as A Workplace Accident and Injury Reduction (AWAIR) Act. Programs developed to comply with the act are known as AWAIR programs. The requirements of the legislation that are addressed and complied with in our program are as follows:

1. How managers, supervisors and employees are responsible for implementing the program and how continued participation of management will be established, measured and maintained;
2. The methods used to identify, analyze and control new or existing hazards, conditions and operations;
3. How the plan will be communicated to all affected employees so that they are informed of work-related hazards and controls;
4. How workplace accidents will be investigated and corrective action implemented; and
5. How safe work practices and rules will be enforced

MN OSHA has adopted a list of NAICS codes that we have determined to exist within our jurisdiction as a public entity. These departments are under our blanket AWAIR program. The NAICS codes for the departments under our AWAIR Program are highlighted on the listing in Appendix A.

## Safety Policy Statement

The City of Fairmont is committed to the highest level of customer service and prudent stewardship of tax dollars. Part of this is accomplished through commitment to safety in all city departments.

The safety and health of every City of Fairmont employee is of a high priority and can only be achieved through joint labor and management cooperation. Management accepts responsibility for providing a safe working environment and employees are expected to take responsibility for performing work in accordance with safe standards and practices, to include OSHA regulations and City policy. It is only through this teamwork that safety and health can be achieved.

Every employee must join together in promoting safety and health and taking every reasonable measure to assure safe working conditions for all.

## Approval/Revision of Program

The approval of this AWAIR Program is so recorded as such in the minutes of the safety meeting dated February 14<sup>th</sup>, 2023. Approving Authority for the program is maintained by the Safety Committee as so indicated by the previously stated recording in the meeting minutes.

The Safety Committee annually reviews this program and may make necessary revisions. Revisions are recorded in Appendix C.

The Approving Authority shall retain the responsibility for all policy revisions.

## Application

This AWAIR program is intended to serve as an overview of all currently applicable Safety and Health programs. This program outlines the philosophy by which the City of Fairmont will develop, implement, and maintain all other safety and health programs which concern more specific topics.

While compliance with the law and OSHA standards is an important objective, an effective AWAIR program must be tailored to the Fairmont particular needs. This program shall look beyond specific legal requirements to identify and analyze existing hazards. It shall seek to prevent injuries and illnesses, even when compliance is not an issue. Ultimately, the program's effectiveness in practice is what is important.

Should a department's operations require the need for a specific addition to this program, said specifics will be added as an addendum for that department and be maintained by that department within their operations.

## Goals and Objectives

Central to our AWAIR program are the goals and objectives we, as an organization, have set for our overall safety and health program. The goals establish the direction for our program and state what we are attempting to achieve through this program. Our goals are generally challenging to reach or complete but are also possible to achieve. The goals are specific to the City of Fairmont. Our objectives are specific actions that we will be taking to attempt to achieve those goals. Our objectives can either be measured or demonstrated.

The Goals and Objectives for our AWAIR program are identified in Appendix B.

## Safety Committee

The City of Fairmont has established a safety committee pursuant to Minnesota Statutes.

The safety committee will hold regularly scheduled meetings.

All departments within the city's operations may have Representatives on the Safety Committee. All representatives will serve on a voluntary basis. Terms of office will be revisited annually by individual departments. A chairperson and vice chairperson will be elected among the representatives.

Management/Supervisory personnel will have a representative on the safety committee.

The City Council/Utilities Commission may have a representative on the safety committee.

Safety Committee members will be able to perform their duties without fear of discrimination or retaliation by management or the governing body.

## Roles and Responsibilities

### **For Everyone in the Organization:**

All employees, including supervisors and managers, must follow all safety rules at all times.

### **For Employees:**

1. Employees must promptly report any safety and health hazards they observe to their supervisor or safety committee representative.
2. An employee's first priority is to perform each job task safely. If an employee is unsure how to perform the task safely, he or she must consult with their supervisor.
3. Employees must wear personal protective equipment as required for their protection and maintain the equipment in a sanitary manner.
4. Employees must report all accidents and near misses to their supervisor immediately upon occurrence.

### **For Supervisors:**

1. Supervisors must discuss any current safety issues with their employees at the beginning of all regularly scheduled staff safety meetings or at the tailgate/toolbox meetings.
2. Supervisors will address all safety concerns raised by staff by initially investigating the issue, determining if the concern is valid and taking appropriate corrective action whenever necessary. Corrective action can include ordering new equipment, issuing maintenance work orders or consulting with the safety director, the safety committee or upper management.
3. Immediately upon learning of an accident or near miss the supervisor must initiate an investigation and submit the completed accident investigation report to the safety director.
4. Supervisors will actively and positively participate in all safety committee inspections of their assigned areas.

### **For Safety Directors:**

1. The safety director will serve as the lead person in the organization for safety and health issues and will serve as an ex officio member of the safety committee.
2. The safety director must review all First Reports of Injury and Accident Investigation Reports with the safety committee and take appropriate action to prevent recurrence.

3. The safety director will conduct all safety training required by regulation or identified by management, supervision or the safety committee as a need to assure a safe workplace.
4. The safety director will recommend improvements in physical plant, machinery, equipment, raw materials and personal protective equipment to management, supervision and the safety committee.

**For Safety Committees:**

1. The safety committee will conduct bi-monthly meetings and conduct area inspections to review accident reports, identify hazards and address any and all safety concerns raised by employees, first-line supervision or the safety director.
2. The safety committee will review the AWAIR program at least annually and make recommendations concerning updates and revisions to the program to senior management and the safety director.
3. Safety committee members each represent their particular work area and, therefore, should address all safety concerns brought to them by their coworkers. These concerns should be handled by initially investigating the issue with the area supervisor to determine if the concern is valid and then, as necessary and appropriate, bring the issue to the safety director or the full safety committee.

**For Management/Administration:**

1. Managers will communicate to all employees and supervisors the importance of worker safety and health throughout the organization.
2. Management shall review all safety concerns brought forward by the safety director, the safety committee or first-line supervision and take appropriate action.
3. Management shall review the AWAIR program and any recommended revisions from the safety committee at least annually, make the appropriate revisions and work with the safety director, the safety committee and first-line supervision to communicate the revisions throughout the organization.
4. Management also establishes the importance of the AWAIR program, both by the priority they give workplace safety and health issues and by the example they set by initiating safety and health improvements, correcting hazards, enforcing safety rules, rewarding excellent performance in safety and health, and by following all safety rules. Safety and health programs are similar to quality improvement and other efforts organizations engage in to continually improve performance, customer service, competitiveness, organizational culture, etc.

**For Elected/Appointed Officials:**

1. Officials will communicate to all Managerial/Administrative personnel the importance of safety and health throughout the city/utility.
2. Elected/Appointed Officials will provide the resources to improve safety and health throughout the entire organization. This includes providing employees and supervisors with the authority to identify and correct hazards, the budget to purchase new equipment or make repairs, the training necessary to work safely and to recognize hazards, and the systems to get repairs made, materials ordered, and other improvements accomplished.

## **Enforcement of Safety and Health Programs**

Enforcement of safe work practices should be fair, consistent throughout the city/utility, and based on established policy. Management and supervision should be conscious of the examples they set for the workplace and should obey the same rules as the rest of the workforce.

Unsafe or unhealthy work action by all employees shall be corrected in a timely manner based on the severity of the hazards. The enforcement of the program is based on the following methods:

1. Verbal warning
2. Written warning
3. Leave without pay
4. Termination

Or Take Safety Program Enforcement from union contract language agreement or current personnel manual.

Disciplinary action will follow the above sequence unless the situation warrants more severe action.

Not only should negative behavior be discouraged, but positive behavior should be reinforced as well. Exceptional performance or efforts in workplace safety and health should be recognized by the organization.

# Hazard Identification, Analysis and Control

The City of Fairmont will use the following steps to Identify, Analyze and Control hazards:

- Walk-around inspections by Supervisors, Management or the Safety Committee
- Job or safety hazard analyses of different parts of the operation
- Inspections should be done on a regular basis to identify both newly developed hazards and those previously missed
- Periodic industrial hygiene monitoring and sampling for agents such as hazardous substances, noise and heat
- Job hazard identification checklists
- Employee reporting of workplace safety and health hazards
- Employee hazard abatement suggestions
- Preventative maintenance inspections
- Engineering controls
- Administrative controls
- Personal Protective Equipment
- Management and Employee Training

The City of Fairmont may use the enclosed forms to assist in the Identification, Analysis and Control of hazards:

- SP 1 – Hazard Inventory
- SP 2 – Safety Inspection Checklist
- SP 3 – Report of Unsafe Conditions
- SP 4 – Hazard Elimination Evaluation Control Worksheet
- SP 5 – Job Hazard Analysis
- SP 6 – Indoor Environmental Audit
- SP 7 – Personal Exposure Monitoring
- SP 8 – Certification of Employee Training
- SP 10 – Accident/Injury Investigation



## Communication

All managers and supervisors are responsible for communicating with all workers about occupational safety and health in a form readily understandable by all workers. Our communication system encourages all workers to inform their managers and supervisors about workplace hazards without fear of reprisal.

Our communication system may include one or more of the following items:

- New worker orientation including a discussion of safety and health policies and procedures
- Review of our program
- Training programs
- Regularly scheduled safety meetings
- Posted or distributed safety information
- A system for workers to anonymously inform management about workplace hazards

## Contractor Duties

All contractors shall follow any and all Minnesota OSHA, Federal OSHA, MN DOT, MPCA and other regulatory agencies rules that pertain to their work sites in the State of Minnesota. All contractors shall be responsible for initiating, maintaining and supervising safety and health related policies, programs and work practices in connection with the performance of contractual work.

### Duties to Subcontractors

Contractors that use sub-contractors shall be responsible for communicating any and all safety and health related information to those subcontractors and shall ensure that subcontractors initiate, maintain and supervise safety and health related polices, programs and work practices while performing subcontracted work.

### Imminent Danger

In the event of an imminent danger situation, the City of Fairmont reserves that right to suspend contracted work if said work exposes the employees of either employer to imminent danger.

#### ***Imminent Danger Definition per MNOSHA:***

*Imminent danger situations are given top priority. An imminent danger is any condition or practice that presents a substantial probability that death or serious physical harm could occur immediately or before the danger can be eliminated through normal enforcement procedures. MNOSHA becomes aware of these situations through reports received from employees, the general public or direct observation by an investigator.*

*If an imminent danger situation is identified, the safety and health investigator will ask the employer to voluntarily eliminate the hazard and to remove the endangered employees from exposure. If the employer fails to do this, MN OSHA may "red tag" the equipment or job site for 72 hours.*

## Accident Investigation

Procedures for investigating workplace accidents, hazardous substance exposures, and near misses include:

1. Interviewing injured workers and witnesses;
2. Examining the workplace for factors associated with the accident/exposure;
3. Determining the cause of the accident/exposure;
4. Taking corrective action to prevent the accident/exposure from re-occurring; and
5. Recording the findings and actions taken. It should not be to affix blame.

Each contributing factor should be traced back to its root cause. A written report that describes the accident, its causes and recommendations for corrective action and prevention will be prepared and presented to management.

The ultimate goal of the investigation is to determine the basic and root causes and to determine appropriate corrective action so the incident does not happen again. To simply attribute an accident to "employee error," without further consideration of the basic causes, deprives the organization of the opportunity to take real preventive action. Possible use of engineering controls, improved work practices and administrative controls should be considered to help employees do their jobs safely. Management practices may also be considered as a possible basic factor. For example, if there is managerial or supervisory pressure to increase production or cut costs, employees may take unsafe shortcuts in work procedures or necessary preventive maintenance may be delayed or skipped.

The Accident/Injury Investigation Form (Form SP 10) may be used.

Figure 1: Accident and Injury Flowchart

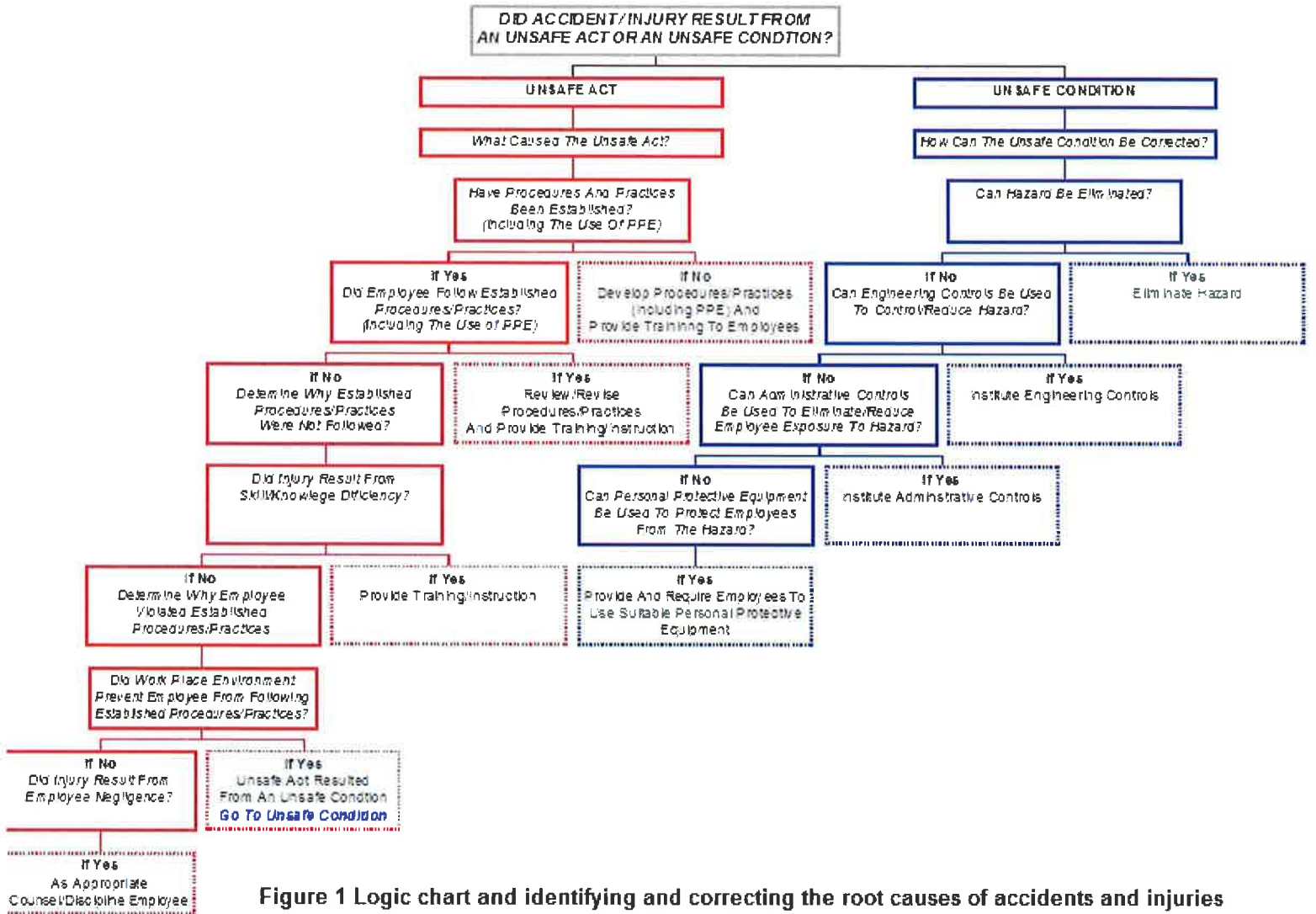


Figure 1 Logic chart and identifying and correcting the root causes of accidents and injuries

## **Program Evaluation**

The AWAIR Act requires employers to review the entire program at least annually and document the findings. Program review is vital, because it serves as a check to see if the organization is making progress towards its goal of creating a safer, healthier workplace for all employees. The annual review keeps the program fresh, accurate and an integral part of the organization.

The AWAIR Program Audit Form (Form SP 9) shall be used as a tool and record of the annual audit.

This program has been developed and  
modified for use by:



# Bloodborne Pathogens

MINNESOTA MUNICIPAL UTILITIES ASSOCIATION

# **Bloodborne Pathogens Manual**

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© Minnesota Municipal Utilities Association  
3025 Harbor Lane North • Suite 400  
Plymouth, MN 55441-3859  
Phone 763.551.1230 • Fax 763.551.0459  
[www.mmua.org](http://www.mmua.org)

## **PURPOSE**

**T**he purpose of this bloodborne pathogens exposure control program is to define special precautions to be utilized in minimizing or eliminating potential workplace exposure, by employees, to human blood and other potentially infectious materials. It is also the purpose for this program is to define the administrative responsibilities for the program. The OSHA regulations, 1910.1030 (Appendix A) and Instruction CPL 02-02-069 (Appendix B) are used as reference documents. Additional reference information is obtained from the Minnesota Department of Labor & Industry (MNOSHA) and the Centers for Disease Control.

## **SCOPE**

This blood borne disease exposure control program has been modified in accordance with instructions provided by the Minnesota Association of Municipal Utilities and applicable state and federal regulations and has been approved as the City of Fairmont's own blood borne disease exposure control program by the appropriate administrative or governing authority shown below.

The use of the word "City" or "Utility" or "City/Utility" shall be construed to mean the municipal City/Utility (ies) of the city and such other departments of city government for which this program has been adopted.

This Bloodborne Pathogens Program will be reviewed for relevant updates by the Safety Committee annually.

See Appendix C for approval and revision history.

## **APPLICABILITY**

While contact with the above materials is not a frequent on-the-job occurrence with City of Fairmont personnel, potential exposure may occur in first-aid situations where there are open wounds or where rescue breathing efforts are required. This program primarily addresses those parts of the regulation that would apply to this minimum exposure



## **POLICY**

The City of Fairmont is committed to providing a safe and healthful work environment for the entire staff. In pursuit of this goal, the following Bloodborne Pathogens program and exposure control plan is provided to eliminate or minimize occupational exposure to bloodborne pathogens.

This program is a key document to assist the city/utility in implementing and ensuring compliance with state and federal standards, thereby protecting our employees. This program includes:

- Employee Exposure Determination
- Methods of exposure control implementation
  - Universal Precautions
  - Housekeeping
  - Engineering Controls & Work Practices
  - Personal Protective Equipment
  - Laundry
  - Labeling
- Hepatitis B Vaccination
- Employee Training
- Hazard Communication
- Exposure Incident
  - Post-Exposure Evaluation and Follow-up
  - Administration
  - Procedures for Evaluation Circumstances of Incident
- Recordkeeping

## ADMINISTRATION

The following person shall be responsible for the administration and implementation of the Bloodborne Pathogens Program at the City/Utility and shall be designated as the Exposure Control Plan administrator.

Title	Office/Location	Phone#
Safety Coordinator	MMUA	507-920-5509
<b>Dan Nath</b>		

Responsibilities of the Exposure Plan administrator shall include:

- Maintain, review and update exposure control plan at least annually and whenever necessary to include new or modified tasks and procedures.
- Ensuring that all medical actions required by the standard are performed and that appropriate employee health and OSHA records are maintained.
- Training, documentation of training and making the written exposure control plan available to department heads and supervisory personnel.
- Ensure department heads and supervisory personnel are provided with appropriate information to purchase and select necessary equipment and supplies.
- To ensure an effective Bloodborne Pathogens Program, the following supervisors are responsible for carrying out the details of this program in their work areas.

The following person(s) shall be responsible for implementation of the exposure control plan within their designated assignment.

Name	Title of Position	Office/Location	Phone#
Marty Meixell	Electric Superintendent	1100 Marcus St	507-235-6811
Brady Powers	Water Superintendent	300 Day Street	507-235-6789
Brady Powers	Wastewater Superintendent	301 E. Margaret St	507-235-6502
Nick Lardy	Street/Park Superintendent	801 E. Margaret St	507-235-9330
Mike Hunter	Police Chief	201 Lake Avenue	507-238-4481
Bryan Kastning	Fire Chief	216 E. 4 <sup>th</sup> Street	507-236-5429
Betsy Steuber	Aquatic Park	1400 So. Prairie	507-238-9292

## **EMPLOYEE EXPOSURE DETERMINATION**

All job positions with departments identified under "Applicability" shall have determination made regarding occupational exposure to bloodborne pathogens. Determination will be made without regard to personal protective equipment and will be place each position into one of two categories.

See Appendix B for Exposure Determination and Participation List

- 1) Job positions in which all employees have potential for occupational exposure.
- 2) Job positions in which some employees have potential for occupational exposure.

### **Definitions**

Occupational exposure - "reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of the employee's duties."

Other potentially infectious materials – "any body fluid that is visibly contaminated with blood." Note - Urine, feces, sweat, tears, nasal secretions, and vomitus which are not visibly contaminated with blood are not considered other potentially infectious materials.

## **METHODS OF EXPOSURE CONTROL IMPLEMENTATION**

### **Universal Precautions - Engineering Controls & Work Practices**

Universal Precautions are methods of exposure in which potentially infectious materials are always treated as if they were known to be infection with bloodborne pathogens. The following will be adhered to in order to protect all employees and minimize exposure.

Employee Responsibilities:

- 1) Gloves will be worn whenever there is the potential for the hands to come in contact with blood, infectious materials, mucous membranes, non-intact skin, or surfaces and materials soiled with blood or other potentially infectious materials.
- 2) Disposable gloves will be replaced as soon as possible when they are visibly soiled, torn, punctured, or may no longer provide a barrier to contamination. Utility gloves may be

disinfected for re-use if their protective ability is not compromised, but they will be discarded if they are cracked, peeling, discolored, torn, punctured or deteriorating.

- 3) Employees will wash their hands immediately after removing protective gloves or other PPE and after hand contact with blood or other potentially infectious materials. If working away from a facility with a water supply, disinfecting solution or towelettes may be used and hands will be washed with soap and water as soon as possible.
- 4) All PPE will be removed immediately after completion of the task being performed and placed in a designated appropriate area or container for storage, washing, decontamination or disposal.
- 5) Masks, eye protection or face shields will be worn if there is a potential for blood or other potentially infectious materials to become air borne via splashes, spray or spatters, where it may come into contact with eyes, nose, or mouth.
- 6) Depending upon the task and degree of exposure expected, protective clothing will be worn that provides effective protection.
  - Gowns, coats, aprons or similar items will be worn if there is a potential of contaminating work clothing and a protective cap will be worn if there is the potential for splashing or spraying of potentially infectious material on the head.
  - Fluid resistant clothing will be worn if there is a potential for the splashing or spraying of blood or other potentially infectious material
  - Fluid proof clothing and shoe covers will be worn if there is a potential for clothing or shoes to become soaked with blood or other potentially infectious materials.
- 7) If hypodermic needles or other sharps are used, they will not be sheared, bent, broken or recapped by hand.
- 8) It is prohibited to eat, drink smoke or apply cosmetics or lip balm, handle contact lenses, or store food or beverages in areas of possible contamination or occupational exposure.
- 9) All procedures involving blood or potentially infectious materials will be performed in such a manner to minimize splashing, spraying, or the production of aerosols.
- 10) Direct mouth-to-mouth contact is prohibited and rescue breathing procedures will be performed with mouthpieces, resuscitation bags, pocket masks or other protective ventilation devices.
- 11) Potentially infectious broken glassware and other sharp items will not be picked up directly by hand by will be manipulated using mechanical devices such as a brush, dust pan, tongs, forceps or cotton swabs.
- 12) Any container used to hold potentially infectious materials will be closeable, leak proof, and display the universal biohazard symbol shown. If the outside of the container is

likely to be contaminated also, a second leak proof container will be placed over the first, labeled as above, and closed to prevent leakage during handling, storage, and transport. If puncture of the first container is likely, both containers will be puncture resistant. If the above container holds infectious waste for disposal, the disposal method will comply with federal, state, and local regulations.

- 13) If sharps are used, they will be placed immediately in closable, puncture resistant and disposable containers which are leak proof on the bottom and sides and display the universal biohazard symbol.
- 14) If reusable items are contaminated, they will be decontaminated before washing and/or reuse or processing.
- 15) All laundry used in a potentially infectious situation, will be treated as if it were contaminated and will be handled as little as possible with a minimum of agitation.

The laundry will be bagged at the location where it was used, the bag will display the universal biohazard symbol and the laundry will be sorted only in a well ventilated area by trained employees wearing protective gloves and other appropriate PPE to prevent exposure during handling and sorting.

#### Employer Responsibilities:

- 1) Any engineering or work practice controls which would help isolate or remove the hazards will be examined and maintained or replaced on a regular schedule to ensure their effectiveness.
- 2) The employer will provide appropriate PPE and ensure that affected employees use the appropriate protective equipment and follow the above universal precautions.

The supplied equipment may include items such as disposable or reusable gloves, fluid-proof aprons, coats, head and foot coverings, face shields, masks, eye protection, mouth-pieces, resuscitation bags, pocket masks, or any other device which would protect the worker from work exposure.

- 3) PPE will be provided in the appropriate sizes for affected employees and will be readily accessible at the worksite or issued to the employee. If an employee is allergic to the gloves normally provided, hypoallergenic gloves will be provided for that employee.
- 4) Provisions will be made for the cleaning, laundering or disposal of PPE and all such equipment will be repaired or replaced as needed to maintain its effectiveness.
- 5) Wherever contamination may occur, the worksite will be maintained in a clean and sanitary condition. An appropriate written schedule for cleaning and the method of disinfection (a solution of 1:10 of household bleach and water is acceptable as is any disinfectant that is tuberculocidal) will be provided and will be based on the work location, the type of contamination, the type of surface to be cleaned and the type of procedures used.
  - All equipment and work surfaces will be cleaned and disinfected immediately after contact with blood or other potentially infectious materials. If protective

coverings are used, they will be removed and replaced at the end of the work shift or whenever they become obviously contaminated.

- Equipment (including containers and receptacles) intended for reuse which may become contaminated will be checked routinely and before servicing or shipping and will be decontaminated as needed.

## Housekeeping

Regulated waste is placed in containers which are closable, constructed to contain all contents and prevent leakage, appropriately labeled or color-coded (see section "Labels"), and closed prior to removal to prevent spillage or protrusion of contents during handling.

Bins and pails (e.g., wash or emesis basins) are cleaned and decontaminated as soon as feasible after visible contamination.

Broken glassware that may be contaminated is only picked up using mechanical means such as a brush/broom and dustpan.

Note: Discarded feminine hygiene products do not fall within the definition of regulated waste.

## Personal Protective Equipment

Personal Protective Equipment (PPE) is provided to our employees at no cost to them. Training in the use of the appropriate PPE for specific tasks or procedures shall be the responsibility of the Exposure Control Plan Administrator.

The following PPE is available from the employee's supervisor or the Exposure Control Plan Administrator: Hearing protection, respiratory protection, safety glasses and gloves.

All employees using PPE must observe "Universal Precautions" and also the following:

Wash hands immediately or as soon as feasible after removing gloves or other PPE.

Remove PPE after it becomes contaminated and before leaving the work area.

Wear appropriate gloves when it is reasonably anticipated that there may be hand contact with blood or other potentially infected material, and when handling or touching contaminated items or surfaces; replace gloves if torn, punctured or contaminated, or if their ability to function as a barrier is compromised.

Utility gloves may be decontaminated for reuse if their integrity is not compromised; discard utility gloves if they show signs of cracking, peeling, tearing, puncturing, or deterioration.

Never wash or decontaminate disposable gloves for reuse.

Wear appropriate face and eye protection when splashes, sprays, spatters, or droplets of blood or other potentially infected material pose a hazard to the eye, nose, or mouth.

Remove immediately or as soon as feasible any garment contaminated with blood or other potentially infected material, in such a manner so as to avoid contact with the outer surface.

Contaminated and reusable PPE (eye protection, face shields, resuscitation equipment) shall be appropriately decontaminated prior to reuse. Decontamination shall be completed using procedures previously identified under "Universal Precautions".

## **Laundry**

The City of Fairmont shall be responsible for processing materials that are contaminated as the result of job duties. Processing may include but not be limited to laundering, repair, or replacement.

The Exposure Plan Administrator shall be contacted to arrange for the processing of contaminated materials.

- Universal precautions and PPE must be used when handling these materials.
- Contaminated laundry must not be taken home for laundering.
- Wet contaminated laundry shall be placed in a leak-proof, labeled/color coded container. See labeling section.

## **Labeling**

All containers that contain contaminated waste or other potentially infectious materials shall have identification that includes a biohazard warning symbol and the words "Biohazard."



## **HEPATITIS B VACCINATION**

The City of Fairmont will provide training to employees on hepatitis B vaccinations, addressing safety, benefits, efficacy, methods of administration, and availability.

The hepatitis B vaccination series is available at no cost after initial employee training and within 10 days of initial assignment to all employees identified in the exposure determination section of this plan. Vaccination is encouraged unless:

- Documentation exists that the employee has previously received the series;
- Antibody testing reveals that the employee is immune;

- Or medical evaluation shows that vaccination is contraindicated.

Vaccination location, time and date will be arranged for by the Exposure Plan Administrator or designee.

Employees may decline the vaccination series. If the employee chooses to decline the vaccination, they must be given a statement of declination and must sign the form. Employees declining, may at a later date, request and obtain the vaccination, under the same requirements of this section.

Declination of the vaccination series may only be effectuated after training has been provided.

Documentation of statement of declination will be maintained in the employee's personnel file.

## **EMPLOYEE TRAINING**

All employees who have occupational exposure to bloodborne pathogens received training arranged for by the Exposure Plan Administrator. Qualifications of instructor are attached to training documentation.

All employees who have occupational exposure to bloodborne pathogens receives training on the epidemiology, symptoms, and transmission of bloodborne pathogen diseases. In addition, the training program covers, at a minimum, the following elements:

- A copy and explanation of the OSHA bloodborne pathogen standard
- An explanation of our exposure control plan and how to obtain a copy
- An explanation of methods to recognize tasks and other activities that may involve exposure to blood and other potentially infectious materials, including what constitutes an exposure incident
- An explanation of the use and limitations of engineering controls, work practices, and PPE
- An explanation of the types, uses, location, removal, handling, decontamination, and disposal of PPE
- An explanation of the basis for PPE selection
- Information on the hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine will be offered free of charge
- Information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials
- An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that will be made available
- Information on the post-exposure evaluation and follow-up that the employer is required to provide for the employee following an exposure incident



- An explanation of the signs and labels and/or color coding required by this standard and used by the City of Fairmont
- An opportunity for interactive questions and answers with the person conducting the training session

## **EXPOSURE INCIDENT**

An exposure incident is specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.

Employees shall immediately report exposure incidents to their supervisor or the Exposure Plan Administrator

## **Post Exposure Evaluation and Follow-up**

An immediately available confidential medical evaluation and follow up will be conducted by personnel at Mayo Clinic Health System – Fairmont.

Following initial first aid the following activities will be performed:

- Document the routes of exposure and how the exposure occurred
- Identify and document the source individual (unless it can be established that identification is infeasible or prohibited by state or local law)
- Obtain consent and make arrangements to have the source individual tested as soon as possible to determine HIV, HCV, and HBV infectivity; document that the source individual's test results were conveyed to the employee's health care provider
- If the source individual is already known to be HIV, HCV, and/or HBV positive, new testing need not be performed
- Assure that the exposed employee is provided with the source individual's test results and with information about applicable disclosure laws and regulations concerning the identity and infectious status of the source individual
- After obtaining consent, collect exposed employee's blood as soon as feasible after exposure incident, and test blood for HBV and HIV serological status and for antibody to Hepatitis B surface antigen.
- If the exposed employee does not give consent of HIV serological testing during collection of blood for baseline testing, preserve the baseline blood sample shall be preserved for at least 90 days; if the exposed employee elects to have the baseline sample tested during this waiting period, perform testing as soon as feasible.

## **Administration**

The Exposure Plan Administrator shall ensure that health care professional(s) responsible for employee's hepatitis B vaccination and post-exposure evaluation and follow-up are provided a copy of the OSHA bloodborne pathogens standard.

The Exposure Plan Administrator shall ensure that the health care professional(s) evaluating an employee after an exposure incident shall also receive the following:

- A description of the employee's job duties relevant to the exposure incident
- Route(s) of exposure
- Circumstances of exposure
- If possible, results of the source individual's blood test
- Relevant employee medical records, including vaccination status.

The Exposure Plan Administrator shall provide the exposed employee with a copy of the evaluating health care professional's written opinion with 15 days after completion of the evaluation.

## **Procedures for Evaluating Exposure Incident**

The Exposure Plan Administrator shall review the circumstances of all exposure incidents to determine:

- Engineering controls in use at the time of exposure
- Work practices followed
- A description of the device being used (including type and brand), if applicable
- Protective equipment or clothing that was used at the time of the exposure incident (i.e., gloves, eye shields, etc.)
- Location of the incident
- Procedures being performed when the incident occurred
- Employee's training, including dates

The Exposure Plan Administrator shall record all percutaneous injuries from contaminated sharps in a Sharps Injury Log and/or with comparable information on the OSHA 300 Log.

# RECORDKEEPING

## Training

Training records are completed for each employee upon completion of training. These documents will be kept for at least three years. Training documentation is maintained at City Hall.

Training Records include:

- Dates of the training sessions
- Contents and/or summary of the training sessions
- Names and qualifications of persons conducting the training, and
- Names and job titles of all persons attending the training sessions.

Copies of employee training records will be provided to the employee with 15 working days of receipt of written request. Requests for training records must be addressed to the Exposure Plan Administrator.

## Medical Records

Medical records are maintained for each employee with occupational exposure in accordance with 29 CFR 1910.1020.

Safety Liaison\* is responsible for maintenance of the required medical records. These confidential records are kept for at least the duration of employment plus 30 years.

Employee medical records are provided upon request of the employee or to anyone having written consent of the employee with 15 working days. All such requests must be sent to Safety Liaison at City Hall. An exposure incident is evaluated to determine if the case meets OSHA's recordkeeping requirements in 29 CFR 1904. The determination and recording of incidents is made by the Safety Liaison.

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\*Cole Emler - Admin

## **Sharps Injury Log**

In addition to the 1904 Recordkeeping Requirements, a confidential sharps injury log shall be maintained for recording percutaneous injuries from contaminated sharps.

Each incident record includes the date of the injury, the type and brand of the device involved, the department where the incident occurred, and an explanation of how the incident occurred.

The sharps log is reviewed at least annually as part of the annual evaluation of the program and is maintained for at least 5 years following the end of the calendar year covered.

If a copy is requested, all personal identifiers will be removed from the report.

The log is maintained and filed by Finance/Customer Services II representative at City Hall.

## **Exposure Control Plan Evaluation**

If it is determined through the post-exposure evaluation and follow-up that revisions to this Exposure Control Plan are needed, the Exposure Plan Administrator will ensure that appropriate changes are completed. The Exposure Plan Administrator will also ensure that revisions are communicated to all affected employees.

## **FORMS**

## Hepatitis B Vaccination Declination Statement

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to me. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future, I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to me.

Employee Signature \_\_\_\_\_

Date \_\_\_\_\_

This program has been developed and  
modified for use by:



# Employee Right to Know Manual

MINNESOTA MUNICIPAL UTILITIES ASSOCIATION

# **Employee Right to Know Manual**

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© Minnesota Municipal Utilities Association  
3025 Harbor Lane North • Suite 400  
Plymouth, MN 55441-3859  
Phone 763.551.1230 • Fax 763.551.0459  
[www.mmua.org](http://www.mmua.org)

## **PURPOSE**

**T**his program manual is designed to implement the provisions of the Minnesota Employee Right to Know Act of 1983. This manual presents the major aspects of the standards. These standards require employers to evaluate their workplaces for the existence of hazardous substances, harmful physical agents, and infectious agents and to provide training and information to those employees covered under this act who are routinely exposed to those substances and agents.

## **SCOPE OF THE EMPLOYEE RIGHT TO KNOW PROGRAM**

This Employee Right to Know Program has been developed in accordance to applicable state and federal regulations. It has been approved as the City/Utility's own right to know program by the appropriate administrative or governing authority identified below. The use of the word "City" or "Utility" or "City/Utility" shall be construed to mean the municipal City/Utility (ies) of the city and such other departments of city government for which this program has been adopted.

This Employee Right to Know Program will be reviewed for relevant updates by the Safety Committee every two years.

See Appendix A for Approval and Revision History



## Administrative Responsibilities

The following person is responsible for administering the Employee Right to Know Program at the City/Utility. This person has the primary responsibility to oversee the ERTK program and ensure that it is organized, implemented and updated as required by the Employee Right to Know Standard.

<b>Program Administrator for City Departments Covered in this program.</b>
City Administrator

To ensure an effective Employee Right to Know Program, the following supervisors are responsible for carrying out the details of this program in their work areas.

<b>Supervisor</b>	<b>Department</b>
Electric Superintendent	Electric Distribution Dept
Water/Wastewater Superintendent	Water/Wastewater Dept
Street/Park Superintendent	Street/Park Departments
Police Chief	Police Department
Fire Chief	Fire Department
Airport Manager	Airport
Aquatic Park Manager	Aquatic Park

## Hazard Determination

The City/Utility recognizes/inventories a list of hazardous substances, harmful physical agents and infectious agents listed in subparts 5206.0400, 5206.0500 and 5206.0700 of the Employee Right to know rules. The City/Utility will exercise reasonable diligence in evaluating the workplace for the presence of recognized hazardous substances, harmful physical agents, and infectious agents and assure that employees are provided with the rights stated in the standard. The City/Utility understands that the hazardous substances list includes the majority of hazardous substances that will be encountered in Minnesota (or other states) and that it does not include all hazardous substances and may not always be current. Therefore, the evaluations conducted by the specific manufacturer of the substances used at the City/Utility will be accepted and employees provided with the rights stated in the standard.

## HAZARDOUS SUBSTANCES

The City/Utility has developed an inventory/list of all hazardous substances and the operations where they are used. The intent is to inform employees about the hazardous substances they may encounter in the workplace.

Work area supervisors or delegated employees will update the inventory/list whenever a new hazardous substance is introduced into that work area. Supervisors will report the name of the new hazardous substance and the operation where it will be used to the following individual so that it can be added to the inventory/list before employees in the work area use it.

Department Supervisors
------------------------

The inventory/list of hazardous substance used at the City/Utility is available for review at the following location(s).

Building	Location
Electric Distribution Warehouse	1100 Marcus Street
Water Department	300 Day Street
Wastewater Department	301 E. Margaret Street
Street / Park Department	801 E. Margaret Street (New) 417 E. Margaret Street (Old)
Fire Department	216 E. 4 <sup>th</sup> Street
Airport	East of Fairmont Cnty Road 26
Aquatic Park	1400 So. Prairie Avenue

# Hazardous Substance Container Labeling

The following person is responsible for coordinating labeling activities among supervisors and employees to make sure they are uniform and follow the rules of the City/Utility.

MMUA Safety Coordinator
-------------------------

The City/Utility understands that the manufacturer of a hazardous substance or mixture of hazardous substances, or of equipment which generates a harmful physical agent is obligated to provide the information necessary for the City/Utility to comply with Employee Right to know requirements. Supervisors at the City/Utility will evaluate containers arriving in their work area to ensure that the label, tag, or markings meet the following requirements:

- 1) Identifies the hazardous substance.
- 2) Appropriate hazard warning(s).
- 3) Name and address of the chemical manufacturer, importer or other responsible party.

Should a product be received that does not meet the above stated labeling requirements, the supervisors will immediately label, tag, or mark any hazardous substance container at the City/Utility so that it:

- 1) Identifies the hazardous substance and the identity corresponds with the name used on the SDS and inventory list.
- 2) Indicates the appropriate hazard warning
- 3) Does not conflict with labels from the Department of Transportation.

Supervisors will also ensure:

- 1) The label, tag, or marking is legible, in English, and is prominently displayed.
- 2) The incoming containers of hazardous substance include the manufacturer's name and address.
- 3) Chemical labels for OSHA specific standards comply with those regulations.
- 4) The labels on incoming containers of hazardous substances are not removed or defaced unless the container is immediately marked, tagged or labeled with required information.
- 5) Stationary processes that contain hazardous substances have the appropriate label or alternative warning attached that conveys the required information.
- 6) Contracted employers working at the facility are notified of the labeling procedure and understand the label (warning) system.
- 7) The City/Utility recognizes labeling that is in compliance with the following regulations meet the requirements of the Employee Right to Know Program:
- 8) Pesticides labeled in accordance with the Federal Insecticide, Fungicide and Rodenticide Act.
- 9) Any food, food additive, color additive, drug, or cosmetic including materials intended for use as ingredients in products labeled in accordance with the requirements of the Federal Food, Drug and Cosmetic Act.
- 10) Distilled spirits (beverages alcohols), wines, or malt beverages labeled in accordance with the Federal Alcohol Administration Act.
- 11) Any consumer products as defined in the Consumer Product Safety Act and labeled in accordance with the requirements of that act.
- 12) Any hazardous substance as defined in the Federal Hazardous Substance Act and labeled in accordance with the requirements that act.

## **In-House Label Explanation and Description**

Supervisors will ensure that all secondary containers in the workplace are labeled according the following requirements:

- 1) Identifies the product and any hazardous substances.
- 2) Appropriate hazard warning(s).
- 3) The label, tag, or marking is legible, in English, and is prominently displayed.

The City/Utility uses the following label(s) for secondary containers

## Material Safety Data Sheets

The City/Utility will obtain and collect the safety data sheets (SDS) for all hazardous substances purchased from manufacturers, importers and distributors of said substances. A current hard copy or an electronic copy will be on file.

Where an in-house process generates hazardous substances, a “generic” SDS of the hazardous substance will be obtained and placed in the City/Utility SDS file. The intent is to provide a “material safety data sheet” for all hazardous substances encountered by employees in the workplace.

The following person is responsible for making sure the SDS file at the City/Utility is maintained and updated as necessary:

MMUA Safety Coordinator

Supervisors will notify this person prior to the time that a new hazardous substance is used in the workplace so that the appropriate SDS can be obtained.

The SDS file (hard or electronic) at the City/Utility is located at the following location(s):

Building	Location
Electric Distribution Warehouse	1100 Marcus Street
Water Department	300 Day Street
Wastewater Department	301 E. Margaret Street
Street / Park Department	801 E. Margaret Street (New) 417 E. Margaret Street (Old)
Fire Department	216 E. 4 <sup>th</sup> Street
Airport	2160 E Blue Earth Ave
Aquatic Park	1400 So. Prairie Avenue

These files are available to all employees at the SDS file location or for more information contact your immediate supervisor.

## **HARMFUL PHYSICAL AGENTS**

The City/Utility recognizes the list of harmful physical agents listed/inventoried below. The City/Utility will exercise reasonable diligence in evaluating the workplace for the presence of recognized harmful physical agents at a level that may be expected to approximate or exceed the permissible exposure limit or the applicable action level. The City/Utility understands that the list/inventory of harmful physical agents includes the majority of harmful physical agents that will be encountered in Minnesota (or other states). The City/Utility will make a diligent effort to ensure that this list is updated as necessary. The City/Utility will ensure that exposed employees are afforded their rights as established in the Employee Right to Know rules.

### **List of Harmful Physical Agents**

- 1) Heat
- 2) Noise
- 3) Ionizing Radiation
- 4) Nonionizing Radiation

### **Harmful Physical Agent Labeling**

The City/Utility will ensure that equipment or work areas that specifically generate harmful physical agents at a level that may be expected to approximate or exceed the permissible exposure limit or applicable action will be labeled, marked or tagged. Labeling will include:

- 1) The name of the physical agent.
- 2) The appropriate hazard warning.



## **INFECTIOUS AGENTS**

The City/Utility recognizes the list of infectious agents listed in Minnesota rule 5260.0600. The City/Utility will exercise reasonable diligence in evaluating the workplace for the presence of recognized and other infectious agents. The City/Utility understands that the list of infectious agents includes the majority of communicable infectious agents that will be encountered in Minnesota. The City/Utility will make a diligent effort to ensure that the most current list is provided in this program. The City/Utility will ensure employees whom are routinely exposed are provided with the rights established in the Employee Right to Know rules.

## **Bloodborne Pathogens**

The City/Utility maintains a separate bloodborne pathogens program that complies with the OSHA 1910.1030 regulations. This program covers all reasonably anticipated infectious agent exposures at the City/Utility.

## **EMPLOYEE TRAINING AND INFORMATION**

The City/Utility provides each employee with information and training about the hazardous substances used in its operations and any exposure to harmful physical agents and/or infectious agents at a level that may be expected to approximate or exceed the permissible exposure limits. Additional employee training will be conducted whenever a new hazardous substance is introduced and/or the work situation changes that may increase the level of exposure to any harmful physical agent or infectious agent. New or transferred employees will receive the appropriate training and information specific to their work assignment, prior to beginning that assignment.

The following person is responsible for coordinating the employee information and training programs at the City/Utility.

MMUA Safety Coordinator

The City/Utility will inform the employees of:

- 1) The requirements of the Minnesota Employee Right to Know law.
- 2) The operations where hazardous substances are used including the hazardous substances that are contained in unlabeled pipes.
- 3) The operations where exposure to harmful physical agents and harmful infectious agents may be expected.
- 4) The location of the written Employee Right to Know Program, the list/inventory of hazardous substance, and the corresponding material safety data sheets for those substances.
- 5) The labeling system employed at the City/Utility.

The City/Utility will train employees routinely exposed to hazardous substances:

- 1) The name or names of the substance including any generic or chemical name, trade name, and commonly used name.
- 2) The level, if any and if known, at which exposure to the substance has been restricted according to standards. If no standard has been adopted, according to guidelines established by competent professional groups, which have conducted research to determine the hazardous properties of potentially hazardous substances.
- 3) The primary routes of entry and the known acute and chronic effects of exposure at hazardous levels.
- 4) The known symptoms of the effects.
- 5) Any potential for flammability, explosion, or reactivity of the substance.
- 6) Appropriate emergency treatment.
- 7) The known proper conditions for use of and exposure to the substance.
- 8) An explanation of the use and limitations of methods of control that will prevent or reduce exposure appropriate engineering controls and work practices, personal protective equipment and housekeeping.
- 9) An explanation of the basis for selection of personal protective equipment, including information on the types, proper use, location, removal, handling, decontamination, and disposal of personal protective equipment.
- 10) Procedures for cleanup of leaks and spills.
- 11) The name, phone number, and address of a manufacturer of the hazardous substance.
- 12) The location of a written copy/electronic (SDS) of the above information

The City/Utility will train employees who may be routinely exposed to harmful physical agents. This training will include:

- 1) The name or names of the physical agent including any commonly used synonym.
- 2) The level, if any and if know, at which exposure to the physical agent has been restricted according to adopted standards, or, if no standard has been adopted, according to guidelines established by competent professional groups including but not limited to the American Conference of Governmental Industrial Hygienists, the Center for Disease Control, the Bureau of Radiological Health, and the American National Standards Institute.
- 3) The known acute and chronic effects of exposure at hazardous levels.
- 4) The known symptoms of exposure at hazardous levels.
- 5) The appropriate emergency treatment.
- 6) The known proper conditions for safe use of and exposure to the physical agent.
- 7) An explanation of the use and limitations of methods of control that will prevent or reduce exposure appropriate engineering controls and work practices, personal protective equipment and housekeeping.
- 8) An explanation of the basis for selection of personal protective equipment, including information on the types, proper use, limitations and location of personal protective equipment.
- 9) The name, phone number and address, if appropriate, of the manufacturer of the equipment which generates the harmful physical agent.
- 10) A written copy of all of the above information which shall be readily accessible in the area or areas in which the harmful physical agent is present and where the employee may be exposed to the agent through use, handling or otherwise.

The City/Utility will train employees who may be routinely exposed to infectious agents. This training will include:

- 1) A general explanation of the epidemiology and symptoms of infectious diseases including the hazards to special at-risk employee groups.
- 2) An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to infectious agents including blood and other infectious materials.
- 3) An explanation of the chain of infection, or infectious disease process, including agents, reservoirs, modes of escape from reservoirs, modes of transmission, modes of entry into host, and host susceptibility.
- 4) An explanation of the employer's exposure control program.
- 5) An explanation of the use and limitations of methods of control that will prevent or reduce exposure including universal precautions, appropriate engineering controls and work practices, personal protective equipment and housekeeping.
- 6) An explanation of the basis for selection of personal protective equipment, including information on the types, proper use, location, removal, handling, decontamination, and disposal of personal protective equipment.
- 7) An explanation of the proper procedures for cleanup of blood or body fluids.
- 8) An explanation of the recommended immunization practices, including, but not limited to, the HBV vaccine, and the efficacy, safety, and benefits of being vaccinated.
- 9) Procedures to follow if an exposure incident occurs, method of reporting the incident, and information on the post-exposure evaluation and medical follow-up that will be available.
- 10) Information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials.
- 11) An explanation of the signs, labels, tags, or color-coding used to denote biohazards.
- 12) The location of the regulatory text of this standard and explanation of its contents.
- 13) The location and contents of other pertinent information that explain the symptoms and effects of each infectious agent that the employee may be exposed to.

NOTE: The Bloodborne Pathogens Program addresses the aspects set forth in the above stated information.

The City/Utility generally schedules employee right to know training in conjunction with monthly safety meetings. Other sessions will be arranged as needed.

Attendance records and a summary of the items covered in the monthly employee training and information sessions are located at (and may also be found electronically at):

<b>Building</b>	<b>Location</b>
City Hall	Safety Office (next to City Council Chambers)

The following supervisors are responsible for: ensuring that employees for the respective department receive training whenever a new hazardous substance is introduced and/or the work situation changes that may increase the level of exposure to any harmful physical agent or infectious agent; and new or transferred employees receive the appropriate training and information specific to their work assignment, prior to beginning that assignment.

<b>Supervisor</b>	<b>Department</b>
Electric Superintendent	Electric Distribution Dept
Water/Wastewater Superintendent	Water/Wastewater Dept
Street/Park Superintendent	Street/Park Departments
Police Chief	Police Department
Fire Chief	Fire Department
Airport Manager	Airport
Aquatic Park Manager	Aquatic Park

## **SPECIAL CONSIDERATIONS**

### **Non-Routine and Special Tasks**

The program administrator, in cooperation with the above listed supervisors and Regional Safety Coordinator, will review known physical and health hazards with employees who must do non-routine and special tasks. This instruction will generally occur at the time the work is scheduled. However, in an emergency the review may occur immediately before the work begins.

If appropriate, the instruction will include:

- 1) Identification of the hazardous substance involved.
- 2) Methods of detecting the presence or release of the substances.
- 3) Specific physical and health hazards of the substance involved.
- 4) Measures the employee(s) can take to protect themselves from these hazards such as appropriate work practices, emergency procedures, and proper protective equipment.
- 5) An opportunity for employees to review the material safety data sheets for any of the hazardous chemicals involved.



## CONTRACTORS

Contractors will be notified of the hazardous substances, harmful physical agents and infectious agents they may encounter at the City/Utility and the protective measures that can be taken to avoid them.

The following supervisors will complete the "Contractor Notification" form and give it to the contractor prior to the work beginning.

Supervisor	Department
Electric Superintendent	Electric Distribution Dept
Water/Wastewater Superintendent	Water/Wastewater Dept
Park/Streets Superintendent	Street/Park Departments
Police Chief	Police Department
Fire Chief	Fire Department
Airport Manager	Airport
Aquatic Park Manager	Aquatic Park

Contractors are required to notify the City/Utility of any hazardous substance brought onto a city work site and shall provide the city with a material safety data sheet for each chemical. The department supervisor is responsible for obtaining this information and conveying it to any exposed City/Utility employee.

## **FORMS**

**City of**

Employee Right to Know, Contractor Notification Form

**Purpose:**

The Minnesota Employee Right to Know law requires that the above named City/Utility notify on-site contractors of the hazardous substances, harmful physical agents and/or infectious agents they may encounter at this work place and the appropriate protective equipment necessary to avoid those hazards. This form is to be completed by the Department Supervisor and given to the contractor prior to starting the contracted work in an effort to meet the intent of that law.

**Identification:**

Contractor Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Contractor Address: \_\_\_\_\_

Project Name/Location: \_\_\_\_\_

Department Supervisor/Title: \_\_\_\_\_

The hazardous substances used by the City/Utility to which the contractor's employees may be exposed are listed on reverse side.

The material safety data sheets for these chemicals can be found at the following location(s):

Building/Office	Location/Contact Person

Acknowledged receipt of this form:

\_\_\_\_\_  
Contractor Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Municipal City/Utility Representative

\_\_\_\_\_  
Date





## **APPENDIX A**

### **Approval and Revision History**

Complete forms in Excel file and input here.

## **APPENDIX B**

### **Material Safety Data Sheet Checklist**

Each SDS must contain the following information:

- Product or chemical identity used on the label.
- Manufacturer's name and address.
- Chemical and common names of each hazardous ingredient.
- Name, address and phone number for emergency information.
- Preparation or revision date.
- The hazardous chemical's physical and chemical characteristics (such as vapor pressure and flashpoint).
- Physical hazards, including the potential for fire, explosion and reactivity.
- Known health hazards.
- OSHA permissible exposure limits (PEL), ACGIH Threshold Limit Value (TLV) or other exposure limits.
- Emergency and first-aid procedures.
- Whether OSHA, NTP or IARC lists the ingredients as a carcinogen.
- Precautions for safe handling and use.
- Control measures such as engineering controls, work practices or personal protective equipment.
- Primary routes of entry.
- Procedures for spills, leaks and clean-up.

## APPENDIX C

### Industrial sources of non-ionizing radiation\*

Sources	Uses	Comments
Broadcast	AM Radio FM Radio  VHF TV UHF TV	535-1605 kHz. 88-108 MHz  54-72, 76-88, 174-216 MHz 470-890 MHz
Cathode-ray tubes	Information processing systems such as CRT-based video display terminals; CRT-TV monitors	10-50 kHz
Communications	Fixed systems; troposphere scatter; satellite communication; microwave point-to-point (relay); high-frequency radio.  Mobile systems; CB radios; walkie-talkies	0.8-15 GHz; generally well controlled  27-800 MHz; may produce high field strengths near antennae
Diathermy	Shortwave microwave	13.56 and 27.12 MHz; 915 and 2450MHz; may be continuous wave (CW) or pulsed wave (PW); consider duty cycle and leakage fields.
Dielectric heaters	Seal/emboss plastics; cure glues, resins, particle boards, and panels; bake sand cores; mold appliance covers and auto parts; heat paper products	1-100 MHz; mainly 27.12 MHz; may produce high E and/or H fields
Electronic Equipment	Switching regulator in copying machines, microcomputers, etc.	Usually shielded.
Electronic security systems	Intrusion alarms; theft detection; speed sensors; distance monitor; motion detection	Usually microwave frequencies
Electro-surgical devices	Cauterizing or coagulating tissues	May be CW or PW; solid state or spark-gap design
Hyperthermia	Same frequencies as diathermy	Applicators may be implantable
Induction heaters	Deep hardening; forging; welding; soft soldering; brazing; annealing ; tempering metals and semiconductors; heat and draw optical fibers; epitaxial growth; plasma torching	250-500 kHz and ELF; may produce high E and/or H fields
Lasers	Etching/engraving, welding, optical and other medical surgery, communications research	Gas, crystalline liquid and semi-conductor lasers
Microwave heaters (including microwave ovens)	Drying wood, paper, film, inks; thawing, cooking, baking, dehydrating, pasteurizing, and sterilizing foodstuffs; curing plastics; solvent desorption	915 and 2450 MHz
Plasma processors	Chemical milling; nitriding steel; polymerization; modifying polymer surfaces; depositing and hardening coatings and films; etching, cleaning, or stripping photoresist.	0.1-27.12 MHz; consider potential for exposure to plasma gases
Radar	Acquisition and tracking; air and auto traffic control; marine uses; surveillance	1-15 GHz; usually PW
Spectroscopic instruments	Excite emissions from lamps/phototubes used in quantitative analysis	2.45 GHz
Welding	Production of pipe, tube, and beam; spot welding	RF-stabilized; 0.4-100 MHz with harmonics

\* Not all sources shown in this table are in the electromagnetic frequencies covered by ERTK.



## **APPENDIX D**

### **Stress evaluation – heat**

Heat stress may occur year round in areas with heat producing equipment such as in foundries, kitchen, or laundries. In Minnesota, high temperatures and humidity's are common during the summer with daily temperatures routinely varying up to 30 degrees. This variation does not always allow people to become acclimatized and stay acclimatized, thereby increasing the risk of heat stress.

Heat stress results from a combination of internal heat production from doing work and external heat exposure from the environment. Both aspects need to be addressed properly to control heat stress.

Two commonly used instruments to obtain heat stress measurements are the heat stress monitor and a sling psychrometer. The heat stress monitor measures several temperatures simultaneously and accounts for radiant heat and air movement. The sling psychrometer is a much cheaper and simpler device, but does not take into account radiant heat, and air movement must be determined separately.

The measurements obtained from either of these instruments are converted to one value, the wet bulb globe temperature (WBGT), for determining compliance with Minnesota Rules. WBGT is an index of heat stress indicating relative comfort. It considers temperature, humidity and air movement. The calculated value can be then compared to those found in Minnesota Rules 5205.0110, subpart 2a. (see this Appendix).

Minnesota Rules 5205.0110, subpart 2a, is the Minnesota standard for heat exposure. The standard is based on wet bulb globe temperature (WBGT) and level of work activity. Typically, one will determine the WBGT by using a heat stress monitor, or by using a sling psychrometer to obtain effective temperature, then converting effective temperature to WBGT. If the heat stress limit is approached or exceeded, Employee Right to Know requirements specified in Minnesota Rules 5206.0700, subparts 1 and 3, "Training Program for Harmful Physical Agents," and Minnesota Rules 5206.110, "Labeling harmful Physical Agents; Label Content," also apply.

## **APPENDIX E**

### **Sources of information**

This program manual was prepared using information provided by the following sources:

Minnesota Rules and Statutes  
5206.0100 – 5206.2000  
182.

Federal Regulations  
29 CFR 1910.1200  
29 CFR 1910.95 – 1910.97  
29 CFR 1910.1030

Iowa Association of Municipal Utilities

American Industrial Hygiene Association

American Conference of Governmental Industrial Hygienists (ACGIH)

National Institute for Occupational Safety and Health (NIOSH)

National Toxicology Program (NTP)

Minnesota Department of Health – Environmental Health Division

Centers for Disease Control and Prevention

Occupational Safety and Health Administration (OSHA)

## GLOSSARY

**acidosis** – a condition of decreased alkalinity of the blood.

**ACGIH** – American Conference of Governmental Industrial Hygienists, Inc.

**action level** – the exposure level which triggers some but not all requirements in certain OSHA standards.

**acute toxicity** – the adverse effects resulting from a single dose of or exposure to a substance.

**alkali** – any compound having highly basic properties.

**anesthesia** – loss of sensation or feeling.

**asphyxia** – lack of oxygen than thus interference with oxygenation of the blood.

**asphyxiant** – a vapor or gas that can cause unconsciousness or death by suffocation.

**boiling point, BP** – the temperature at which the vapor pressure of a liquid is equal to the surrounding atmospheric pressure.

**BZ** – breathing zone

**carcinogen** – a chemical that has been demonstrated to cause cancer in humans.

**CAS number** (chemical abstract service number) – an assigned number used to identify a material; the numbers have no chemical significance.

**ceiling value, CV** – the concentration that should not be exceeded during any part of the working exposure.

**CFM** (cubic feet per minute) – volume of air flow.

**chemical pneumonitis** – inflammation of the lungs due to chemical irritation.

**CNS** – central nervous system.

**CO** (carbon monoxide) – a colorless, odorless, highly poisonous gas, formed by the incomplete combustion of carbon or carbonaceous material, including gasoline. A chemical asphyxiant, it reduces the blood's ability to carry oxygen.

**CO<sub>2</sub>** (carbon dioxide) – a colorless, odorless, incombustible gas formed during respiration, combustion, and organic decomposition and used in food refrigeration, carbonated beverages, inert atmospheres, fire extinguishers, and aerosols. High concentrations can create hazardous oxygen-deficient environments that can cause asphyxiation.

**combustible** – OSHA defines combustible liquid as any liquid having a flash point at or above 100F (38C), but below 200F (93.3).

**conjunctivitis** – inflammation of the conjunctiva, the delicate membrane that lines the eyelids.

**corrosive** – a chemical that causes visible destruction of or irreversible alterations in living tissue.

**cutaneous** – pertaining to the skin.

**dermal** – used on or applied to the skin.

**dermatitis** – inflammation of the skin.

**dyspnea** – a sense of difficulty in breathing; shortness of breath.

**edema** – an abnormal accumulation of clear, watery fluid in the tissues.

**evaporation rate** – the rate at which a particular material will vaporize from the liquid or solid state to the gas state.

**f/cc** – fibers per cubic centimeter of air.

**flammable** – describes any solid, liquid or gas that will ignite easily and burn rapidly. Has a flash point below 100F (38C).

**flash point** – the lowest temperature at which a flammable liquid gives off sufficient vapors to form an ignitable mixture.

**FPM** (feet per minute) – velocity of air flow.

**grounding** – a safety practice to conduct an electrical charge to the ground.

**hazardous material** – a substance or mixture of substances having properties capable of producing adverse health or safety effects.

**hematuria** – the presence of blood in the urine.

**HEPA** (high-efficiency particulate air purifying) – most efficient mechanical filter commonly available.

**IARC** – International Agency for Research on Cancer.

**IDLH** – immediately dangerous to life and health.

**jaundice** – yellowish discoloration of tissues.

**LC 50** – the lethal concentration of a material in air that on the basis of laboratory tests is expected to kill 50 percent of a group of test animals.

**LD 50** – the lowest published lethal dose that will kill 50 percent of a group of test animals.

**LEL** (lower explosive limit) – refers to the lowest concentration of gas or vapor that will burn or explode if an ignition source is present.

**LFM or lfm** (linear feet per minute) – velocity of air flow.

**mg/m<sup>3</sup>** – milligrams of material per cubic meter of air.

**SDS** – material safety data sheet

**mutagen** – a chemical or physical agent that induces genetic mutations.

**narcosis** – stupor or unconsciousness produced by a narcotic drug or chemical.

**NFPA** – National Fire Protection Association

**NIOSH** – National Institute for Occupational Safety and Health

**NTP** – National Toxicology Program

**odor threshold** – the lowest concentration of a material's vapor in air that can be detected by smell.

**particulate** – small, separate pieces of an airborne material.

**peak** – maximum instantaneous allowable exposure for hazardous substances.

**PEL** (permissible exposure limit) – an exposure limit established by OSHA.

**pH** – the value that represents the acidity or alkalinity of an aqueous solution [pH 7 = neutral; pH 0 = strong acid; pH 14 = strong alkaline.]

**ppb** (parts per billion) – parts of material per billion parts of air.

**ppm** (parts per million) – parts of material per million parts of air.

**psychotropic** – acting on the mind.

**pulmonary edema** – fluid in the lungs.

**pyrophoric** – a material that will ignite spontaneously in air below 130F (54C).

**Reactivity** – a description of the tendency of a substance to undergo chemical reaction either by itself or with other materials with the release of energy.

**reproduction health hazard** – any agent that has a harmful effect on the adult male or female reproductive system of the developing fetus or child.

**sensitization** – an immune-response reaction state in which further exposure elicits an immune or allergic response.

**silicosis** – a condition of massive fibrosis of the lungs causing shortness of breath.

**skin** – notation used to indicate possible exposure to a chemical by absorption through the skin.

**specific gravity** –

**STEL** – short term exposure limit.

**subcutaneous** – beneath the skin.

**target organ effects** – chemically caused effects upon specifically listed organs and systems.

**teratogen** – an agent or substance that caused physical defects in developing embryo.

**TLV** (threshold limit value) – a term established by ACGIH to express the airborne concentration of a material to which nearly all workers can be exposed day after day without adverse effects.

**TWA** (time-weighted average) – the expression for average exposure which accounts for fluctuating levels during a given time period.

**UEL** (upper explosive limit) – the highest concentration of a material in air that will produce an explosion.

**unstable** – tending toward decomposition or other unwanted chemical change during normal handling or storage.

**vapor density** – the weight of a vapor or gas compared to the equal volume of air.

**vapor pressure** –

**vertigo** – a feeling of revolving in space; dizziness, giddiness.

**viscosity** – measurement of the flow properties of a material.

**water reactive** – a chemical that releases a hazardous gas, often violently, upon contact with water.

This program has been developed and  
modified for use by:



***PPE –***

***Personal Protective***

***Equipment***

MMUA – JOB SAFETY & TRAINING

# **Personal Protective Equipment Program**

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© Minnesota Municipal Utilities Association  
3025 Harbor Lane North • Suite 400  
Plymouth, MN 55447-5142  
Phone 763.551.1230 • Fax 763.551.0459  
[www.mmua.org](http://www.mmua.org)

## PREFACE

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In an effort to promote safety and health issues in the work place, MMUA has assembled important information regarding the selection, use and care of personal protective equipment. General industrial standards dealing with this topic are contained in Subpart I - Personal Protective Equipment. Due to the wide range of activities conducted by cities/utilities and the complexity of applicable Occupational Safety and Health Administration (OSHA) regulations, not every detail about personal protective equipment can be addressed in this manual. However, this Personal Protective Equipment Manual presents major aspects of the law and can be used as a basis to form specific procedures and practices for the selection, use and care of personal protective equipment at your place of employment.

Managers/supervisors in cooperation with MMUA Safety Coordinators, are cautioned to refer to the OSHA Personal Protective Equipment Sources (Title 29, Code of Federal Regulations, Subpart I of Part 1910) to determine if additional procedures/practices need to be added to this program

In addition, those personnel who are responsible for compliance with the state and federal regulations must be alert for any future changes in the law and keep this manual current and updated.

This manual contains the checklists, outlines and other forms that will assist in the selections, use and care for personal protective equipment.

This manual may be reproduced by the owner to facilitate adoption and implementation of the owner's compliance program.

### **Disclaimer of Warranty and Limitations of Liability**

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is furnished with the understanding that neither the Association nor its licensed agent is engaged in rendering legal or other professional services. If legal advice or other professional assistance is required, the services of a competent professional person should be sought. This publication is provided "as is" without warranty of any kind, either expressed or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose. The entire risk as to the quality, performance and accuracy of the manual is with the holder.

# INTRODUCTION

Hazards exist in every workplace in many different forms. State and Federal regulations require that employers protect their employees from workplace hazards that can cause injury and/or illness.

Controlling a hazard at its source is the best way to protect employees. Depending on the hazard or workplace conditions, it is recommended that engineering and/or administrative controls be used to manage or eliminate hazards to the greatest extent possible.

When engineering, administrative or work practice controls are not feasible or do not provide sufficient protection, employers must provide personal protective equipment to their employees and ensure its use.

## PURPOSE

The purpose of this program manual is to assist employers with the following:

- Understanding the state and federal requirements that must be met.
- Know the basics of conducting a hazard assessment.
- Understanding the types of Personal Protective Equipment (PPE).
- Select appropriate PPE for the diverse work circumstances.
- Understand and provide the type of training needed to ensure the proper use and care of PPE.

## SCOPE

The scope of this Personal Protective Equipment program is to document the hazard assessment, protective measures in place, and PPE is use at City/Utility. As PPE devices are not to be relied upon as the only means by which to provide protection against hazards, this program shall be used in conjunction with administrative and engineering controls according to details of the AWAIR program.

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## REQUIREMENTS

OSHA regulation 29 CFR 1910.132 establishes general requirements for the selection, use, inspection and maintenance of personal protective equipment.

- The City/Utility in cooperation with the MMUA Safety Coordinator shall assess the work place to determine if hazards are present or are likely to be present that necessitate the use of personal protective equipment. City/Utility shall verify that the hazard assessment has been performed by a written certification that:
    - Identifies the work place evaluated.
    - Name of the person certifying the evaluation.
    - Date of the hazard assessment.
  - If hazards are present or likely to be present that necessitate the use of PPE the City/Utility shall select and require employees to use PPE that is suitable for the hazards identified in the hazard assessment.
  - The City/Utility shall ensure that personal protective equipment is of safe design and construction for the work to be performed.
  - The City/Utility shall ensure that employee owned personal protective equipment provides an appropriate level of protection and is properly maintained, inspected and stored.
  - The City/Utility shall select PPE that properly fits each employee.
  - The City/Utility shall ensure that employees do not use damaged or defective PPE.
  - The City/Utility shall inform employees of the hazard assessment and PPE selection decisions.
  - The City/Utility in cooperation with MMUA Safety Coordinator shall provide training to employees required to wear PPE. Training must include:
    - When PPE is necessary.
    - Type PPE of required.
    - Proper donning, doffing, adjusting and wearing of PPE.
    - Limitations of PPE.
    - Proper care, maintenance, useful life and disposal of PPE.

*The City/Utility will document and certify that each employee has received and understands the training.*
  - The City/Utility in cooperation with the MMUA Safety Coordinator shall provide and certify additional training to employees when:
    - Work place inspections indicate a training deficiency.
    - Work pace conditions render previous training obsolete.
    - PPE changes render previous training obsolete.
  - The City/Utility in cooperation with the MMUA Safety Coordinator provide training prior to requiring employees to perform work that requires the use of personal protective equipment.
-

## REGULATIONS

Personal protective equipment includes all clothing and other devices (e.g., hard-hats, eye and face protectors, hearing protectors, gloves, aprons, protective foot wear and respirators) designed to protect the wearer from environmental, etiologic, chemical and physical hazards that are capable of causing injury or illness.

Requirements governing the selection, use, inspection and maintenance of personal protective equipment are established in several separate OSHA regulations.

The regulations apply to all work places and include the following general requirements.

### **Eye and Face Protection: 29 CFR 1910.133**

OSHA regulation 29 CFR 1910.133 establishes requirements for the selection and use of eye and face protectors.

- The City/Utility shall require employees to use suitable eye or face protection when exposed to eye or face hazards from:
    - Flying particles.
    - Molten metal.
    - Liquid chemicals.
    - Acids or caustic liquids.
    - Chemical gasses or vapors.
    - Potentially injurious light.
  - Eye protection must provide side protection.
  - When worn by an employee that requires vision correction, eye/face protectors must, incorporate corrective lenses or be designed and fitted so as not to interfere with the wearing of corrective spectacles.
  - The manufacturer must be clearly identified on face and eye protectors.
  - Shade numbers must be clearly identified on filter lenses used to protect employees from injurious light.
  - The City/Utility shall require employees to use filter lenses that are suitable for the injurious light to which they are exposed.
  - The City/Utility shall ensure that eye and face protectors comply with consensus standards identified in the federal OSHA regulations stated above.
-

**Respirators: 29 CFR 1910.134**

OSHA regulation 29 CFR 1910.134 establishes requirements for the selection, use, inspection and maintenance of respiratory protective devices.

- The City/Utility shall ensure that when respirators are used to protect employees from hazardous air contaminants, the devices shall be selected, used, inspected and maintained in accordance with procedures established in the written respiratory protection program (Refer to *MMUA Respiratory Protection section of this manual* for a list of requirements).

**Head Protection: 29 CFR 1910.135**

OSHA regulation 29 CFR 1910.135 establishes requirements for the selection and use of protective helmets.

- The City/Utility shall require employees to wear head protection when working in areas where there is a potential for injury to the head from falling objects.
- The City/Utility shall require employees to wear helmets designed to reduce electrical shock hazard when near exposed electrical conductors which could contact the head.
- The City/Utility shall ensure that protective helmets purchased comply with consensus standards identified in federal regulations stated above.

**Foot Protection: 29 CFR 1910.136**

OSHA regulation 29 CFR 1910.136 establishes requirements for the selection and use of protective footwear.

- The City/Utility shall require employees to wear protective footwear when working in areas where there is a danger of foot injuries from:
  - Falling or rolling objects.
  - Objects piercing the sole,
  - Electrical hazards.
- The City/Utility shall ensure that protective footwear complies will consensus standards identified in federal regulations stated above.

### **Hand Protection: 29 CFR 1910.138**

OSHA regulation 29 CFR 1910.138 establishes requirements for the selection and use of equipment designed to protect the hands.

- The City/Utility shall select and require employees to use appropriate hand protection when employee's hands are exposed to hazards such as:
  - Skin absorption of harmful substances.
  - Severe cuts or lacerations.
  - Severe abrasions.
  - Punctures.
  - Chemical burns.
  - Thermal burns.
  - Harmful temperature extremes.
  
- The City/Utility shall select appropriate hand protection on the basis of an evaluation of the performance characteristics of the hand protection in relation to the tasks to be performed, conditions present, duration of use and hazards and potential hazards identified.

### **Hearing Protectors: 29 CFR 1910.95**

OSHA regulation 29 CFR 1910.95 establishes requirements for the protection of employees from harmful noise.

- The City/Utility shall ensure that hearing protectors are furnished to employees in accordance with procedures established in the written hearing conservation program (Refer to *MMUA Hearing Conservation Program* section of this manual for a list of requirements).

### **Other Personal Protective Equipment:**

Other OSHA regulations establish requirements for the protection of employees from hazards specific to the relevant regulation. These regulations can be found in various locations of the federal regulations. These are not limited to the following: 1910.66 Fall Arrest System; 1910.137 Electrical Protective Devices; 1910.266 Logging Operations; 1910.269 Electrical Power Generation, Transmission and Distribution; and 1926.106 Working over or near water.

- The City/Utility shall ensure that personal protective equipment is furnished to employees in accordance with requirements established in the federal and state regulations.

## **REGULATIONS cont.**

Minnesota, as a state plan state, has developed rules and statutes regarding PPE. These rules and statutes further enhance the protection of employees for hazards that may not be otherwise eliminated or controlled. The following is an excerpt of those rules and statutes.

### **5205.0020 HEAD PROTECTION.**

Employees working in areas where there is danger of scalp injury if the employee's hair should become entangled in moving machinery parts shall be protected by having their hair contained or secured in a shop cap, snood, or similar device.

### **5205.0030 HIGH VISIBILITY PERSONAL PROTECTIVE EQUIPMENT.**

#### Subpart 1.

##### *General requirement.*

Each employee, other than police and fire protection personnel covered by subpart 3, exposed to or working adjacent to moving motor vehicle traffic as part of the employee's assigned job shall be provided with and required to wear a high visibility warning vest or other high visibility garment. A high visibility garment is defined as being a Performance Class 2 garment or greater as specified by ANSI/ISEA Standard 107-2004. Some smaller garments may not meet the background material specifications for Performance Class 2 as defined in ANSI/ISEA 107-2004. In these cases, the garment must be rated by the manufacturer as greater than or exceeding Performance Class 1 requirements.

#### Subpart 1a.

##### *Maintenance of garments.*

If the high visibility personal protective equipment becomes faded, torn, dirty, worn, or defaced, reducing the equipment's performance below manufacturer's recommendations, the high visibility personal protective equipment shall be immediately removed from service and replaced.

#### Subpart 2.

##### *Exception.*

Where permanent or semi-permanent barricades designed to stop or deflect vehicle traffic upon impact are in place to protect employees from moving motor vehicles, employees are not required to wear high visibility personal protective equipment while working inside these protected areas.

#### Subpart 3.

##### *Law enforcement, emergency medical technician, and fire protection personnel.*

Law enforcement and emergency medical technician personnel shall be provided with, and be required to wear a high visibility outer garment any time the personnel are engaged in vehicular traffic control. For fire protection personnel, compliance with NFPA No. 1971 is acceptable.

#### Subpart 4.

##### *Electrical work.*

For work within the flash protection boundary as defined by NFPA 70E Part II 2-1.3.3.2, high visibility garments constructed of material that complies with NFPA 70E shall be worn.

### **182.655 OCCUPATIONAL SAFETY AND HEALTH STANDARDS.**

#### *Subd. 10a. Protective equipment; monitoring exposure levels; medical exams.*

Where appropriate, standards shall prescribe suitable protective equipment, if feasible engineering and administrative methods of protection alone do not provide adequate protection, and this equipment shall be made available by and at the cost of the employer. The standards shall also provide for monitoring or measuring employee exposure at the locations and intervals and in the manner as may be necessary and appropriate for the protection of employees. Where appropriate, a standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available by the employer, or at the employer's cost, to employees exposed to hazards in order to most effectively determine whether the health of those employees is adversely affected by the exposure. The results of these examinations or tests shall be furnished only to the commissioner, the employee's physician, at the request of the employee, and the employer with notice to the employee.

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**REGULATIONS cont.**

MMUA promotes the use of the APPA Safety Manual. This co-mingled manual further establishes guidance for the coordination and facilitation of the rules and regulations with the City/Utility electric utility operations.

The City/Utility may adopt the APPA Safety Manual for operations within any aspect of their operations.

# HAZARD ASSESSMENT

The City/Utility shall complete a comprehensive hazard assessment to identify physical and health hazards in the workplace.

The hazard assessment shall survey of the facility(s) and operations to develop a list of potential hazards in the following basic hazard categories:

- **Impact:** (Examples: Working with or around powered tools or machinery. Use of powered liquid sprayers, air hammers, compressed air, or working in areas with high air turbulence where particles, fragments or chips are present. Working in areas where overhead hazards, falling hazards or moving hazards are present.)
- **Penetration:** (Examples: Working with or around powered tools or equipment. Working with glass, wire, metal, sharp objects or other materials that can cut or pierce when broken or fragmented.)
- **Compression -- Pinching/Crushing/Roll-Over:** (Examples: Working with or around moving equipment, or parts. Exposure to falling objects. Use of heavy equipment or tools that could cause compression injuries, etc.)
- **Chemical:** This is a broad category which may include chemicals ranging from slightly irritating (such as cleaning products) to highly corrosive or toxic substances used in laboratories or industrial settings. Working with carcinogens, mutagens or teratogens.
- **Thermal -- Heat/Cold:** (Examples: Operating furnaces, pouring and casting hot metal, welding. Working on steam, refrigerant, high temperature systems, etc. Working with cryogenic materials. Working in temperature extremes (e.g., steam tunnels, freezers, extended work outdoors in winter, etc.)
- **Harmful Dust** (Examples: asbestos, fiberglass, silica, animal dander. Woodworking, buffing, and general dusty conditions. High levels of airborne contaminants that cannot be eliminated by engineering controls.)
- **Light (Optical) Radiation:** (Examples: Electric arc or gas welding, cutting, or torch brazing or soldering. Working with or around lasers. Working around sources of UV radiation.
- **Biologic:** (Examples: Working with human pathogens or materials that may be contaminated with infectious human pathogens.)
- **Electrical:** (Examples: Working with energized electrical apparatus.)

The comprehensive hazard assessment may include information from incident/accident records, First Reports of Injury, safety committee recommendations, safety data sheets and/or other documentation that identifies potential hazards.

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**CERTIFICATION OF HAZARD ASSESSMENT FOR THE SELECTION OF PPE**

<b>City/Utility:</b>	<b>Department:</b>	
<b>Supervisor Review</b>		<b>Affected Positions:</b>
<b>Hazard Assessment Certified By:</b>		<b>Date:</b>

Task	Exposure	Hazard	Specified PPE	Referenced Used To Select PPE
	Head			
	Face/Eye			
	Hearing			
	Respiratory			
	Hands			
	Body			
Feet				
	Head			
	Face/Eye			
	Hearing			
	Respiratory			
	Hand			
	Body			
Feet				
	Head			
	Face/Eye			
	Hearing			
	Respiratory			
	Hand			
	Body			
Feet				

## PPE SELECTION

The City/Utility shall select PPE that conforms to requirements established in the relevant OSHA regulations. Selection considerations include:

- Fit and comfort
- Compatibility to work environment
- Safety Committee recommendations

## CARE AND USE OF PPE

### **General Requirements**

Personal protective equipment shall be inspected, sanitized and stored in accordance with applicable OSHA regulations and manufactures instructions.

### **Inspection of PPE**

Employees shall inspect personal protective equipment before each use. Damaged, defective or soiled personal protective equipment shall not be used.

### **Disposal of Personal Protective Equipment**

Damaged, defective, soiled or single use personal protective equipment shall be disposed in an appropriate trash receptacle.

### **Cleaning and Sanitation of PPE**

Personal protective equipment shall be cleaned and sanitized as necessary to ensure comfort, effectiveness and safe use. Items contaminated with hazardous chemicals shall be cleaned or disposed of after each use.

### **Storage of PPE**

To ensure continued effectiveness, personal protective equipment shall be stored in accordance with applicable safety and health standards, and the manufactures recommendations. In all situations personal protective equipment shall be stored in such a manner so as to prevent physical, chemical and environmental damage.

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# TRAINING

## Initial Employee Training

All employees will receive training before being allowed to perform work that requires the use of personal protective equipment.

Initial employee training and information will include:

- Information on applicable OSHA safety and health standards.
- Information on employee responsibilities for the use and care of personal protective equipment.
- Information on the nature and severity of work place hazards that necessitate the wearing of personal protective equipment.
- Information on the types of personal protective equipment required for specific areas and jobs, and the criteria used to select the equipment.
- Instruction on the limitations of personal protective equipment.
- Instruction on the proper care, maintenance, useful life and disposal of personal protective equipment.

## Refresher Training

Additional or refresher training will be provided when:

- Training session indicates that employees do not understand the information presented.
- Workplace observations (e.g., the improper use, care and maintenance of personal protective equipment) indicate a training deficiency.
- Changes in the work place introduce new hazards.
- Changes in the types of personal protective equipment render previous training obsolete.

## Training Recordkeeping

The City/Utility, in cooperation with MMUA Safety Coordinator shall maintain documentation of employee training.

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# **HEARING PROTECTION AND CONSERVATION**

## **PURPOSE & SCOPE**

The purpose of the Hearing Protection and Conservation Program is to protect employees from noise-induced hearing loss as a result of noise hazards in the work place. Provide a written policy and procedure that complies with the OSHA Occupation Noise Standard.

The scope of the Hearing Conservation Program encompasses whenever employee noise exposures exceed the action level. The action level is described as an eight hour time weighted average of 85dBA or more.

## **PROGRAM ELEMENTS**

- Exposure monitoring of noise hazards in the workplace
  - Implementation of administrative or engineering controls, where feasible
  - Employee notification of excessive noise levels and their involvement in the hearing conservation program
  - Annual audiometric testing and necessary follow-up procedures
  - Proper use, care, and availability of hearing protection devices
  - Employee training regarding the effects of noise on hearing, etc.
  - Recordkeeping and retention of records
-

## ADMINISTRATION

The Plan Administrator for the City/Utility Hearing Protection and Conservation Program is:

Name	Title	Location	
Cole Emler	Safety Liaison	City Hall	

This Plan Administrator, in cooperation with the MMUA Safety Coordinator oversees the program, evaluates it regularly, and works with supervisors and employees to ensure it is being administered effectively. The primary responsibilities of the Plan Administrator are to ensure that proper noise hazard assessment (exposure monitoring), audiometric testing, hearing protector selection, and employee training are conducted. This includes the selection and purchase, rental, or lease of adequate noise monitoring equipment, hearing protection devices, and noise abatement materials.

The MMUA Safety Coordinator will assist the Plan Administrator with the task of implementing and maintaining the Hearing Protection and Conservation Program. Safety Coordinator duties include:

- Helping the Plan Administrator select the proper hearing protector for the job based on the hazard(s) involved.
  - Performing the assessment of noise hazards and exposure monitoring.
  - Assure that signs in noise hazard areas are posted and placing labels on noisy equipment as identified.
  - Assisting the Plan Administrator to ensure employee hearing protectors are available, properly worn, adequately cleaned and stored in an appropriate manner.
  - Assist the Plan Administrator to ensure that employees in the program receive an annual audiogram and appropriate training, where appropriate and required.
  - Contacting the Plan Administrator when questions or problems arise that involve the Hearing Protection and Conservation Program.
-

## EXPOSURE MONITORING

The City/Utility shall implement an exposure monitoring program to measure sound levels wherever information indicates that employee noise exposure may be at or above the action level.

Initially, suspected or reported noise hazards are investigated by the Plan Administrator, in cooperation with the MMUA Safety Coordinator with an appropriate sound measuring instrument to determine if the sound generated has the potential of reaching the action level.

Results of all noise surveys are recorded on Noise Survey Form. The Plan Administrator, in cooperation with the MMUA Safety Coordinator reviews these survey results to determine if a noise hazard exists and/or if further action is necessary.

The Plan Administrator, in cooperation with MMUA Safety Coordinator, implements further exposure monitoring, if necessary, reviews appropriate noise surveys for potential noise hazards in the workplace, decides whether employees should be included in the Hearing Protection and Conservation Program.

The Plan Administrator in cooperation with MMUA Safety Coordinator determines the appropriate hearing protection to be used.

The Plan Administrator in cooperation with the MMUA Safety Coordinator and in consultation with employees and other professionals shall give consideration to administrative and/or engineering controls to eliminate exposure to noise levels exceeding the action level.

Generally, exposure monitoring is conducted with a sound level meter (SLM), however, follow-up monitoring may involve other equipment, such as a personal noise dosimeter, where appropriate.

Employees and Supervisors shall notify the Plan Administrator and/or MMUA Safety Coordinator when there are significant changes in operations or equipment that may result in increased noise levels.

Signs and warning labels shall be used to alert employees to noise hazard areas as indicated by noise monitoring.

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## **EMPLOYEE NOTIFICATION OF NOISE MONITORING RESULTS**

The Plan Administration shall notify affected employees about the results of the exposure monitoring. The information will be shared with all employees where the monitoring indicates the noise exposure is above the action level.

The Plan Administrator in cooperation with MMUA Safety Coordinator determines the appropriate hearing protection to be used. Generally, exposure monitoring is conducted with a sound level meter (SLM), however, follow-up monitoring may involve other equipment, such as a personal noise dosimeter, where appropriate.

## **EMPLOYEE NOTIFICATION OF INCLUSION IN THE HEARING PROTECTION & CONSERVATION PROGRAM**

The Plan Administration shall notify affected employees about their inclusion in the Hearing Protection and Conservation Program.

This notification shall inform the employee of their status and to initiate audiometric testing requirements. This notification shall be sent on an annual basis.

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## AUDIOMETRIC TESTING

Employees involved in the Hearing Protection and Conservation Program receive annual audiometric testing by a Recognized Professional. A Recognized Professional is a licensed or certified audiologist, otolaryngologist, or other physician — or a qualified technician under the direction of one of the former—with experience in audiometric testing. The audiometric testing program complies with the requirements of the OSHA Occupational Noise Exposure standard.

Major areas include:

- Establishing and maintaining an audiometric testing program for all employees whose noise exposure is at or above the action level.
- Conducting baseline audiograms within six months of an employee\*s first exposure to noise exposure at or above the action level and continued annual testing as long as the employee remains in the program.
- Comparing each employee\*s annual audiogram to the baseline audiogram to determine if the audiogram is valid and a standard threshold shift has occurred.
- Maintaining a record of employee audiometric tests.
- Utilizing appropriate audiometric test equipment and procedures.
- Checking the audiometer for proper function and calibration as specified.
- Meeting background sound requirements for audiometric testing rooms.

The Employee Audiometric Record is used by the Recognized Professional to summarize the results of an employee’s audiometric tests. The Recognized Professional shall compare each employee’s baseline and annual audiogram to determine if a standard threshold shift has occurred and note it on the Corresponding Employee Audiometric Record sent to the Plan Administrator.

The Plan Administrator shall have access to the Employee Audiometric Record and will receive a confidential updated copy after each employee’s audiometric test. This information is used by the Plan Administrator to document the employee hearing status, determine if follow-up testing is required, and send the appropriate employee written notification.

### Employee Notification of a Normal Hearing Test

Notification of the employee shall be the responsibility of the Plan Administrator. Affected employees should be notified of the results of their audiometric test if their hearing test was normal or if a re-test is suggested by the Recognized Professional

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Employee Notification of a Standard Threshold Shift

If a standard threshold shift (STS) has occurred, the employee is notified by the Plan Administrator in writing within 21 days of the time that the standard threshold shift was determined. Employees who experience a STS are (1) (re)fitted and (re)trained on the care and use of hearing protectors, and if necessary, (2) provided a hearing protector that offers better attenuation (i.e. reduce employee exposure below the action level).

Employee Notification of a Follow-up Referral

If a standard threshold shift has occurred, referrals for further evaluation of employee hearing problems may be necessary. Such referrals are initiated by the Recognized Professional when:

- Additional testing is thought to be necessary, or
- The problem is thought to be caused or aggravated by wearing hearing protectors.

In referral cases, the employee is scheduled for either an audiological evaluation or an otological examination, as appropriate. The Plan Administrator will provide all necessary information to accommodate the referral, as suggested by the Recognized Professional, and inform the employee of the need for further examination.

Special Case

The Plan Administrator will inform any employee of their new audiometric interpretation if the standard threshold shift is found not to be persistent and the employee is no longer exposed to noise at or above an 8-hour time-weighted average of 90 dBA. The employee may discontinue use of hearing protectors in this case.

## **HEARING PROTECTION DEVICES**

Hearing protection devices will be provided to all employees exposed to noise at or above the action level.

Employees shall be given the opportunity to select their hearing protective devices from a variety of suitable choices.

The Plan Administrator along with supervisors shall ensure that hearing protective devices are available, correctly used, cared for and properly worn by employees.

Adequacy of hearing protective device attenuation for devices worn by employees shall be determined by the Plan Administrator in cooperation with the MMUA Safety Coordinator.

## **EMPLOYEE TRAINING**

Employees in the Hearing Protection and Conservation Program receive annual training regarding:

- The effects of noise on hearing,
- The purpose of hearing protectors (advantages and disadvantages), noise reduction rating of various types, and instructions on selection, fitting, use and care, and
- The purpose of audiometric testing and an explanation of the test procedures.

If it is determined that an employee has experienced a standard threshold shift, the person will be retrained on the care and use of hearing protectors by the Plan Administrator in cooperation with the MMUA Safety Coordinator at the time the STS is determined.

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## Hearing Protection & Conservation Program Noise Survey Form

City/Utility \_\_\_\_\_ Building/Location/Operation \_\_\_\_\_ Date of Survey \_\_\_\_\_

Noise Instrument Type \_\_\_\_\_ Model \_\_\_\_\_ Serial # \_\_\_\_\_ Calibration Before (Yes No) Calibration After (Yes No)  
(circle "yes" above if instrument calibration verified)

Surveyor's Name \_\_\_\_\_ Survey Number \_\_\_\_\_

Area/Equipment Monitored	Range of Noise Levels Measured	Room/Work Area	Hearing Protection Required? (circle one)	Hearing Protection Signs Posted? (circle one)	Sketch of the Work Area/Room
(1)			Y N N/A	Y N N/A	
(2)			Y N N/A	Y N N/A	
(3)			Y N N/A	Y N N/A	
(4)			Y N N/A	Y N N/A	
(5)			Y N N/A	Y N N/A	

Indicate names of employee(s) involved in each area and other specific information on the backside of this form.

**Hearing Protection & Conservation Program  
(Noise Survey Form *continued*)**

**SPECIFIC INFORMATION:**

Area/Location & Superv. (# Identified on Front Side)	Employee Name	Job/Task	Time Monitored (Start:Stop)	Specific Noise Level (TWA or Dose Measured)	Comments	Include In Hearing Conservation Program (Circle One)
(1)						Y N N/A
(2)						Y N N/A
(3)						Y N N/A
(4)						Y N N/A
(5)						Y N N/A

OTHER DETAILS:

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## Hearing Conservation Program *Employee Notification of Noise Monitoring Results*

To: \_\_\_\_\_ Employee      Date: \_\_\_\_\_

From: \_\_\_\_\_, Plan Administrator

**RE: Supervisor and Employee Notification of Noise Monitoring Results**

The employee(s) and area(s)/equipment identified below were involved in a recent noise survey. Sound measurements resulting from that investigation are based on an eight hour time weighted average (TWA) and are indicated in the "noise level" column below. **Noise hazards of 85 dBA (TWA) or above are marked with an asterisk (\*) and exceed the Action level of the Hearing Protection & Conservation Program. Wearing hearing protection will reduce these noise exposures to acceptable levels. Therefore, proper hearing protection devices must be worn by those individuals (marked with a double asterisk - \*\*) who work with the equipment or in the areas identified as noise hazards.** Please notify the Plan Administrator of any discrepancies and/or other employees who may have been excluded from this list. "Hearing Protection Required" sign(s) must be posted in the noise hazard work area(s) and attach warning labels to noise hazard equipment.

### Results of Noise Monitoring

Location/Operation: \_\_\_\_\_ Date: \_\_\_\_\_

Department: \_\_\_\_\_

Employee Name (please print)	Job/Task Conducted	Area/Equipment Surveyed	Noise Level dba, TWA

**Employees identified by the (\*\*) above are included in the City/Utility Hearing Protection & Conservation Program.** Employees in this program must:

- Be notified of the noise hazard areas (equipment).
- Be provided adequate hearing protection devices and be required to wear them while conducting this work or until such time that noise levels are reduced to safe levels.
- Receive an annual hearing test and training about the effects of noise exposure as well as other pertinent information about hearing protection.

**Supervisors:**

- Ensure that all employees involved in this monitoring are made aware of the results. In addition, notify those employees who work with noise hazards of their inclusion in the Hearing Protection & Conservation Program.
- Post a copy of this memo and Noise Monitoring results in the workplace for employee review.

## Hearing Protection & Conservation Program

### *Employee Notification of Inclusion in the Program and Scheduled Hearing Test*

To: \_\_\_\_\_ Employee Name      Date: \_\_\_\_\_

From: \_\_\_\_\_ Plan Administrator

**Re: Hearing Conservation Program and Scheduled Hearing Test**

Due to the levels of noise in your work area, you are required to be in the Hearing Protection & Conservation Program. You have been notified about the noise hazard areas/equipment with which you work. Please ask to review that information or any other information about the Hearing Protection & Conservation Program if you have any questions regarding those topics.

Your involvement in this program means that you must:

- Be notified of the noise hazard areas (equipment) with which you work.
- Be provided adequate hearing protection devices and be required to wear them while conducting this work, and
- Receive an annual hearing test and training about the effects of noise exposure as well as other pertinent information about hearing protection.

<b>YOUR HEARING TEST HAS BEEN SCHEDULED FOR</b>		
<b>DATE AND TIME</b>	<b>LOCATION</b>	<b>PLEASE CALL THIS NUMBER TO CONFIRM APPOINTMENT</b>

It is important that you be in a quiet area for at least fourteen (14) hours prior to the hearing examination. If you are going to be in a noisy area ( $\geq 85$  dBA\*), it will be necessary for you to wear appropriate hearing protection. Your supervisor will be able to tell you if you need to wear hearing protection at work.

Show this letter to your supervisor. Bring this signed form with you to \_\_\_\_\_ (Hospital, Clinic) and have it signed by the person who gives you the hearing test.

**Give this completed form to your supervisor when you return to work.**

**Signature of Supervisor & Title\*\*:** \_\_\_\_\_

**Signature of Recognized Professional:** \_\_\_\_\_

**Examination Completed:** \_\_\_\_\_ am/pm

\* If you need to "raise your voice" in order to be heard by another person (within 3 feet), the sound is probably above 85 dBA.

\*\* Return this form to the Plan Administrator when the employee returns from the hearing test



## **Hearing Conservation Program** ***Employee Notification of a Normal Hearing Test***

To: \_\_\_\_\_ Employee Name      Date: \_\_\_\_\_

From: \_\_\_\_\_, Plan Administrator

**Re: Report of normal hearing test results**

The results of your recent hearing test indicate your present hearing ability is normal or similar to previous results. However, it is important that you continue to wear hearing protection as you have done in the past, or as the job requires. You are included in the Hearing Protection & Conservation Program because of the noise hazards you must work with for your job.

It is also important for you to wear hearing protection "off the job" as well, especially during those activities that are unusually noisy. For example, excessive noise levels may be produced from electric drills, sanders, power saws, grass and hedge trimmers, lawn mowers, snow blowers, garden tractors and other equipment operated around the house. Operating this equipment without hearing protection can damage your hearing over time.

Although it may not be required, wear your hearing protection any time you feel an area is noisy. Some individuals find certain types of noise very annoying. Decreasing the noise exposure has been found to reduce fatigue and anxiety in some people. Under these circumstances, many people say they feel better at the end of a workday when they wear hearing protection.

This hearing test was conducted to protect your health. Wear your hearing protection properly (and as required). Please talk to your supervisor or contact me if you are concerned about proper fit or type of hearing protection to wear.

Keep up the good work.

---

## Hearing Conservation Program *Employee Notification Hearing Re-test*

To: \_\_\_\_\_ Employee Name      Date: \_\_\_\_\_

From: \_\_\_\_\_, Plan Administrator

**Re: Hearing Re-test.**

The results of the recent hearing test indicate that your hearing ability has changed from your past audiogram. This change may have been caused by unusual noise exposure, current medication, a common cold, or other conditions that effect hearing. Another hearing test has been scheduled to determine whether this new hearing level is a permanent change for you.

<b>YOUR HEARING RE-TEST HAS BEEN SCHEDULED FOR</b>		
<b>DATE AND TIME</b>	<b>LOCATION</b>	<b>PLEASE CALL THIS NUMBER TO CONFIRM APPOINTMENT</b>

It is important that you be in a quiet area for at least fourteen (14) hours prior to the hearing examination. If you are going to be in a noisy area ( $\geq 85$  dBA\*), it will be necessary for you to wear appropriate hearing protection. Your supervisor will be able to tell you if you need to wear hearing protection at work.

Show this letter to your supervisor.

Bring this signed form with you to \_\_\_\_\_ (Hospital, Clinic) and have it signed by the person who gives you the hearing test. **Give this completed form to your supervisor when you return to work.**

**Signature of Supervisor & Title\*\*:** \_\_\_\_\_

**Signature of Recognized Professional:** \_\_\_\_\_

**Examination Completed:** \_\_\_\_\_ am/pm

- \* If you need to "raise your voice" in order to be heard by another person (within 3 feet), the sound is probably above 85 dBA.
- \*\* Return this form to the Plan Administrator when the employee returns from the hearing test

## **Hearing Conservation Program** ***Employee Notification Standard Threshold Shift***

To: \_\_\_\_\_ Employee Name      Date: \_\_\_\_\_

From: \_\_\_\_\_, Plan Administrator

**Re: Report of a standard threshold shift from previous hearing tests.**

The results of the recent hearing test you received at \_\_\_\_\_ (Hospital, Clinic) indicates your hearing ability has changed from previous measurements. Your average hearing loss is \_\_\_\_\_ decibels (dB) and represents what is known as a permanent Standard Threshold Shift (STS). The overall degree of hearing loss for you is categorized as: \_\_\_\_\_ slight, \_\_\_\_\_ moderate, \_\_\_\_\_ high. (Appropriate response checked.)

It is very important that you eliminate your exposure to high levels of noise. (If you have to raise your voice to be heard by another person within a three foot distance, that would be considered a high noise level.) Most noise hazard areas in the work place have been identified and posted with "Hearing Protection Required..." signs.

You are required to wear your hearing protection in noise hazard areas. Wearing appropriate hearing protection devices will reduce on-the-job noise levels to within acceptable limits and should eliminate further noise induced hearing loss. Hearing protection devices are available from your supervisor and are selected by the Plan Administrator.

It is also important for you to wear hearing protection off the job during those home activities that are extremely loud. For example, high levels of noise may be produced from electric drills, sanders, power saws, grass and hedge trimmers, lawn mowers, snow blowers, garden tractors, and other equipment operated around the house. Operating this equipment without hearing protection can further damage your hearing.

Please contact me at the phone number listed below to discuss your present hearing protection, noise hazards or any further training, evaluation, and examinations that are available.

<b>Plan Administrator Phone Number</b>
<b>507-238-3937</b>

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**Signature of Plan Administrator:**

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# RESPIRATORY PROTECTION

## PURPOSE & SCOPE

This program contains written policies and procedures intended to comply with the Occupational Safety and Health Administration (OSHA) Respiratory Protection Standard, including guidelines for selection and use of air purifying and air supplying respirators by employees. Its purpose is to safeguard employee health in those cases where respirators are needed to prevent a significant exposure to workplace respiratory hazards.

Respirators are personal protective devices that are used by employees to safeguard their health. Respirators are meant to be used in those situations where clean, breathable air is needed and engineering controls are either not possible or not economically feasible. As examples, respirators may be used in temporary situations while new equipment is being installed, corrections are being made to a system, or emergency maintenance is being conducted.

Employee respirators are carefully chosen for the contaminant of concern by conducting a hazard assessment. Employees will receive training on the respirator care and use as well as the limitations of the chosen respirator. Each employee must be medically approved by a physician and fit tested by a qualified person or they will not be allowed to wear a respirator on the job.

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## ADMINISTRATION

The following person is the Program Coordinator for the Respiratory Protection Program:

### **Safety Liaison – City Hall**

The Program Coordinator, in cooperation with MMUA Safety Coordinator will oversee the program, evaluate it regularly, and work with supervisors to ensure it is being administered effectively. The primary responsibilities of the Program Coordinator are to ensure that proper hazard assessment, respirator selection, and employee respirator certification are conducted.

Program Coordinator, in cooperation with the MMUA Safety Coordinator may seek assistance from other employee(s) or supervisors with the task of implementing and maintaining the Respiratory Protection Program.

These duties include:

- Helping the Program Coordinator select the proper respirator for the job based on the hazard(s) involved.
- Allowing only approved respirators to be used by employees.
- Ensuring employee respirators are cleaned and maintained in proper working order.
- Inspecting employee respirators regularly for proper function.
- Ensuring that employees receive proper training and a facepiece fit test prior to wearing the respirator on the job.
- Contacting the Program Coordinator and/or MMUA Safety Coordinator when questions or problems arise that involve the Respiratory Protection Program.

Standard operating procedures dealing with respirator limitations, donning procedures, and proper respirator care and use are addressed during employee training sessions.

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## SELECTION

Hazard assessment is a primary part of respirator selection. The Program Coordinator, in cooperation with the MMUA Safety Coordinator will ensure a hazard assessment for potential contaminants in the work place is completed and determine what type of respirators are to be used. Selection criteria from consensus standards established in OSHA requirements is used to determine the proper respirator for the job.

The City/Utility shall ensure that the proper respiratory equipment is available and that employees wear it correctly while the work is conducted. Employees and Supervisors shall also notify the Program Coordinator and/or MMUA Safety Coordinator when the work operations are modified or the contaminant(s) involved changes.

## TRAINING

Employees who are required to wear a respirator will receive training about the proper care and use of the respirator prior to wearing the respirator on the job. The respirator training program will include:

- Type of chemical hazards.
- Reason for medical evaluation.
- Purpose of the respirator.
- Respirator selection.
- Respirator limitations.
- Wearing, fitting, and operating instructions.
- Proper respirator cleaning and routine inspection.
- Respirator maintenance and storage.
- Handling emergency situations.

Employees will generally receive training for their respirator(s) on an annual basis

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## **FIT TESTING**

Employees who wear negative air respirators receive a facepiece fit test prior to using the respirator. The specific protocol is determined by the Program Coordinator in cooperation with the MMUA Safety Coordinator and will be based on the type and limitations of the specific respirator tested. The fit testing will be conducted according to protocol established in OSHA regulations Appendix A of 1910.134.

## **INSPECTION, CLEANING, MAINTENANCE & STORAGE**

Employees are instructed on the day-to-day care, maintenance, storage and use of their respirators during the respirator training program. Program Coordinator in cooperation with MMUA Safety Coordinator will routinely inspect employee respirators to ensure that they are properly used, clean, in good working order, and stored correctly. Emergency respirators are inspected monthly.

## **MEDICAL APPROVAL**

Employees are evaluated by a physician to determine if they are physically able to do their work while using a selected respirator. The medical evaluation of the employee is conducted prior to wearing the respirator on the job. Medical approval and tests performed are at the discretion of the physician. Only medically approved employees will be allowed to wear a respirator.

## **WORK PLACE SURVEILLANCE**

The program coordinator will ensure that work areas are monitored to ensure the worker exposure to chemicals, as well as conditions like stress, work rate, and environmental conditions are within the limitations of the respirator being used. As necessary, air monitoring will be conducted to ensure the concentration of the chemical contaminant is within the limitations of the respirator selected.

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## MEDICAL EVALUATION FORM RESPIRATORY PROTECTIVE EQUIPMENT

Name \_\_\_\_\_ Title \_\_\_\_\_

Date of Birth \_\_\_\_\_

Supervisor \_\_\_\_\_ Department \_\_\_\_\_

Employees must receive medical approval before wearing a respirator on the job. Please answer the questions in Section I for the physician who will be doing the medical evaluation, or indicate by checking the box if you prefer to speak directly to the physician. Sign and date the form when you have finished.

### SECTION I - Medical Evaluation Questions (to be completed by employee)

Include those questions in this area that are suggested by the physician who will be giving the medical approval. Please see the following pages for a list of typical medical evaluation questions included by the physician.

**I would prefer to provide this information directly to the Physician.**

### SECTION II - Respirator Certification Information (to be completed by Program Coordinator)

TYPE:  Air Purifying  Powered Air Purified  SCBA  Other Supplied Air

DESCRIPTION:  Full Mask  Half Mask  Disposable

BRAND:

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**Section III. Medical Approval For Respirator (to be completed by Physician)**

The applicant is authorized to use the following respirator(s):

\_\_\_\_\_ Air Purifying \_\_\_\_\_ Powered Air Purifying \_\_\_\_\_ SCBA \_\_\_\_\_ Other Supplied Air

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Physician's Signature

## MEDICAL QUESTIONNAIRE RESPIRATORY PROTECTIVE EQUIPMENT

To the employer: Answers to questions in Section 1, and to question 9 in Section 2 of Part A, do not require a medical examination.

To the employee:

Your employer must allow you to answer this questionnaire during normal working hours, or at a time and place that is convenient to you. To maintain your confidentiality, your employer or supervisor must not look at or review your answers, and your employer must tell you how to deliver or send this questionnaire to the health care professional who will review it.

Part A. Section 1. (Mandatory) The following information must be provided by every employee who has been selected to use any type of respirator (please print).

1. Today's date: \_\_\_\_\_

2. Your name: \_\_\_\_\_

3. Your age (to nearest year): \_\_\_\_\_ 4. Sex (circle one): Male Female

5. Your height: \_\_\_\_\_ ft. \_\_\_\_\_ in. 6. Your weight: \_\_\_\_\_ lbs.

7. Your job title: \_\_\_\_\_

8. A phone number where you can be reached by the health care professional who reviews this questionnaire (include the Area Code): \_\_\_\_\_

9. The best time to phone you at this number: \_\_\_\_\_

10. Has your employer told you how to contact the health care professional who will review this questionnaire (circle one): Yes/No

11. Check the type of respirator you will use (you can check more than one category):

a. \_\_\_\_\_ N, R, or P disposable respirator (filter-mask, non-cartridge type only).

b. \_\_\_\_\_ Other type (for example, half- or full-facepiece type, powered-air purifying, supplied-air, self-contained breathing apparatus).

12. Have you worn a respirator (circle one): Yes No

If "yes," what type(s): \_\_\_\_\_

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Part A. Section 2. (Mandatory) Questions 1 through 9 below must be answered by every employee who has been selected to use any type of respirator (please circle "yes" or "no").

**1. Do you *currently* smoke tobacco, or have you smoked tobacco in the last month: Yes No**

**2. Have you *ever had* any of the following conditions?**

a. Seizures: Yes No

b. Diabetes (sugar disease): Yes No

c. Allergic reactions that interfere with your breathing: Yes No

d. Claustrophobia (fear of closed-in places): Yes No

e. Trouble smelling odors: Yes No

**3. Have you *ever had* any of the following pulmonary or lung problems?**

a. Asbestosis: Yes No

b. Asthma: Yes No

c. Chronic bronchitis: Yes No

d. Emphysema: Yes No

e. Pneumonia: Yes No

f. Tuberculosis: Yes No

g. Silicosis: Yes No

h. Pneumothorax (collapsed lung): Yes No

i. Lung cancer: Yes No

j. Broken ribs: Yes No

k. Any chest injuries or surgeries: Yes No

l. Any other lung problem that you've been told about: Yes No

**4. Do you *currently* have any of the following symptoms of pulmonary or lung illness?**

- a. Shortness of breath: Yes No
- b. Shortness of breath when walking fast on level ground or walking up a slight hill or incline: Yes No
- c. Shortness of breath when walking with other people at an ordinary pace on level ground: Yes No
- d. Have to stop for breath when walking at your own pace on level ground: Yes No
- e. Shortness of breath when washing or dressing yourself: Yes No
- f. Shortness of breath that interferes with your job: Yes No
- g. Coughing that produces phlegm (thick sputum): Yes No
- h. Coughing that wakes you early in the morning: Yes No
- i. Coughing that occurs mostly when you are lying down: Yes No
- j. Coughing up blood in the last month: Yes No
- k. Wheezing: Yes No
- l. Wheezing that interferes with your job: Yes No
- m. Chest pain when you breathe deeply: Yes No
- n. Any other symptoms that you think may be related to lung problems: Yes No

**5. Have you *ever had* any of the following cardiovascular or heart problems?**

- a. Heart attack: Yes No
- b. Stroke: Yes No
- c. Angina: Yes No
- d. Heart failure: Yes No
- e. Swelling in your legs or feet (not caused by walking): Yes No
- f. Heart arrhythmia (heart beating irregularly): Yes No

g. High blood pressure: Yes No

h. Any other heart problem that you've been told about: Yes No

**6. Have you *ever had* any of the following cardiovascular or heart symptoms?**

a. Frequent pain or tightness in your chest: Yes No

b. Pain or tightness in your chest during physical activity: Yes No

c. Pain or tightness in your chest that interferes with your job: Yes No

d. In the past two years, have you noticed your heart skipping or missing a beat: Yes No

e. Heartburn or indigestion that is not related to eating: Yes No

d. Any other symptoms that you think may be related to heart or circulation problems: Yes No

**7. Do you *currently* take medication for any of the following problems?**

a. Breathing or lung problems: Yes No

b. Heart trouble: Yes No

c. Blood pressure: Yes No

d. Seizures: Yes No

**8. If you've used a respirator, have you *ever had* any of the following problems? (If you've never used a respirator, check the following space and go to question 9:)**

a. Eye irritation: Yes No

b. Skin allergies or rashes: Yes No

c. Anxiety: Yes No

d. General weakness or fatigue: Yes No

e. Any other problem that interferes with your use of a respirator: Yes No

**9. Would you like to talk to the health care professional who will review this questionnaire about your answers to this questionnaire: Yes No**

Questions 10 to 15 below must be answered by every employee who has been selected to use either a full-facepiece respirator or a self-contained breathing apparatus (SCBA). For employees who have been selected to use other types of respirators, answering these questions is voluntary.

**10. Have you *ever lost* vision in either eye (temporarily or permanently): Yes No**

**11. Do you *currently* have any of the following vision problems?**

- a. Wear contact lenses: Yes No
- b. Wear glasses: Yes No
- c. Color blind: Yes No
- d. Any other eye or vision problem: Yes No

**12. Have you *ever had* an injury to your ears, including a broken ear drum: Yes No**

**13. Do you *currently* have any of the following hearing problems?**

- a. Difficulty hearing: Yes/No
- b. Wear a hearing aid: Yes/No
- c. Any other hearing or ear problem: Yes/No

**14. Have you *ever had* a back injury: Yes No**

**15. Do you *currently* have any of the following musculoskeletal problems?**

- a. Weakness in any of your arms, hands, legs, or feet: Yes/No
- b. Back pain: Yes/No
- c. Difficulty fully moving your arms and legs: Yes/No
- d. Pain or stiffness when you lean forward or backward at the waist: Yes/No
- e. Difficulty fully moving your head up or down: Yes/No
- f. Difficulty fully moving your head side to side: Yes/No
- g. Difficulty bending at your knees: Yes/No
- h. Difficulty squatting to the ground: Yes/No

- i. Climbing a flight of stairs or a ladder carrying more than 25 lbs: Yes/No
- j. Any other muscle or skeletal problem that interferes with using a respirator: Yes/No

Part B Any of the following questions, and other questions not listed, may be added to the questionnaire at the discretion of the health care professional who will review the questionnaire.

**1. In your present job, are you working at high altitudes (over 5,000 feet) or in a place that has lower than normal amounts of oxygen: Yes No**

If "yes," do you have feelings of dizziness, shortness of breath, pounding in your chest, or other symptoms when you're working under these conditions: Yes No

**2. At work or at home, have you ever been exposed to hazardous solvents, hazardous airborne chemicals (e.g., gases, fumes, or dust), or have you come into skin contact with hazardous chemicals: Yes No**

If "yes," name the chemicals if you know them: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3. Have you ever worked with any of the materials, or under any of the conditions, listed below:**

- a. Asbestos: Yes No
- b. Silica (e.g., in sandblasting): Yes No
- c. Tungsten/cobalt (e.g., grinding or welding this material): Yes No
- d. Beryllium: Yes No
- e. Aluminum: Yes No
- f. Coal (for example, mining): Yes No
- g. Iron: Yes No
- h. Tin: Yes No
- i. Dusty environments: Yes No

j. Any other hazardous exposures: Yes No

If "yes," describe these exposures: \_\_\_\_\_

\_\_\_\_\_

**4. List any second jobs or side businesses you have:** \_\_\_\_\_

\_\_\_\_\_

**5. List your previous occupations:** \_\_\_\_\_

\_\_\_\_\_

**6. List your current and previous hobbies:** \_\_\_\_\_

\_\_\_\_\_

**7. Have you been in the military services? Yes No**

If "yes," were you exposed to biological or chemical agents (either in training or combat):

Yes No

**8. Have you ever worked on a HAZMAT team? Yes No**

**9. Other than medications for breathing and lung problems, heart trouble, blood pressure, and seizures mentioned earlier in this questionnaire, are you taking any other medications for any reason (including over-the-counter medications): Yes No**

If "yes," name the medications if you know them: \_\_\_\_\_

**10. Will you be using any of the following items with your respirator(s)?**

a. HEPA Filters: Yes No

b. Canisters (for example, gas masks): Yes No

c. Cartridges: Yes No

**11. How often are you expected to use the respirator(s) (circle "yes" or "no" for all answers that apply to you)?:**

a. Escape only (no rescue): Yes No

b. Emergency rescue only: Yes No

c. Less than 5 hours *per week*: Yes No

d. Less than 2 hours *per day*: Yes No



e. 2 to 4 hours per day: Yes No

f. Over 4 hours per day: Yes No

**12. During the period you are using the respirator(s), is your work effort:**

a. *Light* (less than 200 kcal per hour): Yes No

If "yes," how long does this period last during the average shift: \_\_\_\_\_hrs.\_\_\_\_\_mins.

Examples of a light work effort are *sitting* while writing, typing, drafting, or performing light assembly work; or *standing* while operating a drill press (1-3 lbs.) or controlling machines.

b. *Moderate* (200 to 350 kcal per hour): Yes No

If "yes," how long does this period last during the average shift: \_\_\_\_\_hrs.\_\_\_\_\_mins.

Examples of moderate work effort are *sitting* while nailing or filing; *driving* a truck or bus in urban traffic; *standing* while drilling, nailing, performing assembly work, or transferring a moderate load (about 35 lbs.) at trunk level; *walking* on a level surface about 2 mph or down a 5-degree grade about 3 mph; or *pushing* a wheelbarrow with a heavy load (about 100 lbs.) on a level surface. c. *Heavy* (above 350 kcal per hour): Yes No

If "yes," how long does this period last during the average shift: \_\_\_\_\_hrs.\_\_\_\_\_mins.

Examples of heavy work are *lifting* a heavy load (about 50 lbs.) from the floor to your waist or shoulder; working on a loading dock; *shoveling*; *standing* while bricklaying or chipping castings; *walking* up an 8-degree grade about 2 mph; climbing stairs with a heavy load (about 50 lbs.).

**13. Will you be wearing protective clothing and/or equipment (other than the respirator) when you're using your respirator: Yes No**

If "yes," describe this protective clothing and/or equipment: \_\_\_\_\_  
\_\_\_\_\_

**14. Will you be working under hot conditions (temperature exceeding 77 deg. F): Yes No**

**15. Will you be working under humid conditions: Yes No**

**16. Describe the work you'll be doing while you're using your respirator(s):**

\_\_\_\_\_  
\_\_\_\_\_

**17. Describe any special or hazardous conditions you might encounter when you're using your respirator(s) (for example, confined spaces, life-threatening gases):**

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**18. Provide the following information, if you know it, for each toxic substance that you'll be exposed to when you're using your respirator(s):**

Name of the first toxic substance: \_\_\_\_\_

Estimated maximum exposure level per shift: \_\_\_\_\_

Duration of exposure per shift: \_\_\_\_\_

Name of the second toxic substance: \_\_\_\_\_

Estimated maximum exposure level per shift: \_\_\_\_\_

Duration of exposure per shift: \_\_\_\_\_

Name of the third toxic substance: \_\_\_\_\_

Estimated maximum exposure level per shift: \_\_\_\_\_

Duration of exposure per shift: \_\_\_\_\_

The name of any other toxic substances that you'll be exposed to while using your respirator:

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**19. Describe any special responsibilities you'll have while using your respirator(s) that may affect the safety and well-being of others (for example, rescue, security):**

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# CITY OF FAIRMONT

## FORM SP-3 REPORT OF AN UNSAFE CONDITION

**Instructions to employees:** Briefly describe the location and nature of the unsafe condition. Identify any possible corrective actions. Sign/date the report. Submit report to your immediate supervisor.

### ***To be completed by Employee reporting the unsafe condition***

Location: \_\_\_\_\_

Describe unsafe condition: \_\_\_\_\_

\_\_\_\_\_

Suggested corrective actions: \_\_\_\_\_

\_\_\_\_\_

Reported by: \_\_\_\_\_ Date: \_\_\_\_\_

### ***To be completed by Supervisor***

Received by: \_\_\_\_\_ Date: \_\_\_\_\_

Suggested corrective actions taken

Referred to safety committee

Comments/actions taken: \_\_\_\_\_

\_\_\_\_\_

### ***To be completed by Safety Committee***

Date reviewed/acted upon: \_\_\_\_\_

Recommendation of safety committee: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Corrective actions initiated by safety committee

Corrective actions referred to work unit manager for review/initiation

### ***To be completed by Management***

Date Acted Upon: \_\_\_\_\_

Actions taken: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## **CED Use Report Form.pdf**

# TASER® USE REPORT

Date/Time: \_\_\_\_\_ TASER Officer's Name: \_\_\_\_\_

Email \_\_\_\_\_ Department: \_\_\_\_\_

Dept. Address: \_\_\_\_\_ Phone: \_\_\_\_\_

On Scene Supervisor: \_\_\_\_\_ Officer(s) Involved \_\_\_\_\_

TASER Model (check one):  X26

TASER Serial#: \_\_\_\_\_ Medical Facility: \_\_\_\_\_ Doctor: \_\_\_\_\_

Nature of the Call or Incident: \_\_\_\_\_ Charges: \_\_\_\_\_ Booked

Location of Incident:  Indoor  Outdoor  Jail  Hospital

Type of Force Used (Check All that Apply):  Physical  Less-lethal  Firearm  Chemical

Nature of the Injuries and Medical Treatment Required: \_\_\_\_\_

Admitted to Hospital for Injuries   Admitted to Hospital for Psychiatric

Medical Exam   Suspect Under the Influence: Alcohol / Drugs (specify): \_\_\_\_\_

Was an Officer, Police Employee, Volunteer or Citizen Injured Other than by TASER?

Incident Type (check appropriate response(s) below) :

Civil Disturbance  Suicide  Suicide by Cop  Violent Suspect  Barricaded  
 Warrant  Other \_\_\_\_\_

Age: \_\_\_\_\_ Sex: \_\_\_\_\_ Height: \_\_\_\_\_ Race: \_\_\_\_\_ Weight: \_\_\_\_\_

TASER Use:  Success  Failure Suspect Wearing Heaving Clothes

Number of Air Cartridges Fired: \_\_\_\_\_ Number of Cycles Applied: \_\_\_\_\_

Usage (check one):  Arc Display Only  Laser Display Only  TASER Application

TASER: Is this a Dart Probe Contact   Is this a Drive Stun Contact:

Approximate Target Distance at the Time of the Dart Launch: \_\_\_\_\_ feet

Distance Between the two Probes: \_\_\_\_\_ inches Need for an Additional Shot?

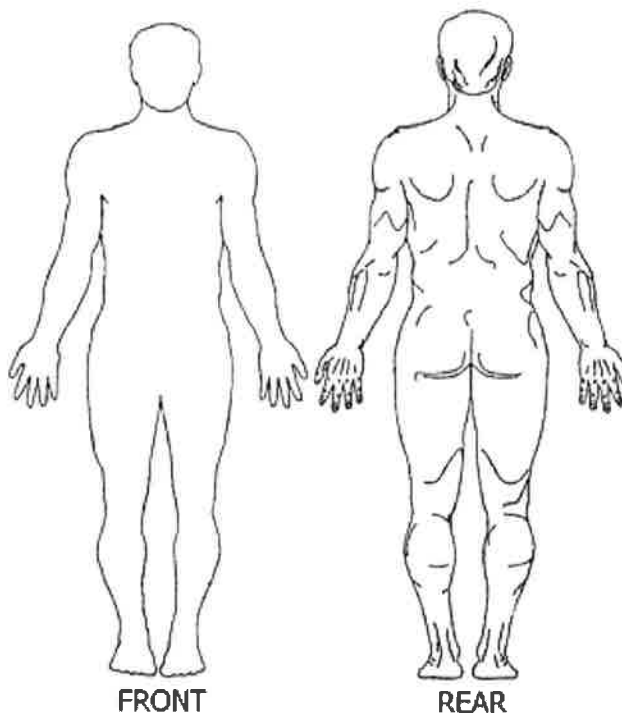
Did Dart Contacts Penetrate the Subject's Skin?   Probes Removed on Scene

Did TASER Application Cause Injury?   If Yes, was the Subject Treated for the Injury?

Description of Injury: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPLICATION AREAS

(Place "X's" where probes hit suspect AND "O's" where stunned)



SYNOPSIS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Need for Additional Applications?  Y  N Did the Device Respond Satisfactorily?  Y  N

Describe the Subject's Demeanor after the Device was Used or Displayed? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Chemical Spray:  Y  N Baton or Blunt Instrument:  Y  N

Authorized Control Holds:  Y  N If Yes, what Types? \_\_\_\_\_

Describe other means attempted to control the subject: \_\_\_\_\_  
\_\_\_\_\_

Photographs Taken:  Y  N Report Completed by: \_\_\_\_\_

ADDITIONAL INFORMATION

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Taser Report Form.pdf



# SUPERVISORY TASER® USE REPORT

Date/Time: \_\_\_\_\_ TASER Officer's Name: \_\_\_\_\_

Email: \_\_\_\_\_ Department: \_\_\_\_\_

Dept. Address: \_\_\_\_\_ Phone: \_\_\_\_\_

On Scene Supervisor: \_\_\_\_\_ Officer(s) Involved \_\_\_\_\_

TASER Model (check one): \_\_\_\_\_ X26

TASER Serial#: \_\_\_\_\_ Medical Facility: \_\_\_\_\_ Doctor: \_\_\_\_\_

Nature of the Call or Incident: \_\_\_\_\_ Charges: \_\_\_\_\_ Booked: Y / N

Location of Incident: \_\_\_\_\_ Indoor \_\_\_\_\_ Outdoor \_\_\_\_\_ Jail \_\_\_\_\_ Hospital

Type of Force Used (Check All that Apply): \_\_\_\_\_ Physical \_\_\_\_\_ Less-lethal \_\_\_\_\_ Firearm \_\_\_\_\_ Chemical

Nature of the Injuries and Medical Treatment Required: \_\_\_\_\_

Admitted to Hospital for Injuries: Y / N Amitted to Hospital for Psychiatric: Y / N

Medical Exam: Y / N Suspect Under the Influence: Alcohol / Drugs (specify): \_\_\_\_\_

Was an Officer, Police Employee, Volunteer or Citizen Injured Other than by TASER? Y / N

Incident Type (check appropriate response(s) below) :

\_\_\_\_\_ Civil Disturbance \_\_\_\_\_ Suicide \_\_\_\_\_ Suicide by Cop \_\_\_\_\_ Violent Suspect \_\_\_\_\_ Barricaded  
\_\_\_\_\_ Warrant \_\_\_\_\_ Other \_\_\_\_\_

Age: \_\_\_\_\_ Sex: \_\_\_\_\_ Height: \_\_\_\_\_ Race: \_\_\_\_\_ Weight: \_\_\_\_\_

TASER Use: \_\_\_\_\_ Success \_\_\_\_\_ Failure Suspect Wearing Heaving Clothes: Y / N

Number of Air Cartridges Fired: \_\_\_\_\_ Number of Cycles Applied: \_\_\_\_\_

Usage (check one): \_\_\_\_\_ Arc Display Only \_\_\_\_\_ Laser Display Only \_\_\_\_\_ TASER Application

TASER: Is this a Dart Probe Contact: Y / N Is this a Drive Stun Contact: Y / N

Approximate Target Distance at the Time of the Dart Launch: \_\_\_\_\_ feet

Distance Between the two Probes: \_\_\_\_\_ inches Need for an Additional Shot? Y / N

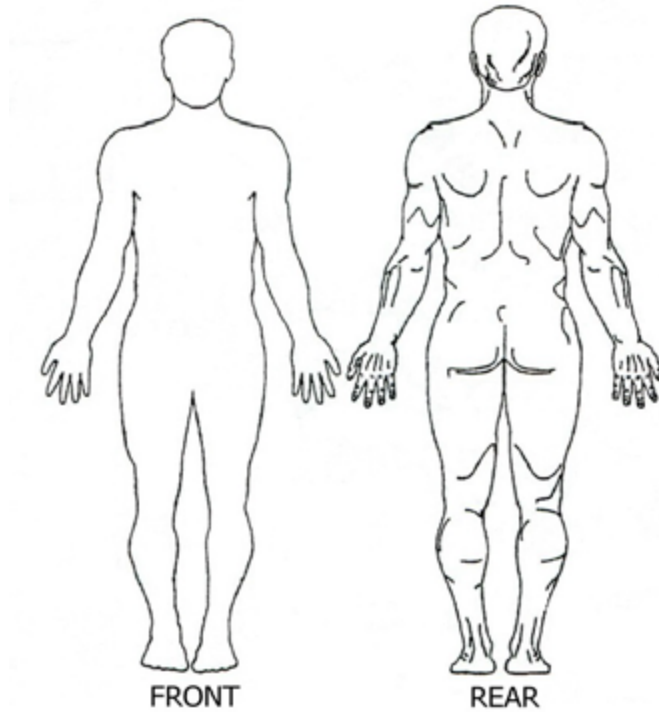
Did Dart Contacts Penetrate the Subject's Skin? Y / N Probes Removed on Scene: Y / N

Did TASER Application Cause Injury: Y / N If Yes, was the Subject Treated for the Injury? Y / N

Description of Injury: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPLICATION AREAS

(Place "X's" where probes hit suspect AND "O's" where stunned)



SYNOPSIS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Need for Additional Applications? Y / N      Did the Device Respond Satisfactorily? Y / N

Describe the Subject's Demeanor after the Device was Used or Displayed? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Chemical Spray: Y / N      Baton or Blunt Instrument: Y / N

Authorized Control Holds: Y / N      If Yes, what Types? \_\_\_\_\_

Describe other means attempted to control the subject: \_\_\_\_\_  
\_\_\_\_\_

Photographs Taken: Y / N      Report Completed by: \_\_\_\_\_

ADDITIONAL INFORMATION

\_\_\_\_\_  
\_\_\_\_\_

## **CJDN Misuse Policy.pdf**

**Discipline Policy for Misuse of CJDN**  
**Fairmont Police Department**  
**June 2022**

CJDN – The Criminal Justice Data Communications Network is the overall system, which provides criminal justice agencies computer access to data stored on state and national systems.

Inquiries into the motor vehicle registration, driver license, criminal history or any other file in the MNJIS/NCIC systems must be performed for criminal justice purposes only.

Employees of Fairmont Police Department shall not run themselves or other employees in the MNJIS/NCIC systems. Any employee misusing information or obtaining information for other than official criminal justice purposes from the Criminal Justice Data Network will be subject to disciplinary action.

When performing any file inquiries or making any entries into NCIC or MNJIS, it is important to remember that the data stored in MNJIS/NCIC is documented criminal justice information and this information must be protected to ensure correct, legal and efficient dissemination and use. The individual receiving a request for criminal justice information must ensure that the person requesting the information is authorized to receive the data. The stored data in NCIC and MNJIS is sensitive and should be treated accordingly, and unauthorized request or receipt of NCIC or MNJIS material could result in criminal proceedings.

When the Chief or the TAC becomes aware that an employee of Fairmont Police Department is using CJDN terminal generated information, CJDN equipment, or CJDN access not in accordance with agency policies, state policies, or NCIC policies and said problem is not deemed merely operator error, the Chief or his designee, or the TAC shall promptly address the violation.

The Chief or his designee shall meet with the person who is alleged to have violated the policy and determine appropriate sanctions, which may include any or all of the standard discipline policies currently in place at Fairmont Police Department including verbal reprimand, written reprimand, suspension, or termination. Intentional misuse of the CJDN system is a serious violation and the BCA will be informed of such violations. If criminal behavior is believed to have occurred, appropriate agencies will be notified for further investigation.

The specific situation in each case of misuse of the CJIS system will be looked at, with all circumstances considered when determining disciplinary actions. Consideration will be given to the extent of loss or injury to the system, agency, or other person upon release or disclosure of sensitive or classified information to an unauthorized individual. This also includes activities which result in unauthorized modification or destruction of system data, loss of computer system

processing capability, or loss by theft of any computer system media including: chip ROM memory, optical or magnetic storage medium, hardcopy printout, etc.  
The TAC, with the Chief's approval may at any time terminate a staff person's access to the CJDN system for any rule violation.

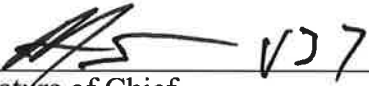
I have read and understand the "**Discipline Policy for Misuse of CJDN**" for Fairmont Police Department. The sign off sheet will be placed in the employees personnel file.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

A copy of this policy signed by the department head is to be kept in the CJDN SOP Manual.

  
\_\_\_\_\_  
Signature of Chief

06-21-22  
Date

Michael Hunter

\_\_\_\_\_  
Printed Name of Chief

**FPD 603 CI POST Model Policy.pdf**

## CONFIDENTIAL INFORMANTS MODEL POLICY

MN STAT 626.8476

### I. POLICY

It is the policy of the **Fairmont Police Department** to establish procedures and protocols that take necessary precautions concerning the recruitment, control and use of confidential informants.

### II. DEFINITIONS

- A. Confidential Informant (CI):** A person who cooperates with a law enforcement agency confidentially in order to protect the person or the agency's intelligence gathering or investigative efforts and;
1. seeks to avoid arrest or prosecution for a crime, mitigate punishment for a crime in which a sentence will be or has been imposed, or receive a monetary or other benefit; and
  2. is able, by reason of the person's familiarity or close association with suspected criminals, to:
    - i. make a controlled buy or controlled sale of contraband, controlled substance, or other items that are material to a criminal investigation;
    - ii. supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or
    - iii. otherwise provide information important to ongoing criminal intelligence gathering or criminal investigative efforts.
- B. Controlled Buy:** means the purchase of contraband, controlled substances, or other items that are material to a criminal investigation from a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.
- C. Controlled Sale:** means the sale of contraband, controlled substances, or other items that are material to a criminal investigation to a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.
- D. Mental Harm:** means a psychological injury that is not necessarily permanent but results in visibly demonstrable manifestations of a disorder of thought or mood that impairs a person's judgment or behavior.
- E. Target Offender:** means the person suspected by law enforcement personnel to be implicated in criminal acts by the activities of a confidential informant.
- F. Confidential Informant File:** means a file maintained to document all information that pertains to a confidential informant.
- G. Unreliable Informant File:** means a file containing information pertaining to an individual who has failed at following an established written confidential informant agreement and has been determined to be generally unfit to serve as a confidential informant.
- H. Compelling Public Interest:** means, for purposes of this policy, situations in which failure to act would result or likely result in loss of life, serious injury, or have some serious negative consequence for persons, property, or public safety and therefore demand action.
- I. Overseeing agent:** means the officer primarily responsible for supervision and management of a confidential informant.

### III. PROCEDURES

#### A. Initial Suitability Determination

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

1. An officer requesting use of an individual as a CI must complete an Initial Suitability Report. The report must be submitted to the appropriate individual or entity, as determined by the agency chief executive, to review for potential selection as a CI. The report must include sufficient detail regarding the risks and benefits of using the individual so that a sound determination can be made. The following information must be addressed in the report, where applicable:
  - a. Age, sex, and residence
  - b. Employment status or occupation
  - c. Affiliation with legitimate businesses and illegal or suspicious enterprises
  - d. Extent to which potential information, associations, or other assistance could benefit a present or future investigation
  - e. Relationship with the target of an investigation
  - f. Motivation in providing information or assistance
  - g. Risk of adversely affecting an existing or future investigation
  - h. Extent to which provided information can be corroborated
  - i. Prior record as a witness
  - j. Criminal history, to include whether he or she is the subject of a pending investigation, is under arrest, or has been charged with a crime
  - k. Risk to the public or as a flight risk
  - l. Consultation with the individual's probation, parole, or supervised release agent, if any
  - m. Consideration and documentation of the individual's diagnosis of mental illness, substance use disorder, traumatic brain injury, or disability; and consideration and documentation of the individual's history of mental illness, substance use disorder, traumatic brain injury or disability
  - n. Relationship to anyone in law enforcement
  - o. Risk of physical harm to the potential CI or their immediate family or relatives for cooperating with law enforcement
  - p. Prior or current service as a CI with this or another law enforcement organization
2. Prior to an individual's use as a CI, a supervisor or other designated authority must review the Initial Suitability Report and determine if the individual is authorized to serve as a CI.
3. Any prospective or current CI must be excluded from engaging in a controlled buy or sale of a controlled substance if the prospective or current CI:
  - a. is receiving in-patient treatment or partial-hospitalization treatment administered by a licensed service provider for a substance use disorder or mental illness; or
  - b. is participating in a treatment-based drug court program or treatment court; except that
  - c. the prospective or current CI may provide confidential information while receiving treatment, participating in a treatment-based drug court program or treatment court.



4. Documentation and special consideration must be made of the risks involved in engaging a prospective or current CI in the controlled buy or sale of a controlled substance if the individual is known, or has reported, to have experienced a drug overdose in the previous 12 months.
5. Any prospective or current CI who is known to abuse substances, or is at risk for abusing substances, should be provided referral to prevention or treatment services.
6. Any prospective or current CI that has a physical or mental illness that impairs the ability of the individual to understand instructions and make informed decisions should be referred to a mental health professional or other appropriate medical professional, or a case manager/social worker from the county social services agency, or other substance abuse and mental health services.
7. Each CI's suitability must be reviewed every 6 months, at a minimum, during which time the CI's overseeing agent must submit a Continuing Suitability Report addressing the foregoing issues in III.A.1.a-p, and III.A.3-6, where applicable. An initial suitability determination must be conducted on a reactivated CI regardless of the length of inactivity.
8. Any information that may negatively affect a CI's suitability during the course of their use must be documented in the CI's file and forwarded to the appropriate authorized personnel as soon as possible.
9. Supervisors must review informant files regularly with the overseeing agent and must attend debriefings of CIs periodically as part of the informant management process. If a CI is active for more than 12 months, a supervisory meeting with the CI must be conducted without the overseeing agent.
10. CI contracts must be terminated, and the CI file placed in inactive status when the CI has not been utilized for 6 months or more.

## **B. Exigent Confidential Informants**

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

## **C. Special CI Approval Requirements**

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

1. Juveniles
  - a. Use of a juvenile under the age of 18 for participating in a controlled buy or sale of a controlled substance or contraband may be undertaken only with the written authorization of the individual's parent(s) or guardian(s), except that the juvenile informant may provide confidential information.

- b. Authorization for such use should be granted only when a compelling public interest can be demonstrated, *except that*
  - c. Juveniles under the guardianship of the State may not be used as a CI.
2. Individuals obligated by legal privilege of confidentiality.
  3. Government officials.

#### **D. General Guidelines for Overseeing CIs**

General guidelines for overseeing CIs are as follows:

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

- i. CIs who participate in unplanned or unanticipated activities or meet with a subject(s) under investigation in a location outside of the jurisdictional boundary of the handling agency must promptly report that activity or meeting to their overseeing agents.
9. CI activity outside jurisdictional boundaries:
  - a. Investigators handling CIs who engage in operational activity in locations outside the jurisdictional boundaries of the agency must coordinate with counterparts in law enforcement agencies that have jurisdiction in that location where the CI will operate before any activity occurs, or in a timely manner after unanticipated activity occurs and is brought to the attention of the overseeing agent.
  - b. Any decision to defer or delay notice to or coordinate with an outside agency having jurisdiction in the area where a CI has or may operate must be documented, reviewed, and approved by the agency's chief executive or their designee.
10. Officers must take the utmost care to avoid conveying any confidential investigative information to a CI, such as the identity of other CIs, surveillance activities, or search warrants, other than what is necessary and appropriate for operational purposes.
11. No member of this agency must knowingly maintain a social relationship with a CI, or otherwise become personally involved with a CI beyond actions required in the performance of duty.
12. Members of this agency must not solicit, accept gratuities from, or engage in any private business transaction with a CI.
13. Meetings with a CI must be conducted in private with another officer or agent present and with at least one officer or agent of the same sex, except when not practical. The meeting location should minimize the potential for discovery of the informant's cooperation and provide sufficient space to complete necessary administrative duties. The meetings must be documented and subsequently entered into the individual's CI file.
14. Overseeing agents must develop and follow a communications strategy and plan with the CI that minimizes, to the greatest extent possible, the risk of discovery or compromise of the relationship between the agency and the CI. This plan should also aim to prevent the detection, compromise, or interception of communications between the overseeing agent and the CI.
15. Procedures must be instituted to assist CIs with concealing their identity and maintaining their safety. Care should be given not to expose CIs to unnecessary safety risks.
16. Preceding or following every buy or sale of controlled substances, overseeing agents must screen the CI for any personal safety or mental health concerns, risk of substance abuse, and/or potential relapse in any substance abuse recovery.
  - a. At the request of the CI, or if the overseeing agent deems it necessary, reasonable efforts should be taken to provide the CI with referral to substance abuse and/or mental health services.
  - b. Overseeing agents must document:
    - i. the screening,
    - ii. any referral to services provided to, or requested by, the CI, and
    - iii. any refusal by the CI to participate in the screening and/or any refusal by the CI to accept referral to services. Reasons for the CI's refusal must be documented, where applicable.
  - c. No part of this subsection supersedes MN Stat. 253B.05, sub.2.
17. Reasonable protective measures must be provided for a CI when any member of this agency knows or should have known of a risk or threat of harm to a person serving as a CI and the risk or threat of harm is a result of the informant's service to this agency.

18. Overseeing agents must:
  - a. evaluate and document the criminal history and propensity for violence of target offenders; and
  - b. to the extent allowed, provide this information to the CI if there is a reasonable risk or threat of harm to the CI as a result of the CI's interaction with the target offender.
19. Reasonable efforts and precautions must be made to help protect the identity of a CI during the time the person is acting as an informant.
20. Whenever possible, officers must corroborate information provided by a CI and document efforts to do so.
21. The name of a CI must not be included in an affidavit for a warrant unless judicial authority is obtained to seal the document from the public record or the CI is a subject of the investigation upon which the affidavit is based.
22. Overseeing agents are responsible for ensuring that information of potential value to other elements of the agency is provided promptly to authorized supervisory personnel and/or other law enforcement agencies as appropriate.
23. Individuals leaving employment with the agency have a continuing obligation to maintain as confidential the identity of any CI and the information he or she provided unless obligated to reveal such identity or information by law or court order.

#### **E. Establishment of an Informant File System**

An informant file system must be established as follows:

1. The agency chief executive must designate a file supervisor who must be responsible for developing and maintaining master CI files and an indexing system.
2. A file must be maintained on each CI deemed suitable by the agency.
3. An additional Unreliable Informant File must be established for CIs deemed unsuitable during initial suitability determinations or at a later time.
4. Each file must be coded with an assigned informant control number for identification within the indexing system and must include the following information, where applicable:
  - a. Name, aliases, and date of birth
  - b. Height, weight, hair color, eye color, race, sex, scars, tattoos, or other distinguishing features
  - c. Emergency contact information
  - d. Name of the officer initiating use of the informant and any subsequent overseeing agents
  - e. Photograph and criminal history record
  - f. Current home address and telephone number(s)
  - g. Residential addresses in the last five years
  - h. Current employer, position, address, and telephone number
  - i. Social media accounts
  - j. Marital status and number of children
  - k. Vehicles owned and their registration numbers
  - l. Places frequented
  - m. Gang affiliations or other organizational affiliations

- n. Briefs of information provided by the CI and the CI's subsequent reliability
  - o. Special skills and hobbies
  - p. Special areas of criminal expertise or knowledge
  - q. A copy of the signed informant agreement
5. CI files must be maintained in a separate and secured area.
  6. The file supervisor must ensure that information concerning CIs is strictly controlled and distributed only to officers and other authorities who have a need and a right to such information.
  7. CI File Review
    - a. Sworn personnel may review an individual's CI file only upon the approval of the agency's chief executive or their designee.
    - b. The requesting officer must submit a written request explaining the need for review. A copy of this request, with the officer's name, must be maintained in the individual's CI file.
    - c. Officers must not remove, copy, or disseminate information from the CI file.
    - d. CI files must be reviewed only in designated areas of the law enforcement facility and returned as soon as possible to their secure file location.
    - e. All disclosures or access to CI files must be recorded by the file supervisor, to include information such as the requesting officer or agency, the purpose of access or disclosure, the information conveyed, and the date and time of access or dissemination.
    - f. No portion of an individual's CI file must be entered into any other electronic or related database without controls sufficient to exclude access to all but authorized personnel with a need and a right to know.

## **F. Deactivation of Confidential Informants**

A CI deactivation procedure must be established as follows:

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

## **G. Monetary Payments**

Monetary payments must be managed as follows:

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



## Confidential Informant Screening Questions

Officers shall document that the CI screening questions were asked and any refusal of services by the CI in their report.

1. Do you feel safe now or anticipate any future safety concerns?
2. Do you have any mental health concerns that you would like us to assist you in addressing at this time? Do you feel like harming yourself?
3. Do you feel that you are at risk to use controlled substances or relapse in any substance abuse recovery?
4. Are there any services that have not been offered at this time that we can assist with providing you?

**FPD Citizen Complaint Form.pdf**





## Fairmont Police Department Citizen Complaint Form

*The Fairmont Police Department strives to objectively address citizen complaints and concerns regarding the actions of our employees. Often times, complaints and concerns can be resolved without filing a "Formal Complaint". These issues can be handled by contacting an on-duty supervisor, Captain, or Chief of Police and discussing the concern with them. If you wish to complete a formal complaint, please complete all information as accurately as possible. Please use additional sheets if necessary. Please sign this form when completed and return to the Chief of Police. Complaints against officers are handled under Fairmont Police Policy 2.07 and Minnesota Statute 626.89.*

Complainant's Name: \_\_\_\_\_

Complainant's Street Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Primary Phone Contact Number: \_\_\_\_\_

Witness Name: \_\_\_\_\_

Witness Address: \_\_\_\_\_

Witness Contact Phone Number: \_\_\_\_\_

Witness Name: \_\_\_\_\_

Witness Address: \_\_\_\_\_

Witness Contact Phone Number: \_\_\_\_\_

Date of Incident: \_\_\_\_\_ Time of Incident: \_\_\_\_\_

Location of Occurrence: \_\_\_\_\_

Name of Officer: (if unknown, physical description of officer): \_\_\_\_\_

Citation or Case Number if Known: \_\_\_\_\_

**Acknowledgement:** *By signing this Citizen Complaint Form, I acknowledge that I am aware that it is a crime under Minnesota State Statute 609.505 to falsely report an act of police misconduct. I certify that the information provided on this form or during any part of this process is truthful and accurate to the best of my knowledge.*

\_\_\_\_\_  
*Signature of Complainant*

\_\_\_\_\_  
*Date*

**Summary of Alleged Misconduct:** On the following page, please provide a complete and accurate description of the incident. Include all relevant information and a narrative of the events or incident. Please describe in detail what you feel the officer(s) or any Fairmont Police Department employee did that was not proper. You may include additional pages, copies of supporting documents, or any video/audio that you may have. Please sign or initial all additional pages included with this form. If you have any questions or need assistance of any kind with completing this form, please contact an on-duty supervisor at 507-238-4481.



**FPD Department Awards Program.pdf**

CITY OF FAIRMONT  
POLICE DEPARTMENT

DATE: 07/01/2017	"TO PROMOTE AND PRESERVE THE PUBLIC'S SAFETY"	NUMBER: 1.11
REVISION:02/20/2020		PAGE 1 OF 4
SECTION: Administration		APPLICATION:  All Members
TITLE: Departmental Awards Program		
REFERENCES:		

**PURPOSE:** The Fairmont Police Department Awards Program is to provide a tangible means of recognition for acts of heroism, valor, exceptional service, or achievement by community or Department members.

**POLICY:** It shall be the policy of the Fairmont Police Department to award members of the community or Department in the manner that is appropriate for the recognition that they are receiving and shall be designated by the Chief of Police at the time of the award. It will be the responsibility of any individual having personal knowledge of an act, achievement, or service believed to warrant an award to submit a formal recommendation. The following awards are the possible categories to be presented:

1. Award of Valor
2. Letter of Commendation
3. Letter of Recognition
4. Letter of Appreciation
5. Outstanding Citizen Award
6. Lifesaving Award
7. Department Officer of the Year

Members of the Fairmont Police Department and community members are eligible for the above listed awards. There is no limit in the number of awards to be presented. Community members are eligible for categories four through six. All awards presented to members of the Fairmont Police Department will be recorded in their personnel files.

**PROCEDURE:** All nominations for the listed awards shall be submitted to the Chief of Police. Any Department member may submit a recommendation for any award to the Chief of Police for any incident that fits the criteria for the recommended award. The Chief of Police or his/her designee will have the final approval of the award. It should be noted that a Letter of Appreciation or Letter of Recognition may be authored by any Department employee to recognize the actions of any officer or employee. All recommendations for awards shall be submitted on Department letterhead or designated form and signed by the Department member making the recommendation. Awards listed above as one through six may be submitted at any time during the year. The Department Officer of the Year selection process shall take place at the December Supervisors Meeting. Notice of recommendations for the award will be posted the week prior to the December Supervisors Meeting. The Chief of Police also has the

TITLE: Departmental Awards Program	NUMBER: 1.11
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latitude to recommend or approve any of the listed awards to members of other law enforcement agencies within the scope of that agency's policy.

AWARDS:

**\*AWARD OF VALOR\***

The Award of Valor shall be presented to any member of the Fairmont Police Department who, by his/her acts of bravery or outstanding courage during the course of duty, exposes oneself to great bodily harm or death. The award presented shall be a plaque and a uniform ribbon. The uniform ribbon shall consist of a red bar with a gold or silver star and may be displayed in accordance with Fairmont 1.14.

**\*LETTER OF COMMENDATION\***

A Letter of Commendation shall be presented to any member of the Fairmont Police Department who through actions or service is deserving of recognition for their excellence and professionalism on a particular assignment, incident, or event. The Letter of Commendation shall recognize any Department member's actions, service, or achievements that have gone well above the normal call of duty. Each member who is presented a Letter of Commendation shall be presented with a signed letter from the Chief of Police that describes his/her actions and achievement as well as a Certificate of Achievement showing the presentation date of the award. Any Department employee receiving a Letter of Commendation shall also be provided a uniform ribbon that shall consist of a blue bar with a gold or silver star and may be displayed in accordance with Fairmont 1.14.

**\*LETTER OF RECOGNITION\***

A Letter of Recognition shall be presented to any member of the Fairmont Police Department to recognize his/her involvement on a particular incident, event, or department assignment. The Letter of Recognition shall recognize excellence of a Department member's actions, achievement, or innovation on a particular incident, event, or assignment. The Department member will be presented with a signed letter from the Chief of Police or Captain that describes his/her achievement.

**\*LETTER OF APPRECIATION\***

A Letter of Appreciation shall be presented to any Department or community member to recognize his/her work, participation, or assistance on a particular assignment, detail, incident, or event. A Letter of Appreciation may be submitted by any Department member to the Chief of Police to recognize any Department employee's or community member's actions. More than one person may be listed on a Letter of Appreciation.

**\*OUTSTANDING CITIZEN AWARD\***

The Outstanding Citizen Award shall be presented to anyone who takes part in accomplishing an act, service, or achievement that assists the Fairmont Police Department in achieving its mission: "To Protect and Preserve the Public Safety." All citizens receiving an Outstanding Citizen Award shall receive a certificate with his/her accomplishment inscribed on the award.

**\*LIFESAVING AWARD\***

The Lifesaving Award shall be presented to any member of the Department or the Community who performs lifesaving acts under conditions where valor circumstances do not exist. A certificate shall be presented to any Department or Community member who receives this award. Any Department employee receiving a Lifesaving Award shall also be provided a uniform ribbon that shall consist of a red bar with a gold or silver star and may be displayed in accordance with Fairmont 1.14.

**\*DEPARTMENT OFFICER OF THE YEAR\***

The Department Officer of the Year will be awarded to the officer or officers who have distinguished themselves in an ongoing professional manner. Officers receiving this award may also be nominated to the Minnesota Chiefs of Police Association Officer of the Year Award. Each officer receiving this award shall be provided with a plaque and a certificate that describes the achievement. Any officer receiving the Officer of the Year Award shall also be provided a uniform ribbon that shall consist of a blue bar with a gold or silver star and may be displayed in accordance with Fairmont 1.14.

**COMMENDATION BARS:** Commendation bars shall be issued to officers who achieve certain distinctions. Commendation bars may be work on any uniform shirt above the right pocket just below the American Flag patch. Red Commendation bars shall be worn closest to the buttons of the uniform shirt and blue commendation bars shall be worn towards the sleeve side of the shirt. If the officer is only displaying one commendation bar, it shall be centered above the pocket under the flag on the right side of the shirt. No other commendation bars shall be worn on the uniform. Officer may request recognition for awards from an outside agency to be recognized on their Department commendation bars for awards presented during their employment with the Fairmont Police Department. Additional recognition will not be approved for an outside agency for the same incident that the employee has received recognition for by the department. Commendation bars may be issued by the department for the following achievements:

Red Commendation Bars:

- Award of Valor
- Lifesaving Award
- Approved recognition from outside agency at discretion of Department

Blue Commendation Bars:

- Officer of the Year
- Official Department Letter of Commendation
- 20 Years of Service to the Department
- Honorable Service in any branch of the US Military (during or prior to FPD)
- Approved recognition from outside agency at discretion of Department

TITLE: Departmental Awards Program

NUMBER 1.11

ACCOUNTABILITY: It is the responsibility of each member of the Fairmont Police Department to submit a formal recommendation to the Chief of Police when they have personal knowledge of an act, service or achievement believed to warrant an award.

All Members of the Department are responsible for insuring that this and all policies of the Department are followed. Deviations from this or any other policy are permitted within the scope of authority granted all members of the Department, however, the deviation must be reported in accordance with policy 1.02 (Reporting Responsibility - Policy Deviation).

BY:

 V37

CHIEF OF POLICE

02-20-2020

DATE

## **FPD Uniform and Professional Appearance Policy.pdf**



CITY OF FAIRMONT  
POLICE DEPARTMENT

DATE: 07/01/2017	"TO PROMOTE AND PRESERVE THE PUBLIC'S SAFETY"	NUMBER: 1.14
REVISION: 02/20/2020		PAGE 1 OF 7
SECTION: Administration		APPLICATION:  All Members
TITLE: Uniform and Professional Appearance		
REFERENCES:		

POLICY: The Uniform Policy of the Fairmont Police Department will insure all uniformed members maintain their uniforms and appearance in the professional image of the Department.

All members of the Police Department, when not assigned to plainclothes duty, shall appear in full uniform during their hours of duty and when attending to other police business such as court, public speaking, unless otherwise approved or directed by the Chief or Captain.

While on duty, every member of the Department must at all times be neat and clean in person, their shoes and clothes clean, and their uniform conforming with rules and regulations unless unusual circumstances dictate otherwise. Members of the Department shall, as often as is necessary, examine and clean their equipment and keep it always in good serviceable condition. If the uniformed member wishes to wear his uniform to and from work, they must wear full uniform including leather goods and weapon.

For purposes of clarification, the summer uniform, short sleeved shirts without ties, will begin no later than June 1st and the wearing of the winter uniform, long sleeved shirts with ties will begin no later than October 1st. However, due to warm weather conditions, between April 1st and June 1st and October 1st and November 1st, long sleeved shirts with ties will be optional or long sleeve with mock turtleneck will be optional. Long sleeve shirts with ties will be acceptable year round for court appearance, funerals, presentations, and other formal occasions as designated.

UNIFORM BADGE:

While on duty the uniform badge should be displayed on the uniform shirt. When wearing a jacket, the badge will also be displayed on the coat or jacket. An embroidered shield badge logo will be considered acceptable to meet this requirement for the coat or jacket. Design shall be designated or approved by the Chief or Captain.

No unauthorized device, badge or decoration shall be worn on the uniform at any time, except a pin that represents a law enforcement organization or assignment under approval of the Police Chief or Captain. A request to wear such a pin shall be submitted in writing to the Chief or Captain for approval.

TITLE: Uniform and Professional Appearance	NUMBER: 1.14
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#### MOURNING BAND:

Officers may wear a black mourning band across their uniform badge under the following conditions for the death of an officer:

- a. Line of duty death for an officer from the Fairmont Police Department- From time of death until midnight on the 14<sup>th</sup> day after the death.
- b. Line of Duty death for an officer in the State of Minnesota- From the time of death until midnight on the day of the funeral.
- c. Funeral attendee- While attending the funeral of a fallen officer.
- d. National Peace Officers Memorial Day (May 15)- From midnight to midnight on that calendar day.
- e. Officers attending the funeral of a retired officer on the day of the funeral.
- f. As directed or authorized by the Chief of Police or Captain.

#### UNIFORM HATS:

Dark navy blue Department issued eight-point style hat with hat badge will be standard for all seasonal wear. Officers are not required to wear a hat except for official ceremonies, funerals, or at the direction of a Supervisor.

Navy blue baseball style hats may be worn during winter months and during inclement weather in the Spring, Summer and Fall. Design will be the discretion of the Chief.

Black/navy blue stocking caps will be allowed during winter months and inclement weather. Stocking hats will not display offensive or overly predominant logos on them.

#### UNIFORM JACKETS:

The officer may choose his/her duty jacket/coat provided that it is of a uniform style, dark navy blue, waist length for seasonal wear. An embroidered name tag, approved badge, and flag are an option. Otherwise, the American flag patch, department badge, and department patches are required on the uniform jacket.

Additional Winter: Dark navy blue mid-length parka, full-length coat, or uniform style dark blue leather.

Additional Spring and Summer: Light-weight, waist-length or full length, uniform style rain coats in dark blue or black are allowed for inclement weather. An exterior badge and department patches will not be required on the rain coat but is strongly encouraged.

#### UNIFORM SHIRTS:

Uniform shirts will be a traditional front button design, dark navy blue with dark navy epaulets and pocket trim. Uniform shirts shall not be in faded or worn condition.

Summer uniform shirt will be a traditional front button design, dark navy blue short sleeve shirt without a tie.

Winter uniform shirt will be a long sleeved shirt buttoned at the wrist. Winter shirts will be worn with a tie and tie clip or long sleeved open collar with black mock turtle neck. No visible logos or other insignia are permitted on the mock turtle neck.

#### UNIFORM TROUSERS:

Dark navy blue of a uniform style in appropriate summer and winter weights or department approved dark navy blue cargo/tactical pants. Class B cargo pants shall be constructed of traditional uniform material that matches the uniform shirt. Twill blends are not acceptable. Regardless of material or design, the uniform trousers shall not be in faded or worn condition.

#### UNIFORM SHOES:

Black oxfords with plain toes. Shoes should be able to be polished. Traditional black duty boots with a polished toe are acceptable instead of shoes. No cowboy boots. All footwear shall be maintained well and polished. Tennis shoes are only to be work with special assignment uniform such as bike patrol or boat patrol.

Optional Winter: Insulated boots, plain toes, black, and able to be polished.

#### UNIFORM TIES:

Navy blue clip-on ties or tie with Velcro closure with tie clip will be worn with long-sleeve winter shirt when appearing at formal gatherings, funerals and court testimony.

#### UNDERSHIRT:

When worn, it will be black in color with a crew neck. Undershirts shall not extend beyond the end of the sleeve. No logos or designs shall be visible on the undershirt.

#### SOCKS:

White socks will not be worn with the uniform unless the style of shoe worn covers the socks. If low cut shoes are worn, socks worn with uniform will be black.

#### UNIFORM PATCHES/INSIGNIA:

Departmental patches are to be displayed on both sleeves of all uniform shirts and jackets. Placement of Departmental patches shall be approximately one (1) inch below the shoulder seam in the middle of the sleeves. American flag patch shall be ½ inch centered above the right pocket.

Chief of Police: When in uniform, the Chief of Police shall wear either gold stars or “Chief of

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Police” insignia on both collars of the uniform shirt and on the collars and optioned on the epaulets of the uniform jacket or coat.

Police Captain Insignia: Gold Captain bars and displayed on both collars of the uniform shirt and are optional on the epaulets or collars of the uniform jacket.

Sergeant Insignia: Gold stripes on both collars of the uniform shirt and uniform jacket. Gold sewn on Sergeant stripes will no longer be worn on the uniform shirt or jacket after April 1, 2020.

Shirt: The insignia shall bisect the collar approximately 1" up from the point of both collars.

Jacket: When worn on the epaulets, the insignia shall be centered 1" in from the shoulder seam on both epaulets.

#### UNIFORM LEATHER GOODS AND EQUIPMENT:

All issued Departmental items are to be worn by all uniformed members of the Department. Mandatory items include:

- S 2-1/4" belt (If equipped with a visible buckle it shall be nickel plated for patrol or brass for supervisors. Black plastic buckles are not authorized.)
- S Holster and weapon. Holster shall be a Level II or Level III. Level one holsters are not approved for uniformed patrol duties.
- S Magazine pouch with additional magazines fully loaded with approved ammunition
- S Handcuffs with open or closed holder
- S Department approved mace and holder
- S Portable radio with carrying case
- S Leather or nylon glove case with gloves

#### Optional items include:

- S Keyholder
- S Flashlight holder
- S Taser and Taser holster in accordance with Taser policy.
- S Expandable baton and baton holder will be optional if the officer is carrying a Taser

Leather goods are to be black basket weave.

#### BALLISTIC VEST:

A ballistic vest will be provided for each officer by the Department. All uniformed officers shall wear their ballistic vest during their shift unless assigned administrative duties or approved by

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Chief of Police or Captain. Plain clothes officers or officers on light duty are not required to wear a ballistic vest. The ballistic vest will be required to be worn during all department firearms training. Replacement will be determined by industry standards and union contract. It will be the responsibility of the officer to provide themselves larger sized vests due to an unhealthy weight gain.

OPTIONAL CLOTHING:

An exterior vest carrier may be worn by a uniformed officer as long as the carrier is matching to the uniform shirt they are wearing and must be consistent with a traditional uniform apparel. It must have pockets. No tactical or load bearing vests shall be worn for routine uniformed patrol unless authorized by the Chief or Captain.

Long sleeved, V-neck sweaters, solid navy blue in color, of the "Wooly Pully" style are no longer authorized as of January 1, 2020.

CLOTHING FOR PLAIN CLOTHES PERSONNEL:

All plain clothes personnel of the Fairmont Police Department will be dressed in such a manner as to look professional. When working the winter dayshift, will business casual or formal attire. Plain clothes summer uniform shall consist of shirt, tie, and dress pants or department approved polo shirt with dress pants. A suit coat or sports coat is optional when on duty, but is mandatory when appearing in court if not wearing a uniform. Plain clothes personnel working the night shift may dress more informally but must present a neat and clean appearance. Jeans will not be acceptable unless appropriate for assignment, professional tactical pants or casual slacks may be worn. When they work on a special duty assignment such as the serving of a search warrant or while on surveillance, they may dress in an appropriate manner so as to blend into the situation. School Resource Officer uniform shall consist of either complete patrol uniform or plain clothes option similar to plain clothes summer uniform as approved occasional wear.

While on duty, all plain clothes officers will wear a Departmentally-approved weapon. Ankle holsters are not authorized for the carry of a primary weapon and shall only be approved for special assignment, back-up, or off-duty carry. Any plain clothes personnel carrying a weapon in plain view must wear a belt badge or other shirt markings clearly indicating "Fairmont Police" while performing regular duties. The carrying of handcuffs, mace, and spare ammunition is optional, however, if they are not carried on the officer's person, they are to be readily available to him /her.

Officers on light duty assignments shall not be required to wear a traditional uniform, but may be assigned an optional uniform that is within their work restrictions. If no optional uniform is specified, an officer on light duty shall dress in appropriate manner.

CLOTHING FOR ATTENDANCE AT TRAINING:

When attending training outside the Department and representing the Fairmont Police Department, the Officer will dress in a manner appropriate for the training attended.

PROFESSIONAL APPEARANCE:

All officers shall present a professional appearance, as their appearance reflects on the image of the Department. Uniforms when worn shall be in compliance with this uniform policy. All clothing items shall be neat, clean, pressed, and not faded or worn. Leather and equipment items shall 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. Deviation from the professional appearance section of this policy are allowed given a specific assignment or detail being worked by an officer and must be approved by the Chief or Captain.

## 1. HAIR REGULATIONS

Officers hair shall be cut and styled in a manner that presents a neat, well-groomed professional appearance. Hair shall not extend over the eye brows and cover the officer's eyes or create any sort of vision obstruction. Hair shall not be worn in a manner that interferes with the wearing of headgear if required or necessary. Hair styles shall not be offensive or have designs cut into it.

## 2. FACIAL HAIR

Officers are allowed to have a clean, well-groomed, and neatly trimmed moustache or goatee. Facial hair may not exceed 1 inch in length. Moustaches shall be neatly trimmed and shall not extend below the corners of the mouth or be worn in a "handlebar" or drooping type of style. The Chief and Captain shall have final say on whether facial hair is in compliance with these standards. Full beards are not permitted unless as authorized for an assignment or for an event authorized in writing by the Chief or Captain.

## 3. SIDEBURNS

Sideburns shall be neatly trimmed and equal to each other in width and length and shall not extend below the ear lobe.

## 4. TATTOOS

Visible tattoos and markings are acceptable without the requirement to wear a tattoo covering sleeve if they fall within the guidelines of this policy. Anything outside of this policy will not be allowed to be visible to the public while working in uniform. Tasteful and non-offensive tattoos are acceptable to be visible while working without the requirement to be covered on the hands and arms of an officer. Examples of unacceptable visible tattoos and markings may include but is not limited to: anything that involves nudity, profanity, sexual in nature, racist, or degrading to the profession and is a negative reflection upon the officer and/or department. The Chief or Captain shall have final say on this determination. Tattoos and markings above the collar line and on the face of an officer are not permitted.

## 5. JEWELRY

Watches, rings, and medical alert jewelry are permitted as visible jewelry items for

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sworn personnel to wear on duty. Other jewelry that is not visible and does not interfere with the duties of the officer may be worn. Ear rings are permitted to be worn on duty, but shall not have any hanging ornamentation. Personnel shall not have any other visible "body piercings" while on duty with the exception of the aforementioned ear rings.

6. FINGERNAILS

Nails shall be trimmed and not worn in a manner to cause issue with the performance of the officer's duties.

ACCOUNTABILITY: All members of the Department are responsible for insuring that this and all policies of the Department are followed. Deviations from this or any other policy are permitted within the scope of authority granted all members of the Department, however, the deviation must be reported in accordance with policy 1.02 (Reporting Responsibility - Policy Deviation).

BY:

*PA 5 VJ7*

CHIEF OF POLICE

*02-20-2020*

DATE

**Model Sexual Assault  
Investigation Policy 03-03-21.pdf**



## **I. PURPOSE**

The purpose of this policy is to provide employees with guidelines for responding to reports of sexual assault. This agency will strive:

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

## **II. POLICY**

It is the policy of the \_\_\_\_\_ (law enforcement agency) to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring its peace officers understand the laws governing this area. Sexual assault crimes are under-reported to law enforcement and the goal of this policy is in part to improve victim experience in reporting so that more people are encouraged to report.

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

Peace officers will utilize this policy in response to sexual assault reported to this agency. This agency will aggressively enforce the laws without bias and prejudice based on race, marital status, sexual orientation, economic status, age, disability, gender, religion, creed, or national origin.

## **III. DEFINITIONS**

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

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

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

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

- (2) receives services at or from a facility required to be licensed to serve adults under sections [245A.01](#) to [245A.15](#), except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);
- (3) receives services from a home care provider required to be licensed under sections [144A.43](#) to [144A.482](#); or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections [256B.0625, subdivision 19a, 256B.0651](#) to [256B.0654](#), and [256B.0659](#); or
- (4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
  - (i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and
  - (ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

#### **IV. PROCEDURES**

##### **A. Communications Personnel Response/Additional Actions by Responding Officers**

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

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

##### **B. Initial Officer Response**

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

- 1) Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.

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

### C. Victim Interviews

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

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

- Offer to have a confidential victim advocate present (if possible) if the victim would benefit from additional support during the process
- Whenever possible, conduct victim interviews in person
- Make an effort to conduct the interview in a welcoming environment
- Let the victim share the details at their own pace
- Recognize victims of trauma may have difficulty remembering incidents in a linear fashion and may remember details in days and weeks following the assault
- After the initial interview, consider reaching out to the victim within a few days, after at least one sleep cycle to ask if they remember any additional details.

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

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

**1. Minors and Vulnerable Adults**

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

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

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

Not all sexual assaults of minor victims require a mandatory report to social services. This policy recognizes that in certain cases, notifying and/or the involvement of a parent/guardian pursuant to 260E.22 can cause harm to the minor and/or impede the investigation. Officers responding to the sexual assault of a minor victim that does not trigger a mandated report under Minnesota Statute Section 260E.06 should assess for the impact on the victim and the investigation if parents/guardians were notified before making a decision to involve them.

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

**E. Protecting Victim Rights**

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

**F. Evidence Collection**

- 1) Considerations for Evidence Collection  
Officers shall follow this agency's policy on crime scene response. In addition, officers may do the following:
  - a. Collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing. The agency should consider utilizing their agency or county crime lab in obtaining or processing the scene where the assault took place. This should be in accordance to any/all other policies and procedures relating to evidence collections.
  - b. Document any evidence of threats or any communications made by the suspect, or made on behalf of the suspect, to include those made to individuals other than the victim.

- c. In situations where it is suspected that drugs or alcohol may have facilitated the assault, officers should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, or other related items.
- d. If the victim has declined or a medical forensic exam will not be conducted, the officer should obtain victim consent and attempt to take photographs of visible physical injuries, including any healing or old injuries. Victim should be given directions about how to document any bruising or injury that becomes evidence later after these photographs are taken.

**G. Sexual Assault Medical Forensic Examinations**

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

**H. Contacting and Interviewing Suspects**

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

- 1) Conduct a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.
- 2) Consider conducting a pretext or confrontational call or messaging depending on jurisdictional statutes. Involvement of a victim should be based on strong



consideration of the victim's emotional and physical state. A victim advocate should be present whenever possible to offer support.

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

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

Note: A suspect's forensic examination and/or the collection of evidence from a suspect may be done by either an investigating officer/investigator, Forensic Medical Examiner, or the agency/county crime lab personnel.

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

**J. Role of the Supervisor**

Supervisors may do the following:

- 1) Assist officers investigating incidents of sexual assault when possible or if requested by an officer.
- 2) Provide guidance and direction as needed.
- 3) Review sexual assault reports to ensure that necessary steps were taken during initial response and investigations.

**K. Case Review/Case Summary**

A supervisor should ensure cases are reviewed on an on-going basis. The review process should include an analysis of:

- 1) Case dispositions
- 2) Decisions to collect evidence
- 3) Submissions of evidence for lab testing
- 4) Interviewing decisions

## **Supervisor Incident Report - Property Damage.pdf**

# SUPERVISOR'S INCIDENT REPORT

----- Property Damage -----

<b>Exact Location of Incident</b>		<b>Date &amp; Time of Incident</b>	<b>Date Reported to Supervisor</b>
<b>Temperature</b>	<b>Weather Conditions</b>	<b>Light Conditions</b>	
<b>Name of Employee</b>	<b>Occupation / Job Title</b>	<b>Department</b>	

**Description of Incident**

**Name and Contact Information for Witness(es):**

**Employee's Description of Incident (as related to Supervisor.)** Attach additional statements if needed.

**Supervisor's Description of Incident** (Clearly relate events leading to incident and attach additional pictures, diagrams etc.)

**Why did this incident happen?** (List all factors that helped cause the incident.)

**What could be done to prevent re-occurrence?**

**Date of most recent training relevant to this incident:**

**Supervisor Signature:**

**Date:**

---

**Property Damage**

Describe property damaged in this incident. What actions(s) or lack of actions(s) contributed to this loss?

**Safety Committee Review:** What could be done to prevent reoccurrence? What action(s) can be taken? Who is responsible for taking action? By When?

**Distribution**

**Supervisor** - Send completed report to Human Resources.

**Off Duty Form 2021.pdf**



## FIREARM AUTHORIZATION FORM

Fairmont Policy 5.02

\_\_\_\_\_ of the Fairmont Police Department is authorized to carry the following firearms during the performance of official police duties and/or while off-duty.

MAKE:

MODEL NUMBER:

SERIAL NUMBER:

REVOLVER CALIBER: .

SEMI-AUTOMATIC CALIBER:

BARREL LENGTH:

COLOR:

DATE OF QUALIFICATION:

NOTES: \_\_\_\_\_ successfully completed the 50 round off-duty qualification course demonstrating safe handling of the firearm and proficiency & accuracy with the firearm. Instructor: \_\_\_\_\_

\_\_\_\_\_  
CHIEF OF POLICE

\_\_\_\_\_  
DATE

## **Supervisor Incident Report-Personal Injury ro.pdf**



# SUPERVISOR'S INCIDENT REPORT

----- Personal Injury -----

<b>Exact Location of Incident</b>		<b>Date &amp; Time of Incident</b>	<b>Date Reported to Supervisor</b>
<b>Temperature</b>	<b>Weather Conditions</b>	<b>Light Conditions</b>	
<b>Name of Employee</b>		<b>Occupation / Job Title</b>	<b>Department</b>

**Description of Incident**

**Injury / Illness type**

- |  |   |  |  |
|--|---|--|--|
| <input type="checkbox"/> Abrasion              | <input type="checkbox"/> Contusion / Bruise     | <input type="checkbox"/> Burn, Thermal           | <input type="checkbox"/> Poisoning               |
| <input type="checkbox"/> Puncture / Laceration | <input type="checkbox"/> Sprain / Strain        | <input type="checkbox"/> Burn, Chemical          | <input type="checkbox"/> Respiratory Distress    |
| <input type="checkbox"/> Crushing              | <input type="checkbox"/> Cumulative Trauma      | <input type="checkbox"/> Electrical Shock / Burn | <input type="checkbox"/> Plant / Insect / Animal |
| <input type="checkbox"/> Amputation            | <input type="checkbox"/> Fracture / Dislocation | <input type="checkbox"/> Heat / Cold Stress      | Other _____                                      |

**Contributing Acts or Conditions** (check all that apply)

- Lifting/ material handling
- Fatigue / physical cond.
- Posture / positioning
- Equipment maintenance
- Equipment selection
- Equipment / material use
- Personal protect. equip.
- Sudden movement
- Equipment maintenance
- Housekeeping
- Warnings / labeling
- Use of safety features
- Proper authorization
- Other \_\_\_\_\_

**Root Causes & Contributing Factors** (check all that apply)

- Knowledge / training
- Selection / placement
- Supervision
- Engineering controls
- PPE use / condition
- Inspection/maintenance
- Other \_\_\_\_\_
- Equip. specifications
- Feedback system
- Policy/practice
- EE attitude / behavior
- Drug / alcohol / horseplay
- Environmental conditions
- Other \_\_\_\_\_

**Was safety equipment & Personal Protective Equipment (PPE) in place and being used?**  Yes  No

List safety equipment / PPE used at time of injury:

**Name and Contact Information for Witness(es):**

**Employee's Description of Incident (as related to Supervisor.)** Attach additional statements if needed.

**Supervisor's Description of Incident** (Clearly relate events leading to incident and attach additional pictures, diagrams etc.)

**Why did this incident happen?** (List all factors that helped cause the incident.)

**What could be done to prevent re-occurrence?**

**Date of most recent training relevant to this incident:**

**Supervisor Signature:**

**Date:**

---

**Property Damage**

Describe property damaged in this incident. What actions(s) or lack of actions(s) contributed to this loss?

**Safety Committee Review:** What could be done to prevent reoccurrence? What action(s) can be taken? Who is responsible for taking action? By When?

**Distribution**

**Supervisor** - Send completed report to Human Resources.

## First Report of Injury.pdf

# First Report of Injury

See Instructions on Reverse Side



FRO 1

Print in ink or type  
 Enter dates in MM/DD/YYYY format

DO NOT USE THIS SPACE

1. <b>EMPLOYEE SOCIAL SECURITY #</b>		2. OSHA case #		3. Time employee began work on date of injury <input type="checkbox"/> am <input type="checkbox"/> pm	
4. <b>DATE OF CLAIMED INJURY</b>		5. Time of injury <input type="checkbox"/> am <input type="checkbox"/> pm		6. Date of death # of dependents (if death is related to injury)	
7. <b>EMPLOYEE</b> Name (last, suffix, first, middle)				8. Gender <input type="checkbox"/> M <input type="checkbox"/> F	
				9. Marital status <input type="checkbox"/> Married <input type="checkbox"/> Unmarried	
10. Home address			11. Home phone #		12. Date of birth
City		State	Zip Code		13. Date hired
			14. Occupation		15. Regular department
					16. Apprentice <input type="checkbox"/> Yes <input type="checkbox"/> No
17. Average weekly wage	18. Rate per hour	19. Hours per day	20. Days per week	21. Employment status (check all that apply)	
				<input type="checkbox"/> Full time <input type="checkbox"/> Part time <input type="checkbox"/> Seasonal <input type="checkbox"/> Volunteer	
22. Tell us how the injury/illness occurred, what the employee was doing before the incident (give details), and what the injury/illness was. Examples: "Worker was driving lift truck with a pallet of boxes when the truck tipped, pinning worker's left leg under drive shaft." "Worker developed soreness in left wrist over time from daily computer key entry."					
23. What was the injury or illness (include the part(s) of body)? Examples: chemical burn left hand, broken left leg, carpal tunnel syndrome in left wrist.			24. What tools, equipment, machines, objects, or substances were involved? Examples: chlorine, hand sprayer, pallet lift truck, computer keyboard.		
25. Did injury occur on employer's premises? <input type="checkbox"/> Yes <input type="checkbox"/> No		26. Date of first day of any lost time		27. Employer paid for lost time on day of injury (DOI) <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> No lost time on DOI	
Name and address of the place of the occurrence		28. Date employer notified of injury		29. Date employer notified of lost time	
		30. Return to work date		31. RTW same employer <input type="checkbox"/> Yes <input type="checkbox"/> No	
				32. RTW with restrictions <input type="checkbox"/> Yes <input type="checkbox"/> No	
33. Treating physician (name)		34. Extent of medical treatment (check all that apply) <input type="checkbox"/> None <input type="checkbox"/> Minor on-site by employer's medical staff <input type="checkbox"/> Minor clinic/hospital			
35. Certified Managed Care Organization (if any)		<input type="checkbox"/> Emergency room <input type="checkbox"/> Hospitalization more than 24 hours			
		<input type="checkbox"/> Future major medical anticipated			
36. <b>EMPLOYER</b> Legal name			37. <b>EMPLOYER</b> DBA name (if different)		
38. <b>Mailing</b> address			39. Employer FEIN		40. Unemployment ID #
City		State	Zip Code		41. Employer's contact name and phone #
42. <b>Physical</b> address (if different)			43. Witness (name and phone) - if more than 1 attach a separate sheet		
City		State	Zip Code		44. NAICS code
				45. Date form completed	
46. <b>INSURER</b> name			51. <b>CLAIMS ADMIN COMPANY (CA)</b> name (check one) <input type="checkbox"/> Insurer <input type="checkbox"/> TPA		
47. Insured legal name and FEIN			52. CA address		
48. Policy # (including effective dates) or self-insured certificate #			City		State Zip Code
49. Insurer FEIN		50. Date insurer received notice		53. CA FEIN	
				54. CA claim #	
55. To be completed by the CA:	Claim type code:	Type of loss code:	Late reason code:	Salary paid in lieu of comp?	Death result of injury?

## GENERAL INSTRUCTIONS TO THE EMPLOYER

**Employers, not employees,** are responsible for completing this form. The information is needed to determine liability and entitlement to benefits. You must file this form with your insurer, and give a copy to the employee and the employee's local union office. You are required to provide the employee with a copy of the Employee Information Sheet, which is available on the Department of Labor and Industry's web site at [www.dli.mn.gov](http://www.dli.mn.gov).

**Filing this form is not an admission of liability.** You must report a claim to your insurer whenever anyone believes that a work-related injury or illness that requires medical care or where lost time from work has occurred. If the claimed injury wholly or partially incapacitates the employee for more than **three** calendar days, the claim must be made on this form and reported to your insurer within **ten** days. Your insurer may require you to file it sooner. Failure to file within the **ten** days may result in penalties. It is important to file this form quickly to allow your insurer time to investigate the claim. **Your insurer will report the injury** to the Department of Labor and Industry (Department), when necessary. Self-insured employers have 14 days to report the injury to the Department, when necessary.

**If the claim involves death or serious injury (including injuries that later result in death),** you must notify the Department and your insurer within 48 hours of the occurrence. The claim can be reported initially to the Department by telephone (651-284-5041), fax (651-284-5731), or personal notice. The initial notice must be followed by the filing of this form with the Department within **seven** days of the occurrence, at P.O. Box 64221, St. Paul, MN 55164-0221.

### SEND THIS FORM TO YOUR INSURER IMMEDIATELY – DO NOT WAIT FOR THE DOCTOR'S REPORT

#### SPECIFIC INSTRUCTIONS TO THE EMPLOYER ON COMPLETING THIS FORM

- Item 2: OSHA case #. Fill in the case number from the OSHA 300 log. This form contains all items required by the OSHA form 301.
- Items 17-21: Fill in all the wage information. If the employee does not work a regularly scheduled work week, attach a 26 week wage statement so your insurer can calculate the appropriate average weekly wage. Attach a separate sheet giving the weekly value of any meals, lodging, or 2nd income paid to the employee.
- Item 20: Fill in the average number of days per week that the employee works. Also include their normal work schedule, Sunday - Saturday, by checking the appropriate boxes. If the employee's work schedule fluctuates from week-to-week, leave the boxes blank.
- Items 22-24: Be as specific as possible in describing: the events causing the injury; the nature of the injury (cut, sprain, burn, etc.), and the part(s) of body injured (back, arm, etc.); and the tools, equipment, machines, objects or substances involved.
- Item 26: Fill in the first day the employee lost any time from work (including time lost for medical treatment), even if you paid the employee for the lost time.
- Item 27: Check the appropriate box to indicate if there was lost time on the date of injury and whether you paid for that lost time.
- Item 28: Fill in the date you first became aware of the injury or illness.
- Item 29: Fill in the date you became aware that the lost time indicated in Item 26 was related to the claimed injury.
- Item 30: Leave the box blank if the employee has not returned to work by the time you file this form. If the employee has returned to work, fill in the date and answer the questions in Items 31 and 32. Notify your insurer if the employee misses time due to this injury after that date.
- Item 34: Check all the boxes that apply AT the time you file this form.
- Item 39: Fill in your Federal Employer Identification Number (FEIN). For information, see <https://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Lost-or-Misplaced-Your-EIN>.
- Items 40 and 44: Fill in your Unemployment ID number and North American Industry Classification System (NAICS) code, which are both assigned by the Minnesota Unemployment Insurance Program (651-296-6141).
- Items 46-54: Your insurer or claims administrator will complete this information if you do not have it available.

#### INSTRUCTIONS TO THE INSURER/CLAIMS ADMINISTRATOR (For first reports of injury filed on or after Jan. 1, 2014)

Pursuant to Minnesota Statutes, section 176.231, and Minnesota Rules, part 5220.2530, insurers and self-insured employers must file with the Department's Workers' Compensation Division an electronic first report of injury, according to the requirements set out in sections 2 to 4 of the Minnesota implementation guide, in all cases where a first report of injury is required to be filed under Minnesota Statutes, chapter 176. The Minnesota implementation guide can be found on the Department's website at [www.dli.mn.gov/WC/Edi.asp](http://www.dli.mn.gov/WC/Edi.asp).

A first report of injury submitted by the insurer or self-insured employer in any other manner or format is not considered filed with the division, except for a written first report of injury on a paper form filed by a self-insured employer within seven days of death or serious injury.

If the claim does not involve lost time beyond the waiting period or potential permanent partial disability (PPD), or has not been requested to be filed by the Department, a first report of injury does **not** need to be filed.

***This material can be made available in different forms, such as large print, Braille or audio. To request, call (651) 284-5032 or 1-800-342-5354 Voice or TDD (651) 297-4198***

**ANY PERSON WHO, WITH INTENT TO DEFRAUD, RECEIVES WORKERS' COMPENSATION BENEFITS TO WHICH THE PERSON IS NOT ENTITLED BY KNOWINGLY MISREPRESENTING, MISSTATING, OR FAILING TO DISCLOSE ANY MATERIAL FACT IS GUILTY OF THEFT AND SHALL BE SENTENCED PURSUANT TO SECTION 609.52, SUBDIVISION 3.**

**Adult Ride-Along Form.pdf**

# Adult Ride-Along Waiver

I/We \_\_\_\_\_  
Name of Passenger

of \_\_\_\_\_  
Address

In consideration of being permitted to ride in a City of Fairmont Police Patrol car, do hereby waive any claim for injuries or damages resulting from being a passenger in said vehicle or accompanying an officer of the City of Fairmont in the performance of his duties, whether or not said injury or damage is caused by or due to the negligence of the City of Fairmont, its agents, servants, or employees. Further, the undersigned agrees to indemnify and hold the city of Fairmont and the City of Fairmont Police Department including all its agents and employees, harmless, from any and all losses or damages the undersigned may suffer as a result of costs or judgments arising out of accompanying the City of Fairmont Patrol Officer while in the performance of his duties.

Dated this \_\_\_\_\_ day of \_\_\_\_\_.

WITNESS:

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Passenger

\_\_\_\_\_  
Date of ride

**MN BCA Sexual Assault Evidence  
Testing and Storage Form .pdf**





## Sexual Assault Evidence Testing and Storage Consent Form

Minn. Stat. §299C.106 defines an Unrestricted Kit as “a kit that has an accompanying release form signed by the patient allowing law enforcement to submit the kit to a forensic laboratory”. A Restricted kit is defined as “a kit that does not have an accompanying release form signed by the patient authorizing law enforcement to submit the kit to a forensic laboratory”. Kits must be submitted for either testing or storage within the timeframes specified in the statute.<sup>1</sup>

**This document is designed to guide you in selecting an option to proceed with forensic testing of your kit(s) or to store your kit(s) securely at the BCA Forensic Laboratory.**

**Unrestricted Kit Testing**

- **I am choosing to make a report to law enforcement.**
  - I consent to the forensic testing of samples and specimens collected, also known as Sexual Assault Evidence Collection, Blood and/or Urine Kits.
  - I give permission to the facility at which my examination was performed to release my identifying information and any samples and specimens collected during the forensic examination to the law enforcement agency involved in investigating and prosecuting the suspect(s). This includes the release of my name, date of birth, and location (city and county) of the incident.
  - I understand I may revoke this authorization in writing to the medical facility at any time. However, I understand this revocation may not apply to information or materials already released or to actions already taken.

Print Patient/Guardian<sup>2</sup> Name: \_\_\_\_\_

Patient/Guardian<sup>2</sup> Signature & Date: \_\_\_\_\_

---

Indicate here if kit was previously designated and submitted as a Restricted Kit.

BCA Forensic Laboratory Barcode Number: \_\_\_\_\_

---

**Restricted Kit Storage**

• **I am choosing Restricted Kit Storage for my Sexual Assault Evidence Collection Kit(s).**

- I do not consent to the forensic testing of samples and specimens collected, also known as Sexual Assault Evidence Collection Kit, Blood and/or Urine Kits.
- I understand testing will not occur unless I make a report to law enforcement and provide consent to test my kit as indicated above for Unrestricted Kits.
- I understand that my Restricted Kit(s) will be transported for long-term storage at the BCA Forensic Laboratory.
- I understand that Restricted Kits will be maintained for a minimum of 30 months from the date of receipt by the BCA Forensic Laboratory.
- I understand any identifying information submitted with my Restricted Kit(s) will be used for storage/tracking purposes only, will be kept secure as private data, and will not be shared with law enforcement.

**Any identifying information provided will be maintained as private data pursuant to Minn. Stat. §13.82, Subd. 17(b)**

- I understand, if at any time, I would like to change my decision from Restricted Kit Storage to Unrestricted Kit to be tested, it is my responsibility to contact law enforcement, directly or through my Advocate. I understand I will need to sign a consent form to allow forensic testing.
- I understand that after 30 months, the BCA may destroy the evidence from my forensic examination without any further notification to me.

Print Patient/Guardian<sup>2</sup> Name: \_\_\_\_\_

Patient/Guardian<sup>2</sup> Signature & Date: \_\_\_\_\_

---

For Restricted Kits only - Please check box if Patient/Guardian does not consent to the release of identifying information to the BCA Forensic Laboratory.

I affirm I have discussed the information above with Patient/Guardian and the Patient/Guardian has selected the option of Restricted Kit storage without identifying information\*.

Print Medical Provider Name: \_\_\_\_\_

Medical Provider Signature & Date: \_\_\_\_\_

Medical Facility Identifier\*: \_\_\_\_\_

---

\*If no identifying information is provided with a Restricted Kit, a unique medical facility identifier MUST be included on the kit(s), this Consent form and Restricted Kit Submission Form. Enough information must be provided with this kit to allow for conversion to Unrestricted status if the Patient/Guardian chooses to do so.

### **Medical Provider Instructions and Further Information:**

Other items of evidence (e.g. clothing, bedding) will not be stored at the BCA Forensic Laboratory. Underwear can be included if properly dried and will fit into kit box.

ALL Restricted Kits submitted to the BCA Forensic Laboratory must be accompanied by a **Restricted Sexual Assault Kit Submission Form** for centralized storage.

Include a copy of the Consent and the Restricted Sexual Assault Kit Submission Form inside the kit mailing box.

<sup>1</sup>Minn. Stat. §299C.106, subd. 3. Submission and storage of sexual assault examination kits.

(a) Within 60 days of receiving an unrestricted sexual assault examination kit, a law enforcement agency shall submit the kit for testing to a forensic laboratory. The testing laboratory shall return unrestricted sexual assault examination kits to the submitting agency for storage after testing is complete. The submitting agency must store unrestricted sexual assault examination kits indefinitely.

(b) Within 60 days of a hospital preparing a restricted sexual assault examination kit or a law enforcement agency receiving a restricted sexual assault examination kit from a hospital, the hospital or the agency shall submit the kit to the Bureau of Criminal Apprehension. The bureau shall store all restricted sexual assault examination kits collected by hospitals or law enforcement agencies in the state. The bureau shall retain a restricted sexual assault examination kit for at least 30 months from the date the bureau receives the kit.

<sup>2</sup>Guardian signature required only if applicable. Refer to Minn. Stat. §144.343 , subd. 1 for further information.

**MN BCA Restricted Kit  
Submission and Storage Form.pdf**

**Complete this form and place inside the mailing box. Kits can be hand delivered or mailed to the  
BCA Forensic Laboratory – see page 2**

Keep a copy of this form for your files. Required fields indicated with “\*”.

Name and Location of submitting Medical Facility *		Medical Facility Identifier*
		If Patient name is not provided, this unique number will be needed if the kit is to be converted to Unrestricted for testing purposes.
City, State of Incident*	County of Incident *	Date Kit Collected *
Patient Name		Patient Date of Birth
Law Enforcement Agency (if applicable)		Law Enforcement ICR or Property #
Blood Kit # (as applicable)*		Urine Kit # (as applicable) *
If submitting blood kit for storage, enter # above. Indicate N/A if no blood kit is being submitted.		If submitting a urine kit for storage, enter # above. Indicate N/A if no urine kit is being submitted.

**If the Restricted Kit(s) is being transported to the BCA by the law enforcement agency, the kit(s) must be clearly marked as Restricted to ensure proper barcoding and receipt.**

Once the kit(s) is (are) received by the BCA Forensic Laboratory, a copy of this submission form will be returned to the medical facility personnel or law enforcement officer designated below. The completed form will have the unique barcode number(s) assigned to the SAECK and Toxicology Kits (if submitted). Please keep a copy of this form in the event the patient would like the kit tested in the future (conversion to Unrestricted status).

\*Name \_\_\_\_\_

\*Address \_\_\_\_\_

\*Phone # \_\_\_\_\_

\*Email Address \_\_\_\_\_

BCA LABORATORY USE ONLY:		
Date/Time Received	Lab Personnel Signature	Kit(s) sealed? Yes      No
Barcode(s)		

## **RESTRICTED KIT SUBMISSION INSTRUCTIONS**

**Kits can be mailed by USPS or delivery/courier service to the following address:**

ATTN: RESTRICTED KIT STORAGE  
MN Bureau of Criminal Apprehension  
Forensic Science Services  
1430 Maryland Ave. E.  
St. Paul, MN 55106

**Kits can be delivered in person at the following locations:**

ST. PAUL LOCATION  
MN Bureau of Criminal Apprehension  
1430 Maryland Ave. E.  
St. Paul, MN 55106  
EVIDENCE INTAKE (not the Public Entrance)

BEMIDJI LOCATION  
MN Bureau of Criminal Apprehension  
3700 N. Norris Ct. NW  
Bemidji, MN 56601

ST. CLOUD LOCATION – WEDNESDAYS 9-3PM ONLY  
MN Bureau of Criminal Apprehension  
St. Cloud Police Department  
101 11<sup>th</sup> Ave. N  
St. Cloud, MN 56303  
\*\*Please call ahead\*\*  
Phone: 320-249-2689

**MN BCA Lab Submission Form  
SAK Unrestricted Only.pdf**

# CRIMINAL SEXUAL CONDUCT Evidence Submission Form



FSS-F-EI-1003  
Issue Date: 02/01/2020

- New Case**
- Additional** BCA Lab Case# \_\_\_\_\_
- Resubmission** BCA Lab Case# \_\_\_\_\_

1430 Maryland Ave E  
St. Paul, MN 55106  
Phone: 651-793-2900  
Fax: 651-793-2901

3700 N Norris Ct NW  
Bemidji, MN 56601  
Phone: 218-755-6600  
Fax: 218-755-6623

101 11<sup>th</sup> Ave N  
St. Cloud, MN 56303  
Phone: 320-249-2689  
Fax: 651-793-2901

Website: [bca.dps.mn.gov](http://bca.dps.mn.gov)  
Email: [bca.lab.vault@state.mn.us](mailto:bca.lab.vault@state.mn.us)

**Complete pages 1 and 2**

County of Offense	Date of Offense	Time of Offense (military time)	Jury Trial Date
Investigating Agency		Submitting Agency	
Investigating Officer's Name		Submitted by	
Investigating Officer's Direct Phone & Email Address		Additional Agencies Involved	
Investigating Agency Case / ICR #		Location of Offense	
Prosecutor's Name and Contact Information			

**Associated Individuals (S=Suspect, V=Victim, E-Elimination, O=Other/Owner)**

#	S/V/E/O	Name (Last, First, Middle)	Sex	Race	DOB (MM/DD/YYYY)	SID/FBI Number
1						
2						
3						
4						
5						
6						

**Description of Evidence**

**I affirm that all sexual assault examination kits being submitted are "unrestricted" as defined in MN Statute 299C.106. (initials) "Restricted" kits will not be accepted for forensic testing. (This includes associated blood/urine toxicology kits.)**

Agency Item#	Brief Description and Recovery Location	Individual Associated (use number(s) above)	Known (K) Unknown (U)	Requested Analysis (refer to codes below)	Other Information (e.g. DME: passwords/PINs, DRG: Fed. quant, suspected fentanyl, previous BCA item #, etc.)
			<input type="checkbox"/> K <input type="checkbox"/> U		
			<input type="checkbox"/> K <input type="checkbox"/> U		
			<input type="checkbox"/> K <input type="checkbox"/> U		
			<input type="checkbox"/> K <input type="checkbox"/> U		
			<input type="checkbox"/> K <input type="checkbox"/> U		
			<input type="checkbox"/> K <input type="checkbox"/> U		
			<input type="checkbox"/> K <input type="checkbox"/> U		
			<input type="checkbox"/> K <input type="checkbox"/> U		

**Brief Summary of Case and Special Circumstances**

	<p><b>Requested Analysis Codes</b>  <b>ALC:</b> Alcohol  <b>DRG:</b> Drug Chemistry  <b>DNA:</b> DNA  <b>DME:</b> Digital &amp; Multimedia Evidence  <b>LP:</b> Latent Prints  <b>TRA:</b> Trace Evidence  <b>TOX:</b> Toxicology</p>
--	---



Investigating Agency

Agency Case #

PLEASE CHECK THE SECTIONS THAT CORRESPOND TO  
REQUESTED TESTING ON PAGE 1 AND ANSWER ALL  
ASSOCIATED QUESTIONS

**DNA and/or LP (DNA, LP)**

Has the evidence been previously processed for latent prints?  Yes  No

Are images of processed prints being provided?  Yes  No

Is there additional evidence available that has not been submitted (e.g. clothing, bedding, objects)?  Yes  No

Are known DNA samples and/or prints available from all principals?  Yes  No If No, will they be provided?  Yes  No  
*Please Note: DNA samples collected from convicted offenders for inclusion in the DNA database CANNOT be used as evidence specimens.  
Please Note: Known prints for law enforcement are NOT kept on file.*

If evidence is being examined for prints in blood, is there a question as to the source of the blood?  Yes  No

Does this case involve swabs taken from a weapon?  Yes  No

*If Yes, written permission to consume the evidence must be submitted prior to testing.*

**Alcohol and/or Toxicology (ALC, TOX)**

**If submitting blood and/or urine kits, you must also submit a completed kit sheet and/or SARS/SANE printout.**

Amount of time elapsed between alleged assault and sexual assault exam:

Less than 24 hours

Submit blood and urine samples

More than 24 hours but less than 48 hours

No ALC testing will be performed, submit blood and urine samples for drug analysis

More than 48 hours

No ALC testing will be performed, submit urine only for drug analysis

**Suspected Drug-Facilitated Sexual Assault (DFSA):**

Was Medication given at the medical facility before or after sample collection?  Before  After  N/A

List medication(s):

Did the victim acknowledge taking any drugs (e.g. recreational, prescription, over-the-counter)?  Yes  No

If Yes, list drug(s):

Did the victim consume alcohol?  Yes  No If Yes, how much and over what time frame?

Did the victim  have amnesia  become unconscious  blackout? List any symptoms the victim described:

Were there any witnesses?  Yes  No If Yes, summarize witness account:

**Trace Evidence (TRA)**

Fibers

Glass

Hairs

Physical Match

Shoeprints

Tape

Other:

Were the suspect and victim acquainted with each other?  Yes  No  N/A

Did the suspect have legitimate access to the scene?  Yes  No Have known samples been collected?  Yes  No  N/A

**Drug Chemistry (DRG)**

Are any items associated with a suspected drug-facilitated sexual assault?  Yes  No If Yes, list items:

**Digital & Multimedia Evidence (DME)**

Type of legal authorization provided:  Search Warrant  Consent  Other (explain):

Keywords to be searched:

Has this evidence been previously viewed forensically?  Yes  No

If Yes, describe circumstance and identity of those involved:

Is there any privileged information contained within the evidence?  Yes  No

If Yes, describe:

Who will be the contact for previewing the evidence or for digital evidence-specific questions?

**MN BCA Lab Submission  
Form SAK Restricted Only.pdf**

**Complete this form and place inside the mailing box. Kits can be hand delivered or mailed to the  
BCA Forensic Laboratory – see page 2**

Keep a copy of this form for your files. Required fields indicated with “\*”.

Name and Location of submitting Medical Facility *		Medical Facility Identifier*
		If Patient name is not provided, this unique number will be needed if the kit is to be converted to Unrestricted for testing purposes.
City, State of Incident*	County of Incident *	Date Kit Collected *
Patient Name		Patient Date of Birth
Law Enforcement Agency (if applicable)		Law Enforcement ICR or Property #
Blood Kit # (as applicable)*		Urine Kit # (as applicable) *
If submitting blood kit for storage, enter # above. Indicate N/A if no blood kit is being submitted.		If submitting a urine kit for storage, enter # above. Indicate N/A if no urine kit is being submitted.

**If the Restricted Kit(s) is being transported to the BCA by the law enforcement agency, the kit(s) must be clearly marked as Restricted to ensure proper barcoding and receipt.**

Once the kit(s) is (are) received by the BCA Forensic Laboratory, a copy of this submission form will be returned to the medical facility personnel or law enforcement officer designated below. The completed form will have the unique barcode number(s) assigned to the SAECK and Toxicology Kits (if submitted). Please keep a copy of this form in the event the patient would like the kit tested in the future (conversion to Unrestricted status).

\*Name \_\_\_\_\_

\*Address \_\_\_\_\_

\*Phone # \_\_\_\_\_

\*Email Address \_\_\_\_\_

BCA LABORATORY USE ONLY:		
Date/Time Received	Lab Personnel Signature	Kit(s) sealed? Yes      No
Barcode(s)		

## **RESTRICTED KIT SUBMISSION INSTRUCTIONS**

**Kits can be mailed by USPS or delivery/courier service to the following address:**

ATTN: RESTRICTED KIT STORAGE  
MN Bureau of Criminal Apprehension  
Forensic Science Services  
1430 Maryland Ave. E.  
St. Paul, MN 55106

**Kits can be delivered in person at the following locations:**

ST. PAUL LOCATION  
MN Bureau of Criminal Apprehension  
1430 Maryland Ave. E.  
St. Paul, MN 55106  
EVIDENCE INTAKE (not the Public Entrance)

BEMIDJI LOCATION  
MN Bureau of Criminal Apprehension  
3700 N. Norris Ct. NW  
Bemidji, MN 56601

ST. CLOUD LOCATION – WEDNESDAYS 9-3PM ONLY  
MN Bureau of Criminal Apprehension  
St. Cloud Police Department  
101 11<sup>th</sup> Ave. N  
St. Cloud, MN 56303  
\*\*Please call ahead\*\*  
Phone: 320-249-2689

## **Mayo Medical Record Release Form.pdf**



# Authorization to Release Protected Health Information to a Third Party

Form content retained in medical record.  
Route to HIMS Scanning.

**TO BE  
SCANNED**

**Instructions:** This form is to be used by a patient or legal representative to authorize the release of information to a third party (other than a family member or friend) such as an insurance company, employer, or for legal purposes, etc. Print clearly; each section needs to be completed to be valid.

1. (complete fields or place patient label here)

Patient Name (First, Middle, Last)	
Birth Date (mm-dd-yyyy)	Room Number (if applicable)
Mayo Clinic Number	

**Staff Use Only**

<input type="checkbox"/> ROI to Send Records	<input type="checkbox"/> Scan to Chart
<input type="checkbox"/> Information Released by LAN ID	Date (mm-dd-yyyy)

**2. Additional Patient Information**

Previous or Maiden Name (if applies) (First, Middle, Last)	Daytime Phone	<input type="checkbox"/> Check this box if patient is deceased.
Patient Address (Street, City, State, ZIP Code)		

**3. Release Purpose**

Check appropriate box or write in other purpose.

Continuing care    Disability    Forms completion    Insurance    Legal    Workers' compensation

Other, specify \_\_\_\_\_

**4. Release Information FROM**

Check one box and complete if applicable.

**Mayo Clinic**  
Includes all Mayo Clinic and Mayo Clinic Health System locations

**Other**, specify organization, department, or individual (complete each line below)

\_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

**5. Release/Send Information TO**

Check one box and complete each line for box checked.

**Mayo Clinic**  
Dept. \_\_\_\_\_ Attn. \_\_\_\_\_  
Fax \_\_\_\_\_

**Other**, specify organization, department, or individual (complete each line below)

\_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

This authorization will expire in 1 year from date of signature *unless another date is specified:* \_\_\_\_\_

**By checking this box** I allow the ongoing exchange of information between the above parties until this authorization expires or is revoked.

**By checking this box** I also authorize the release of records for future visits or stays after the date of my signature until this authorization expires or is revoked.

**6. Delivery of Information**

Preferred Method <input type="checkbox"/> Written copy (may include completed forms) <input type="checkbox"/> Verbal only	Date Information Needed by (mm-dd-yyyy)
--	---

Written information will be mailed unless an alternate method is checked.

Patient Portal – Mayo Clinic Patient Online Services

Fax (number listed above in section 5)

Email address \_\_\_\_\_

Pick-up at a Mayo Clinic location, specify \_\_\_\_\_

CD/DVD

USB flash/thumb drive

Other, specify \_\_\_\_\_

# Authorization to Release Protected Health Information to a Third Party (continued)


(complete fields or place patient label here)

Patient Name (First, Middle, Last)
Birth Date (mm-dd-yyyy)
Mayo Clinic Number

## 7. Records or Reports to Be Released

<b>Timeframe to Be Released</b>		
Date(s) _____ or Year(s) _____ <small>(mm-dd-yyyy) (yyyy)</small>		
<b>Document/Note(s)</b> (check all that apply)		
<input type="checkbox"/> Behavioral health/Mental/Psychological notes	<input type="checkbox"/> Emergency department/Urgent care notes	
<input type="checkbox"/> Operative/Procedure notes	<input type="checkbox"/> Provider notes	
<input type="checkbox"/> Therapy notes (physical, occupational, speech)	<input type="checkbox"/> Other, specify _____	
<b>I understand the information to be released may include behavior and/or mental health care, and HIV test results.</b>		
<b>Additional Records</b> (check all that apply)		
<input type="checkbox"/> Allergy list	<input type="checkbox"/> Laboratory results	<input type="checkbox"/> Pathology report(s)
<input type="checkbox"/> Immunizations	<input type="checkbox"/> HIV lab test results	<input type="checkbox"/> EKG(s)/Cardio/Echo
<input type="checkbox"/> Medication list	<input type="checkbox"/> Genetic testing	<input type="checkbox"/> Radiology report(s)
<input type="checkbox"/> Billing information for records checked		<input type="checkbox"/> Radiology image(s), specify exam(s)/body part(s)
<b>Substance Abuse and Addiction Treatment Records</b> (check all that apply)		
<input type="checkbox"/> Assessment/Evaluation	<input type="checkbox"/> Family participation invitation	<input type="checkbox"/> Treatment plans
<input type="checkbox"/> History and physical exam	<input type="checkbox"/> Questionnaires	<input type="checkbox"/> Other, specify _____
<input type="checkbox"/> Multidisciplinary notes	<input type="checkbox"/> Treatment/Discharge summary	
<b>Other</b> , specify if applicable _____		

## 8. Signature and Date The patient or legal representative must sign and date this authorization.

<ul style="list-style-type: none"> <li>This authorization may be revoked at any time by providing a written notice of revocation to the Health Information Management Services (HIMS) Release of Information (ROI) department at the facility releasing the information, except to the extent that the Providers have already taken action in reliance on it.</li> <li>Information used or disclosed pursuant to this authorization may be subject to re-disclosure by the recipient and may no longer be protected by the Federal Privacy Law (42 CFR Part 2) (HIPAA).</li> <li>I understand that Mayo Clinic will not condition treatment on whether I sign this authorization.</li> <li>I may request a copy of the signed authorization.</li> <li>I may be charged for copies in accordance with state law.</li> <li>I have a right to inspect and receive a copy of the material to be disclosed.</li> </ul>	
<b>Note:</b> A patient (18 years or older) must authorize the release of their own information unless patient is incapacitated or deceased. If signing for a minor patient, I hereby state that my parental rights have not been revoked by a court of law. Specific situation(s) may require minor's authorization.	
<b>Signature</b> (required)	<b>Date</b> (required) (mm-dd-yyyy)
	
<b>Printed Name</b> of Person Signing (if not patient) (First, Middle, Last)	
<b>Relationship if Not Patient</b> (legal documentation of the right of access by the signing individual may be required)	
<input type="checkbox"/> Parent <input type="checkbox"/> Stepparent <input type="checkbox"/> Legal guardian <input type="checkbox"/> Foster parent <input type="checkbox"/> Health care power of attorney/agent <input type="checkbox"/> Other _____	

## HIMS\* Release of Information Contact Information

<b>Arizona</b> 13400 East Shea Boulevard Scottsdale, AZ 85259 Phone 480-301-4211 Fax 480-301-7282	<b>Florida</b> 4500 San Pablo Road Jacksonville, FL 32224 Phone 904-953-2022 Fax 904-953-2242	<b>Rochester</b> 200 First Street SW Rochester, MN 55905 Phone 507-284-4594 Fax 507-284-0161	<b>MCHS MN</b> 1025 Marsh Street Mankato, MN 56001 Phone 507-594-2621 Fax 507-422-0902	<b>MCHS WI</b> 1400 Bellinger Street Eau Claire, WI 54703-5211 Phone 715-838-6395 Fax 715-838-3058
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**Reminder:** If sending records **TO** Mayo Clinic, fax records to number indicated in section 5 on page 1.

\*Health Information Management Services

## Juvenile Ride-Along Form.pdf



# JUVENILE RIDE- ALONG WAIVER

I/We,

\_\_\_\_\_  
Name of passenger(s)

and

\_\_\_\_\_  
Parent or Guardian

of

\_\_\_\_\_  
Address

In consideration of being permitted to ride in a City of Fairmont Police Patrol car, do hereby waive any claim for injuries or damages resulting from being a passenger in said vehicle or accompanying an officer of the City of Fairmont in the performance of his duties, whether or not said injury or damage is caused by or due to the negligence of the City of Fairmont, its agents, servants, or employees. Further, the undersigned agrees to indemnify and hold the City of Fairmont and the City of Fairmont Police Department, including all its agents and employees, harmless, from any and all losses or damages the undersigned may suffer as a result of costs or judgements arising out of accompanying the City of Fairmont Patrol Officer while in the performance of his duties.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

WITNESS:

\_\_\_\_\_  
Signature of Parent

\_\_\_\_\_  
Signature of Passenger

## **Model Sexual Assault Investigation Policy.pdf**

## **I. PURPOSE**

The purpose of this policy is to provide employees with guidelines for responding to reports of sexual assault. This agency will strive:

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

## **II. POLICY**

It is the policy of the \_\_\_\_\_ (law enforcement agency) to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring its peace officers understand the laws governing this area. Sexual assault crimes are under-reported to law enforcement and the goal of this policy is in part to improve victim experience in reporting so that more people are encouraged to report.

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

Peace officers will utilize this policy in response to sexual assault reported to this agency. This agency will aggressively enforce the laws without bias and prejudice based on race, marital status, sexual orientation, economic status, age, disability, gender, religion, creed, or national origin.

## **III. DEFINITIONS**

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

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

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

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

- (2) receives services at or from a facility required to be licensed to serve adults under sections [245A.01](#) to [245A.15](#), except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);
- (3) receives services from a home care provider required to be licensed under sections [144A.43](#) to [144A.482](#); or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections [256B.0625, subdivision 19a, 256B.0651](#) to [256B.0654](#), and [256B.0659](#); or
- (4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
  - (i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and
  - (ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

#### **IV. PROCEDURES**

##### **A. Communications Personnel Response/Additional Actions by Responding Officers**

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

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

##### **B. Initial Officer Response**

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

- 1) Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.

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

### C. Victim Interviews

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

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

- Offer to have a confidential victim advocate present (if possible) if the victim would benefit from additional support during the process
- Whenever possible, conduct victim interviews in person
- Make an effort to conduct the interview in a welcoming environment
- Let the victim share the details at their own pace
- Recognize victims of trauma may have difficulty remembering incidents in a linear fashion and may remember details in days and weeks following the assault
- After the initial interview, consider reaching out to the victim within a few days, after at least one sleep cycle to ask if they remember any additional details.

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

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

**1. Minors and Vulnerable Adults**

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

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

- b. Initial responding officers should not attempt to interview the victim in these situations, but should instead attempt to obtain basic information and facts about the situation, including the jurisdiction where the incident occurred and that a crime most likely occurred. Officers should seek to obtain this information from parents, caregivers, the reporting party, or other adult witnesses, unless those individuals are believed to be the perpetrators.
- c. Officers responding to victims with special considerations must comply with the mandated reporting requirements of Minnesota Statute 626.556 and 626.557, as applicable. Officers investigating cases involving victims with special considerations should coordinate these investigations with the appropriate local human services agency where required. Any victim or witness interviews conducted with individuals having special considerations must be audio and video recorded whenever possible. All other interviews must be audio recorded whenever possible.

Not all sexual assaults of minor victims require a mandatory report to social services. This policy recognizes that in certain cases, notifying and/or the involvement of a parent/guardian can cause harm to the minor and/or impede the investigation. Officers responding to the sexual assault of a minor victim that does not trigger a mandated report under Minn. Stat. 626.556 should assess for the impact on the victim and the investigation if parents/guardians were notified before making a decision to involve them.

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



**E. Protecting Victim Rights**

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

**F. Evidence Collection**

- 1) Considerations for Evidence Collection  
Officers shall follow this agency's policy on crime scene response. In addition, officers may do the following:
  - a. Collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing. The agency should consider utilizing their agency or county crime lab in obtaining or processing the scene where the assault took place. This should be in accordance to any/all other policies and procedures relating to evidence collections.
  - b. Document any evidence of threats or any communications made by the suspect, or made on behalf of the suspect, to include those made to individuals other than the victim.

- c. In situations where it is suspected that drugs or alcohol may have facilitated the assault, officers should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, or other related items.
- d. If the victim has declined or a medical forensic exam will not be conducted, the officer should obtain victim consent and attempt to take photographs of visible physical injuries, including any healing or old injuries. Victim should be given directions about how to document any bruising or injury that becomes evidence later after these photographs are taken.

**G. Sexual Assault Medical Forensic Examinations**

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

**H. Contacting and Interviewing Suspects**

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

- 1) Conduct a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.
- 2) Consider conducting a pretext or confrontational call or messaging depending on jurisdictional statutes. Involvement of a victim should be based on strong

consideration of the victim's emotional and physical state. A victim advocate should be present whenever possible to offer support.

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

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

Note: A suspect's forensic examination and/or the collection of evidence from a suspect may be done by either an investigating officer/investigator, Forensic Medical Examiner, or the agency/county crime lab personnel.

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

**J. Role of the Supervisor**

Supervisors may do the following:

- 1) Assist officers investigating incidents of sexual assault when possible or if requested by an officer.
- 2) Provide guidance and direction as needed.
- 3) Review sexual assault reports to ensure that necessary steps were taken during initial response and investigations.

**K. Case Review/Case Summary**

A supervisor should ensure cases are reviewed on an on-going basis. The review process should include an analysis of:

- 1) Case dispositions
- 2) Decisions to collect evidence
- 3) Submissions of evidence for lab testing
- 4) Interviewing decisions

## **Eyewitness Identification Procedures Model Policy.pdf**

## EYEWITNESS IDENTIFICATION PROCEDURES MODEL POLICY

Minn. Stat. 626.8433

### **POLICY:**

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

### **Purpose:**

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

### **Definitions:**

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

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

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

**Administrator:** The law enforcement official conducting the identification procedure.

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

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

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

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

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

## **Procedure:**

### **1. Show-ups**

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

- a. Document the witness's description of the perpetrator prior to conducting the show up.
- b. Conduct a show-up only when the suspect is detained within a reasonably time frame after the commission of the offense and within a close physical proximity to the location of the crime.
- c. Do not use a show-up procedure if probable cause to arrest the suspect has already been established.
- d. If possible, avoid conducting a show-up when the suspect is in a patrol car, handcuffed, or physically restrained by officers, unless safety concerns make this impractical.
- e. Caution the witness that the person he or she is about to see may or may not be the perpetrator—and it is equally important to clear an innocent person. The witness should also be advised that the investigation will continue regardless of the outcome of the show-up.
- f. Do not conduct the show-up with more than one witness present at a time.
- g. Separate witnesses and do not allow communication between them before or after conducting a show-up.
- h. If one witness identifies the suspect, use a line-up or photo array for remaining witnesses.
- i. Do not present the same suspect to the same witness more than once.

- j. Do not require show-up suspects to put on clothing worn by, speak words uttered by, or perform other actions of the perpetrator.
- k. Officers should scrupulously avoid words or conduct of any type that may suggest to the witness that the individual is or may be the perpetrator.
- l. Ask the witness to provide a confidence statement.
- m. Remind the witness not to talk about the show-up to other witnesses until police or prosecutors deem it permissible.
- n. Videotape the identification process using an in-car camera or other recording device when feasible.
- o. Document the time and location of the show-up, the officers present, the result of the procedure, and any other relevant information.

## **Line-up and Photo Array Procedures**

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

- a. Line-ups will not typically be utilized for investigations, unless conducting a photo array is not possible.
- b. Whenever possible, a blind presentation shall be utilized. In cases where a blind presentation is not feasible for a photo array, a blinded presentation should be used. Live line-ups must be conducted using a blind presentation.
- c. The line-up or photo array should consist of a minimum of six individuals or photographs. Use a minimum of five fillers and only one suspect.
- d. Fillers should be reasonably similar in age, height, weight, and general appearance and be of the same sex and race, in accordance with the witness's description of the offender.
- e. Avoid the use of fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
- f. Create a consistent appearance between the suspect and the fillers with respect to any unique or unusual feature (e.g., scars, tattoos, facial hair) used to describe the perpetrator by artificially adding or concealing that feature on the fillers.
- g. If there is more than one suspect, include only one in each line-up or photo array.



- h. During a blind presentation, no one who is aware of the suspect's identity should be present during the administration of the photo array. However, during a line-up, the suspect's attorney should be present.
- i. Place suspects in different positions in each line-up or photo array, both across cases and with multiple witnesses in the same case.
- j. Witnesses should not be permitted to see or be shown any photos of the suspect prior to the line-up or photo array.
- k. The witness shall be given a copy of the following instructions prior to viewing the line-up or photo array and the administrator shall read the instructions aloud before the identification procedure.

*You will be asked to look at a series of individuals.*

*The perpetrator may or may not be present in the identification procedure.*

*It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.*

*I don't know whether the person being investigated is included in this series.*

*Sometimes a person may look different in a photograph than in real life because of different hair styles, facial hair, glasses, a hat or other changes in appearance. Keep in mind that how a photograph was taken or developed may make a person's complexion look lighter or darker than in real life.*

*You should not feel that you have to make an identification. If you do identify someone, I will ask you to describe in your own words how certain you are.*

*The individuals are not configured in any particular order.*

*If you make an identification, I will continue to show you the remaining individuals or photos in the series.*

*Regardless of whether you make an identification, we will continue to investigate the incident.*

*Since this is an ongoing investigation, you should not discuss the identification procedures or results*

- l. The line-up or photo array should be shown to only one witness at a time; officers should separate witnesses so they will not be aware of the responses of other witnesses.
- m. Multiple identification procedures should not be conducted in which the same witness views the same suspect more than once.
- n. Officers should scrupulously avoid the use of statements, cues, casual comments, or providing unnecessary or irrelevant information that in any manner may influence the witnesses' decision-making process or perception.
- o. Following an identification, the administrator shall ask the witness to provide a confidence statement and document the witness's response.
- p. The administrator shall ask the witness to complete and sign an Eyewitness Identification Procedure Form.
- q. Line-up and photo array procedures should be video or audio recorded whenever possible. If a procedure is not recorded, a written record shall be created and the reason for not recording shall be documented. In the case of line-ups that are not recorded, agents shall take and preserve a still photograph of each individual in the line-up.

### 3. Photographic Arrays

#### a. Creating a Photo Array

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

#### b. Conducting the Photo Array

1. The photo array should be preserved, together with full information about the identification process as part of the case file and documented in a report.

2. If a blind administrator is not available, the administrator shall ensure that a blinded presentation is conducted using the following procedures.
  - a. Place the suspect and at least five filler photos in separate folders for a total of six (or more depending on the number of fillers used).
  - b. The administrator will take one folder containing a known filler and place it to the side. This will be the first photo in the series. The administrator should then shuffle the remaining folders (containing one suspect and the remainder of fillers) such that he or she cannot see how the line-up members are ordered. These shuffled folders will follow the first filler photo. The stack of photos is now ready to be shown to the witness.
  - c. The administrator should position himself or herself so that he or she cannot see inside the folders as they are viewed by the witness.
3. The witness should be asked if he or she recognizes the person in the photo before moving onto the next photo. If an identification is made before all of the photos are shown, the administrator should tell the witness that he or she must show the witness all of the photos and finish showing the sequence to the witness, still asking after each photo if the witness recognizes the person in the photo.
4. If possible, the array should be shown to the witness only once. If, upon viewing the entire array the witness asks to see a particular photo or the entire array again, the witness should be instructed that he or she may view the entire array only one additional time. If a second viewing is permitted, it must be documented.

#### 4. Line-ups

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

**References:**

Eyewitness Identification Procedure Form  
Sequential Photo Display Form

## **Confidential Informants Model Policy .pdf**

## CONFIDENTIAL INFORMANTS MODEL POLICY

MN STAT 626.8476

### I. POLICY

It is the policy of the (**law enforcement agency**) to establish procedures and protocols that take necessary precautions concerning the recruitment, control and use of confidential informants.

### II. DEFINITIONS

- A. Confidential Informant (CI):** A person who cooperates with a law enforcement agency confidentially in order to protect the person or the agency's intelligence gathering or investigative efforts and;
1. seeks to avoid arrest or prosecution for a crime, mitigate punishment for a crime in which a sentence will be or has been imposed, or receive a monetary or other benefit; and
  2. is able, by reason of the person's familiarity or close association with suspected criminals, to:
    - i. make a controlled buy or controlled sale of contraband, controlled substance, or other items that are material to a criminal investigation;
    - ii. supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or
    - iii. otherwise provide information important to ongoing criminal intelligence gathering or criminal investigative efforts.
- B. Controlled Buy:** means the purchase of contraband, controlled substances, or other items that are material to a criminal investigation from a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.
- C. Controlled Sale:** means the sale of contraband, controlled substances, or other items that are material to a criminal investigation to a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.
- D. Mental Harm:** means a psychological injury that is not necessarily permanent but results in visibly demonstrable manifestations of a disorder of thought or mood that impairs a person's judgment or behavior.
- E. Target Offender:** means the person suspected by law enforcement personnel to be implicated in criminal acts by the activities of a confidential informant.
- F. Confidential Informant File:** means a file maintained to document all information that pertains to a confidential informant.
- G. Unreliable Informant File:** means a file containing information pertaining to an individual who has failed at following an established written confidential informant agreement and has been determined to be generally unfit to serve as a confidential informant.
- H. Compelling Public Interest:** means, for purposes of this policy, situations in which failure to act would result or likely result in loss of life, serious injury, or have some serious negative consequence for persons, property, or public safety and therefore demand action.
- I. Overseeing agent:** means the officer primarily responsible for supervision and management of a confidential informant.

### III. PROCEDURES

#### A. Initial Suitability Determination

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

1. An officer requesting use of an individual as a CI must complete an Initial Suitability Report. The report must be submitted to the appropriate individual or entity, as determined by the agency chief executive, to review for potential selection as a CI. The report must include sufficient detail regarding the risks and benefits of using the individual so that a sound determination can be made. The following information must be addressed in the report, where applicable:
  - a. Age, sex, and residence
  - b. Employment status or occupation
  - c. Affiliation with legitimate businesses and illegal or suspicious enterprises
  - d. Extent to which potential information, associations, or other assistance could benefit a present or future investigation
  - e. Relationship with the target of an investigation
  - f. Motivation in providing information or assistance
  - g. Risk of adversely affecting an existing or future investigation
  - h. Extent to which provided information can be corroborated
  - i. Prior record as a witness
  - j. Criminal history, to include whether he or she is the subject of a pending investigation, is under arrest, or has been charged with a crime
  - k. Risk to the public or as a flight risk
  - l. Consultation with the individual's probation, parole, or supervised release agent, if any
  - m. Consideration and documentation of the individual's diagnosis of mental illness, substance use disorder, traumatic brain injury, or disability; and consideration and documentation of the individual's history of mental illness, substance use disorder, traumatic brain injury or disability
  - n. Relationship to anyone in law enforcement
  - o. Risk of physical harm to the potential CI or their immediate family or relatives for cooperating with law enforcement
  - p. Prior or current service as a CI with this or another law enforcement organization
2. Prior to an individual's use as a CI, a supervisor or other designated authority must review the Initial Suitability Report and determine if the individual is authorized to serve as a CI.
3. Any prospective or current CI must be excluded from engaging in a controlled buy or sale of a controlled substance if the prospective or current CI:
  - a. is receiving in-patient treatment or partial-hospitalization treatment administered by a licensed service provider for a substance use disorder or mental illness; or
  - b. is participating in a treatment-based drug court program or treatment court; except that
  - c. the prospective or current CI may provide confidential information while receiving treatment, participating in a treatment-based drug court program or treatment court.

4. Documentation and special consideration must be made of the risks involved in engaging a prospective or current CI in the controlled buy or sale of a controlled substance if the individual is known, or has reported, to have experienced a drug overdose in the previous 12 months.
5. Any prospective or current CI who is known to abuse substances, or is at risk for abusing substances, should be provided referral to prevention or treatment services.
6. Any prospective or current CI that has a physical or mental illness that impairs the ability of the individual to understand instructions and make informed decisions should be referred to a mental health professional or other appropriate medical professional, or a case manager/social worker from the county social services agency, or other substance abuse and mental health services.
7. Each CI's suitability must be reviewed every 6 months, at a minimum, during which time the CI's overseeing agent must submit a Continuing Suitability Report addressing the foregoing issues in III.A.1.a-p, and III.A.3-6, where applicable. An initial suitability determination must be conducted on a reactivated CI regardless of the length of inactivity.
8. Any information that may negatively affect a CI's suitability during the course of their use must be documented in the CI's file and forwarded to the appropriate authorized personnel as soon as possible.
9. Supervisors must review informant files regularly with the overseeing agent and must attend debriefings of CIs periodically as part of the informant management process. If a CI is active for more than 12 months, a supervisory meeting with the CI must be conducted without the overseeing agent.
10. CI contracts must be terminated, and the CI file placed in inactive status when the CI has not been utilized for 6 months or more.

## **B. Exigent Confidential Informants**

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

## **C. Special CI Approval Requirements**

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

1. Juveniles
  - a. Use of a juvenile under the age of 18 for participating in a controlled buy or sale of a controlled substance or contraband may be undertaken only with the written authorization of the individual's parent(s) or guardian(s), except that the juvenile informant may provide confidential information.



- b. Authorization for such use should be granted only when a compelling public interest can be demonstrated, *except that*
  - c. Juveniles under the guardianship of the State may not be used as a CI.
2. Individuals obligated by legal privilege of confidentiality.
  3. Government officials.

#### **D. General Guidelines for Overseeing CIs**

General guidelines for overseeing CIs are as follows:

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

- i. CIs who participate in unplanned or unanticipated activities or meet with a subject(s) under investigation in a location outside of the jurisdictional boundary of the handling agency must promptly report that activity or meeting to their overseeing agents.
9. CI activity outside jurisdictional boundaries:
  - a. Investigators handling CIs who engage in operational activity in locations outside the jurisdictional boundaries of the agency must coordinate with counterparts in law enforcement agencies that have jurisdiction in that location where the CI will operate before any activity occurs, or in a timely manner after unanticipated activity occurs and is brought to the attention of the overseeing agent.
  - b. Any decision to defer or delay notice to or coordinate with an outside agency having jurisdiction in the area where a CI has or may operate must be documented, reviewed, and approved by the agency's chief executive or their designee.
10. Officers must take the utmost care to avoid conveying any confidential investigative information to a CI, such as the identity of other CIs, surveillance activities, or search warrants, other than what is necessary and appropriate for operational purposes.
11. No member of this agency must knowingly maintain a social relationship with a CI, or otherwise become personally involved with a CI beyond actions required in the performance of duty.
12. Members of this agency must not solicit, accept gratuities from, or engage in any private business transaction with a CI.
13. Meetings with a CI must be conducted in private with another officer or agent present and with at least one officer or agent of the same sex, except when not practical. The meeting location should minimize the potential for discovery of the informant's cooperation and provide sufficient space to complete necessary administrative duties. The meetings must be documented and subsequently entered into the individual's CI file.
14. Overseeing agents must develop and follow a communications strategy and plan with the CI that minimizes, to the greatest extent possible, the risk of discovery or compromise of the relationship between the agency and the CI. This plan should also aim to prevent the detection, compromise, or interception of communications between the overseeing agent and the CI.
15. Procedures must be instituted to assist CIs with concealing their identity and maintaining their safety. Care should be given not to expose CIs to unnecessary safety risks.
16. Preceding or following every buy or sale of controlled substances, overseeing agents must screen the CI for any personal safety or mental health concerns, risk of substance abuse, and/or potential relapse in any substance abuse recovery.
  - a. At the request of the CI, or if the overseeing agent deems it necessary, reasonable efforts should be taken to provide the CI with referral to substance abuse and/or mental health services.
  - b. Overseeing agents must document:
    - i. the screening,
    - ii. any referral to services provided to, or requested by, the CI, and
    - iii. any refusal by the CI to participate in the screening and/or any refusal by the CI to accept referral to services. Reasons for the CI's refusal must be documented, where applicable.
  - c. No part of this subsection supersedes MN Stat. 253B.05, sub.2.

17. Reasonable protective measures must be provided for a CI when any member of this agency knows or should have known of a risk or threat of harm to a person serving as a CI and the risk or threat of harm is a result of the informant's service to this agency.
18. Overseeing agents must:
  - a. evaluate and document the criminal history and propensity for violence of target offenders; and
  - b. to the extent allowed, provide this information to the CI if there is a reasonable risk or threat of harm to the CI as a result of the CI's interaction with the target offender.
19. Reasonable efforts and precautions must be made to help protect the identity of a CI during the time the person is acting as an informant.
20. Whenever possible, officers must corroborate information provided by a CI and document efforts to do so.
21. The name of a CI must not be included in an affidavit for a warrant unless judicial authority is obtained to seal the document from the public record or the CI is a subject of the investigation upon which the affidavit is based.
22. Overseeing agents are responsible for ensuring that information of potential value to other elements of the agency is provided promptly to authorized supervisory personnel and/or other law enforcement agencies as appropriate.
23. Individuals leaving employment with the agency have a continuing obligation to maintain as confidential the identity of any CI and the information he or she provided unless obligated to reveal such identity or information by law or court order.

#### **E. Establishment of an Informant File System**

An informant file system must be established as follows:

1. The agency chief executive must designate a file supervisor who must be responsible for developing and maintaining master CI files and an indexing system.
2. A file must be maintained on each CI deemed suitable by the agency.
3. An additional Unreliable Informant File must be established for CIs deemed unsuitable during initial suitability determinations or at a later time.
4. Each file must be coded with an assigned informant control number for identification within the indexing system and must include the following information, where applicable:
  - a. Name, aliases, and date of birth
  - b. Height, weight, hair color, eye color, race, sex, scars, tattoos, or other distinguishing features
  - c. Emergency contact information
  - d. Name of the officer initiating use of the informant and any subsequent overseeing agents
  - e. Photograph and criminal history record
  - f. Current home address and telephone number(s)
  - g. Residential addresses in the last five years
  - h. Current employer, position, address, and telephone number
  - i. Social media accounts
  - j. Marital status and number of children

- k. Vehicles owned and their registration numbers
  - l. Places frequented
  - m. Gang affiliations or other organizational affiliations
  - n. Briefs of information provided by the CI and the CI's subsequent reliability
  - o. Special skills and hobbies
  - p. Special areas of criminal expertise or knowledge
  - q. A copy of the signed informant agreement
5. CI files must be maintained in a separate and secured area.
  6. The file supervisor must ensure that information concerning CIs is strictly controlled and distributed only to officers and other authorities who have a need and a right to such information.
  7. CI File Review
    - a. Sworn personnel may review an individual's CI file only upon the approval of the agency's chief executive or their designee.
    - b. The requesting officer must submit a written request explaining the need for review. A copy of this request, with the officer's name, must be maintained in the individual's CI file.
    - c. Officers must not remove, copy, or disseminate information from the CI file.
    - d. CI files must be reviewed only in designated areas of the law enforcement facility and returned as soon as possible to their secure file location.
    - e. All disclosures or access to CI files must be recorded by the file supervisor, to include information such as the requesting officer or agency, the purpose of access or disclosure, the information conveyed, and the date and time of access or dissemination.
    - f. No portion of an individual's CI file must be entered into any other electronic or related database without controls sufficient to exclude access to all but authorized personnel with a need and a right to know.

## **F. Deactivation of Confidential Informants**

A CI deactivation procedure must be established as follows:

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

- i. A signature by the overseeing agent.
2. All reasonable efforts must be taken to maintain the safety and anonymity of the CI after deactivation.

## **G. Monetary Payments**

Monetary payments must be managed as follows:

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

**FPD Sexual Assault Policy  
3.41 Revised 02-22-2021.pdf**

# FAIRMONT

**Police Department**

DATE: 04/01/2019	"TO PROMOTE AND PRESERVE THE PUBLIC'S SAFETY"	NUMBER: 3.41
REVISION: 02/22/2021		PAGE 1 OF 12
SECTION: Operations		APPLICATION:  All Members
TITLE: Sexual Assault Investigations		
REFERENCES: MN 609.341, 609.342 to 609.3451, 518B.01, 595.02, 626.5572, 245A.01 to 245A.15, 143A.43 to 144A.482, 256B.0625, 256B.0651 to 256B.0654, 256B.0659, 260E.06, 260E.22, 609.557, 611A,		

**I. PURPOSE**

The purpose of this policy is to provide employees with guidelines for responding to reports of sexual assault. This agency will strive:

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

**II. POLICY**

It is the policy of the Fairmont Police Department to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring its peace officers understand the laws governing this area. Sexual assault crimes are under-reported to law enforcement and the goal of this policy is in part to improve victim experience in reporting so that more people are encouraged to report.

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

Peace officers will utilize this policy in response to sexual assault reported to this agency. This agency will aggressively enforce the laws without bias and prejudice based on race, marital status, sexual orientation, economic status, age, disability, gender, religion, creed, or national origin.

### III. DEFINITIONS

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

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

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

B. **Child or Minor:** a person under the age of 18.

C. **Medical Forensic Examiner:** The health care provider conducting a sexual assault medical forensic examination.

D. **Sexual Assault:** A person who engages in sexual contact or penetration with another person in a criminal manner as identified in MN Statute 609.342 to 609.3451.

E. **Family and Household Member:** As defined in Minn. Stat. 518.B.01 Subd.2.b. to include:

- (1) spouses or former spouses;
- (2) parents and children;
- (3) persons related by blood;
- (4) persons who are presently residing together or who have resided together in the past;
- (5) persons who have a child in common regardless of whether they have been married or have lived together at any time;
- (6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and
- (7) persons involved in a significant romantic or sexual relationship

F. **Sexual Assault Medical Forensic Examination:** An examination of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients.



- G. **Victim Advocate:** A Sexual Assault Counselor defined by Minn. Stat. 595.02, subd. 1(k) and/or Domestic Abuse Advocate as defined by Minn. Stat. 595.02, subd. 1(1) who provide confidential advocacy services to victims of sexual assault and domestic abuse. Victim advocates as defined provide coverage in all counties in Minnesota. Minnesota Office of Justice Programs (MN OJP) can assist departments in locating their local victim advocacy agency for the purposes outlined in this policy.
- H. **Victim Centered:** A victim-centered approach prioritizes the safety, privacy and well-being of the victim and aims to create a supportive environment in which the victim's rights are respected and in which they are treated with dignity and respect. This approach acknowledges and respects a victims' input into the criminal justice response and recognizes victims are not responsible for the crimes committed against them.
- I. **Vulnerable Adult:** any person 18 years of age or older who:
- (1) is a resident inpatient of a facility as defined in Minn. Stat. 626.5572. Subd. 6;
  - (2) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);
  - (3) receives services from a home care provider required to be licensed under sections 144A.43 to 144A.482; or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654, and 256B.0659; or
  - (4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
    - (i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and
    - (ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

#### IV. PROCEDURES

##### A. **Communications Personnel Response/Additional Actions by Responding Officers**

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

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

**B. Initial Officer Response**

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

- 1) Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.
- 2) The officer shall attempt to determine the location/jurisdiction where the assault took place.
- 3) Explain the reporting process including the roles of the first responder, investigator, and anyone else with whom the victim will likely interact during the course of the investigation.
- 4) Officers are encouraged to connect the victim with local victim advocates as soon as possible. The Fairmont Police Department currently uses a local advocate from CADA House Mankato. Dispatch shall maintain contact information for CADA. Inform the victim that there are confidential victim advocates available to address any needs they might have and to support them through the criminal justice system process. Provide the victim with contact information for the local victim advocate. Upon victim request the officer can offer to contact local victim advocate on behalf of the victim.
- 5) Ask about and document signs and symptoms of injury, to include strangulation. Officers shall attempt to obtain a signed medical release from the victim. Officers shall also seek to obtain a signed consent for from the victim to give consent to have any evidence or sexual assault kit collected to be sent to the Minnesota BCA to be processed.
- 6) Ensure that the victim knows they can go to a designated facility for a forensic medical exam. Offer to arrange for transportation for the victim.
- 7) Identify and attempt to interview potential witnesses to the sexual assault and/or anyone the victim told about the sexual assault.
- 8) Request preferred contact information for the victim for follow-up.

### C. Victim Interviews

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

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

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

**D. Special Considerations—Minors and Vulnerable Adults/Domestic Abuse Victims****1. Minors and Vulnerable Adults**

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

- a. Officers responding to reports of sexual assaults involving these sensitive population groups shall limit their actions to the following:
  - (1) Ensuring the safety of the victim;
  - (2) Ensuring the scene is safe;
  - (3) Safeguarding evidence where appropriate;
  - (4) Collecting any information necessary to identify the suspect; and
  - (5) Addressing the immediate medical needs of individuals at the scene
- b. Initial responding officers should not attempt to interview the victim in these situations, but should instead attempt to obtain basic information and facts about the situation, including the jurisdiction where the incident occurred and that a crime most likely occurred. Officers should seek to obtain this information from parents, caregivers, the reporting party, or other adult witnesses, unless those individuals are believed to be the perpetrators.
- c. Officers responding to victims with special considerations must comply with the mandated reporting requirements of Minnesota Statute Section 260E.06 and 626.557, as applicable. Officers investigating cases involving victims with special considerations should coordinate these investigations with the appropriate local human services agency where required. Any victim or witness interviews conducted with individuals having special considerations must be audio and video recorded whenever possible. All other interviews must be audio recorded whenever possible.

Not all sexual assaults of minor victims require a mandatory report to social services. This policy recognizes that in certain cases, notifying and/or the involvement of a parent/guardian can cause harm to the minor and/or impede the investigation. Officers responding to the sexual assault of a minor victim that does not trigger a mandated report under Minnesota

Statute Section 260E.22 should assess for the impact on the victim and the investigation if parents/guardians were notified before making a decision to involve them.

- d. Officers should obtain necessary contact information for the victim's caregiver, guardian or parents and where the victim may be located at a later time. Officers should advise the victim and/or any accompanying adult(s), guardians or caregivers that an investigating officer will follow up with information on a forensic interview.
- e. The officer should advise the victim's caregiver, guardian or parent that if the victim starts to talk about the incident they should listen to them but not question them as this may influence any future statements.

## 2. Victims of Domestic Abuse

Officers responding to a report of sexual assault committed against a family and household member must also follow the requirements and guidelines in this agency's domestic abuse policy and protocol, in addition to the guidelines in this policy.

## E. Protecting Victim Rights

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

- 3) Other information: Officers should provide to the victim the agency's crime report/ICR number, and contact information for the reporting officer and/or investigator or person handling the follow up.
- 4) Language access: All officers shall follow agency policy regarding limited English proficiency.

#### **F. Evidence Collection**

##### **1) Considerations for Evidence Collection**

Officers shall follow this agency's policy on crime scene response. In addition, officers may do the following:

- a. Collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing. The agency should consider utilizing their agency or county crime lab in obtaining or processing the scene where the assault took place. This should be in accordance to any/all other policies and procedures relating to evidence collections.
- b. Document any evidence of threats or any communications made by the suspect, or made on behalf of the suspect, to include those made to individuals other than the victim.
- c. In situations where it is suspected that drugs or alcohol may have facilitated the assault, officers should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, or other related items.
- d. If the victim has declined or a medical forensic exam will not be conducted, the officer should obtain victim consent and attempt to take photographs of visible physical injuries, including any healing or old injuries. Victim should be given directions about how to document any bruising or injury that becomes evidence later after these photographs are taken.

#### **G. Sexual Assault Medical Forensic Examinations**

- 1) Prior to the sexual assault medical forensic examination the investigating officer should do the following:
  - a. Ensure the victim understands the purpose of the sexual assault medical forensic exam and its importance to both their general health and wellness and to the investigation. Offer assurance to the victim that they will not incur any out-of-pocket expenses for forensic medical exams and provide information about evidence collection, storage and preservation in sexual assault cases.

- b. Provide the victim with general information about the procedure, and encourage them to seek further detail and guidance from the forensic examiner, health care professional, or a victim advocate. Officers and investigators cannot deny a victim the opportunity to have an exam.
- c. Officers should be aware and if necessary, relay to victims who do not want to undergo an exam that there might be additional treatments or medications they are entitled to even if they do not want to have an exam done or have evidence collected. Victims can seek that information from a health care provider or a victim advocate. If possible, transport or arrange transportation for the victim to the designated medical facility.
- d. Ask the victim for a signed release for access to medical records from the exam as well as the BCA consent form.

- 2) Officers should not be present during any part of the exam, including during the medical history.
- 3) Following the exam, evidence collected during the exam shall be handled according to the requirements of agency policy and Minnesota Statute 299C.106.

#### **H. Contacting and Interviewing Suspects**

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

- 1) Conduct a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.
- 2) Consider conducting a pretext or confrontational call or messaging depending on jurisdictional statutes. Involvement of a victim should be based on strong consideration of the victim's emotional and physical state. A victim advocate should be present whenever possible to offer support.
- 3) When possible, an attempt would be made to interview the suspect in person.
- 4) In situations where suspects do not deny that a sexual act occurred, but rather assert that it was with the consent of the victim, officers should do the following:
  - a. Collect evidence of past communication, including but not limited to all relevant interaction (including social media) between the suspect and victim.
  - b. Identify events that transpired prior to, during, and after the assault in an effort to locate additional witnesses and physical locations that might lead to additional evidence.
- 5) For sexual assaults involving strangers, officers should focus investigative efforts on the collection of video, DNA, and other trace evidence used for analysis to identify the perpetrator (handle evidence collection per agency policy).

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

Note: A suspect's forensic examination and/or the collection of evidence from a suspect may be done by either an investigating officer/investigator, Forensic Medical Examiner, or the agency/county crime lab personnel.

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

#### **J. Role of the Supervisor**

Supervisors may do the following:

- 1) Assist officers investigating incidents of sexual assault when possible or if requested by an officer.
- 2) Provide guidance and direction as needed.
- 3) Review sexual assault reports to ensure that necessary steps were taken during initial response and investigations.

#### **K. Case Review/Case Summary**

A supervisor should ensure cases are reviewed on an on-going basis. The review process should include an analysis of:

- 1) Case dispositions
- 2) Decisions to collect evidence
- 3) Submissions of evidence for lab testing
- 4) Interviewing decisions



TITLE: Sexual Assault Investigations

NUMBER: 3.41

ACCOUNTABILITY: All members of the Department are responsible for insuring that this and all other policies of the Department are followed. Deviations from this policy are permitted within the scope of authority granted all members of the Department, however, the deviation must be reported in accordance with policy 1.02 (Reporting Responsibility - Policy Deviation).

BY:

MA S V37  
CHIEF OF POLICE

04-01-2019

DATE

MA S V37

02-22-2021

Revised



Police Department

## Consent to Process Evidence

Consent for BCA to Process a Sexual Assault Kit Collected from Victim

Date: \_\_\_\_\_

Case File: \_\_\_\_\_

Officer: \_\_\_\_\_

*By signing this form, I am granting my permission for the Fairmont Police Department to send the sexual assault evidence collection kit and any additional evidence associated with the above noted case file to the Minnesota Bureau of Criminal Apprehension (BCA) to process for evidence. The Minnesota BCA has my permission to process the kit and any additional evidence provided to them by the Fairmont Police Department. I understand the purpose of any materials sent to the BCA lab is to be processed for evidentiary value to assist in the investigation and prosecution of the case file that has been reported to the Fairmont Police Department.*

Signature: \_\_\_\_\_

Date/Time: \_\_\_\_\_

Full Printed Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

*Results of any evidence processed by the Minnesota BCA Crime Lab will be sent to the Fairmont Police Department. The results will be filed with the case file report number on this form for use in the investigation.*

## Notice of Dangerous Dog Form.pdf



## NOTICE OF DANGEROUS DOG

Case File: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Dog Owner: \_\_\_\_\_ DOB: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
Name of Dog: \_\_\_\_\_ License #: \_\_\_\_\_ Sex: Male Female  
Dog Breed: \_\_\_\_\_ Age: \_\_\_\_\_ Fixed: Yes No  
Color(s): \_\_\_\_\_ Distinguishing Markings: \_\_\_\_\_

The above listed dog owner is hereby notified that the above listed dog has been declared to be a "Dangerous Dog" as defined by MN Statute 347.50. This declaration is based upon one or more of the following:

\_\_\_ The dog, without provocation, inflicted substantial bodily harm on a person as defined by MN Statute 609.02 Subd 7a. Case File: \_\_\_\_\_  
Description of Injury: \_\_\_\_\_

\_\_\_ The dog has killed a domestic animal without provocation while off the dog owner's property.  
Case File: \_\_\_\_\_

\_\_\_ The dog has been found to be potentially dangerous, and after the owner received notice that the dog was potentially dangerous, the dog aggressively bit, attacked, or endangered the safety of persons or domestic animals. Case File: \_\_\_\_\_

\_\_\_ The City of Fairmont will be seeking an order for the destruction of the dog listed above.

**If the owner wishes to appeal the declaration that the dog is dangerous and/or that a destruction order for the dog be sought, a written request for an appeal must be submitted to the Fairmont City Administrator. The written appeal request must be made with 14 days of receiving this notice. The request may be mailed or hand delivered to:**

**City of Fairmont  
100 Downtown Plaza  
Fairmont, MN 56031  
ATTN: City Administrator**

**Note, that regardless of any pending appeal, or lack thereof, the owner must comply immediately with all requirements for confinement and restraint of the dog (copy attached). Unless you appeal the declaration that the dog is dangerous, you must register the dog with the City of Fairmont within 14 days of the receiving this notice. VIOLATIONS MAY RESULT IN SEIZURE OF THE DOG & IN PENALTIES OF UP TO A \$1000 FINE AND 90 DAYS IN JAIL FOR EACH SEPARATE VIOLATION.**

\_\_\_\_\_  
Printed Name of Dog Owner/Representative

\_\_\_\_\_  
Name of Issuing Officer and Badge #

\_\_\_\_\_  
Signature of Dog Owner/Representative

## **Instructions for Work Comp Injury Reporting.pdf**

# Instructions for Work Comp Injury Reporting

These files are found on the Public file – Employee Resources – Accident-Incident Documents.

## Reporting Process

### Fill out:

- ❖ First Report of Injury – This will be filled out by the supervisor along with the injured employee.
- ❖ Supervisor's Incident Report – Injury – Supervisor fill out.
- ❖ Accident Witness Statement – Filled out by witness to accident/injury.  
**\*Need to turn these 3 sheets into Julie within 48 hours.**

### Print:

- ❖ Employee Information Sheet – Supervisor print and give to injured employee.
- ❖ Employee Sheet for Medical Facility – Supervisor print and give to injured employee to give to medical facility for billing purposes.

### Extra Information:

- ❖ Light Duty Examples – These are some examples of Light Duty. Please have a list of light duty work that can be done within your department.
- ❖ After supervisor turns in all initial paperwork, please direct all further communications from the injured employee about comp claims, process, return to work to Julie.

## **FPD Eyewitness Interview Instructions.pdf**



### **Eyewitness Interview Instructions**

To be provided and read to any potential eyewitness prior to showing a photo lineup.  
Note date and time at bottom of form. Include copy with case file.

*You will be asked to look at a series of individuals.*

*The perpetrator may or may not be present in the identification procedure.*

*It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.*

*I don't know whether the person being investigated is included in this series.*

*Sometimes a person may look different in a photograph than in real life because of different hair styles, facial hair, glasses, a hat or other changes in appearance. Keep in mind that how a photograph was taken or developed may make a person's complexion look lighter or darker than in real life.*

*You should not feel that you have to make an identification. If you do identify someone, I will ask you to describe in your own words how certain you are.*

*The individuals are not configured in any particular order.*

*If you make an identification, I will continue to show you the remaining individuals or photos in the series.*

*Regardless of whether you make an identification, we will continue to investigate the incident.*

*Since this is an ongoing investigation, you should not discuss the identification procedures or results*

Copy read and provided by Officer: \_\_\_\_\_ Date/Time: \_\_\_\_\_



## **Model Sexual Assault Investigation Policy 02.16.21.pdf**

## **I. PURPOSE**

The purpose of this policy is to provide employees with guidelines for responding to reports of sexual assault. This agency will strive:

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

## **II. POLICY**

It is the policy of the \_\_\_\_\_ (law enforcement agency) to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring its peace officers understand the laws governing this area. Sexual assault crimes are under-reported to law enforcement and the goal of this policy is in part to improve victim experience in reporting so that more people are encouraged to report.

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

Peace officers will utilize this policy in response to sexual assault reported to this agency. This agency will aggressively enforce the laws without bias and prejudice based on race, marital status, sexual orientation, economic status, age, disability, gender, religion, creed, or national origin.

## **III. DEFINITIONS**

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

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

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

- (2) receives services at or from a facility required to be licensed to serve adults under sections [245A.01](#) to [245A.15](#), except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);
- (3) receives services from a home care provider required to be licensed under sections [144A.43](#) to [144A.482](#); or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections [256B.0625, subdivision 19a, 256B.0651](#) to [256B.0654](#), and [256B.0659](#); or
- (4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
  - (i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and
  - (ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

#### **IV. PROCEDURES**

##### **A. Communications Personnel Response/Additional Actions by Responding Officers**

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

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

##### **B. Initial Officer Response**

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

- 1) Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.

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

### C. Victim Interviews

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

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

- Offer to have a confidential victim advocate present (if possible) if the victim would benefit from additional support during the process
- Whenever possible, conduct victim interviews in person
- Make an effort to conduct the interview in a welcoming environment
- Let the victim share the details at their own pace
- Recognize victims of trauma may have difficulty remembering incidents in a linear fashion and may remember details in days and weeks following the assault
- After the initial interview, consider reaching out to the victim within a few days, after at least one sleep cycle to ask if they remember any additional details.

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

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

**1. Minors and Vulnerable Adults**

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

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

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

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

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

**E. Protecting Victim Rights**

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

**F. Evidence Collection**

- 1) Considerations for Evidence Collection

Officers shall follow this agency's policy on crime scene response. In addition, officers may do the following:

  - a. Collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing. The agency should consider utilizing their agency or county crime lab in obtaining or processing the scene where the assault took place. This should be in accordance to any/all other policies and procedures relating to evidence collections.
  - b. Document any evidence of threats or any communications made by the suspect, or made on behalf of the suspect, to include those made to individuals other than the victim.



- c. In situations where it is suspected that drugs or alcohol may have facilitated the assault, officers should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, or other related items.
- d. If the victim has declined or a medical forensic exam will not be conducted, the officer should obtain victim consent and attempt to take photographs of visible physical injuries, including any healing or old injuries. Victim should be given directions about how to document any bruising or injury that becomes evidence later after these photographs are taken.

#### **G. Sexual Assault Medical Forensic Examinations**

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

#### **H. Contacting and Interviewing Suspects**

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

- 1) Conduct a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.

- 2) Consider conducting a pretext or confrontational call or messaging depending on jurisdictional statutes. Involvement of a victim should be based on strong consideration of the victim's emotional and physical state. A victim advocate should be present whenever possible to offer support.
- 3) When possible, an attempt would be made to interview the suspect in person.
- 4) In situations where suspects do not deny that a sexual act occurred, but rather assert that it was with the consent of the victim, officers should do the following:
  - a. Collect evidence of past communication, including but not limited to all relevant interaction (including social media) between the suspect and victim.
  - b. Identify events that transpired prior to, during, and after the assault in an effort to locate additional witnesses and physical locations that might lead to additional evidence.
- 5) For sexual assaults involving strangers, officers should focus investigative efforts on the collection of video, DNA, and other trace evidence used for analysis to identify the perpetrator (handle evidence collection per agency policy).

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

Note: A suspect's forensic examination and/or the collection of evidence from a suspect may be done by either an investigating officer/investigator, Forensic Medical Examiner, or the agency/county crime lab personnel.

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

**J. Role of the Supervisor**

Supervisors may do the following:

- 1) Assist officers investigating incidents of sexual assault when possible or if requested by an officer.
- 2) Provide guidance and direction as needed.
- 3) Review sexual assault reports to ensure that necessary steps were taken during initial response and investigations.

**K. Case Review/Case Summary**

A supervisor should ensure cases are reviewed on an on-going basis. The review process should include an analysis of:

- 1) Case dispositions
- 2) Decisions to collect evidence
- 3) Submissions of evidence for lab testing
- 4) Interviewing decisions

**1431\_001.pdf**

# TASER® USE REPORT

Date/Time: \_\_\_\_\_ TASER Officer's Name: \_\_\_\_\_

Email \_\_\_\_\_ Department: \_\_\_\_\_

Dept. Address: \_\_\_\_\_ Phone: \_\_\_\_\_

On Scene Supervisor: \_\_\_\_\_ Officer(s) Involved \_\_\_\_\_

TASER Model (check one):  X26

TASER Serial#: \_\_\_\_\_ Medical Facility: \_\_\_\_\_ Doctor: \_\_\_\_\_

Nature of the Call or Incident: \_\_\_\_\_ Charges: \_\_\_\_\_ Booked

Location of Incident:  Indoor  Outdoor  Jail  Hospital

Type of Force Used (Check All that Apply):  Physical  Less-lethal  Firearm  Chemical

Nature of the Injuries and Medical Treatment Required: \_\_\_\_\_

Admitted to Hospital for Injuries   Admitted to Hospital for Psychiatric

Medical Exam   Suspect Under the Influence: Alcohol / Drugs (specify): \_\_\_\_\_

Was an Officer, Police Employee, Volunteer or Citizen Injured Other than by TASER?

Incident Type (check appropriate response(s) below) :

Civil Disturbance  Suicide  Suicide by Cop  Violent Suspect  Barricaded  
 Warrant  Other \_\_\_\_\_

Age: \_\_\_\_\_ Sex: \_\_\_\_\_ Height: \_\_\_\_\_ Race: \_\_\_\_\_ Weight: \_\_\_\_\_

TASER Use:  Success  Failure Suspect Wearing Heaving Clothes

Number of Air Cartridges Fired: \_\_\_\_\_ Number of Cycles Applied: \_\_\_\_\_

Usage (check one):  Arc Display Only  Laser Display Only  TASER Application

TASER: Is this a Dart Probe Contact   Is this a Drive Stun Contact:

Approximate Target Distance at the Time of the Dart Launch: \_\_\_\_\_ feet

Distance Between the two Probes: \_\_\_\_\_ inches Need for an Additional Shot?

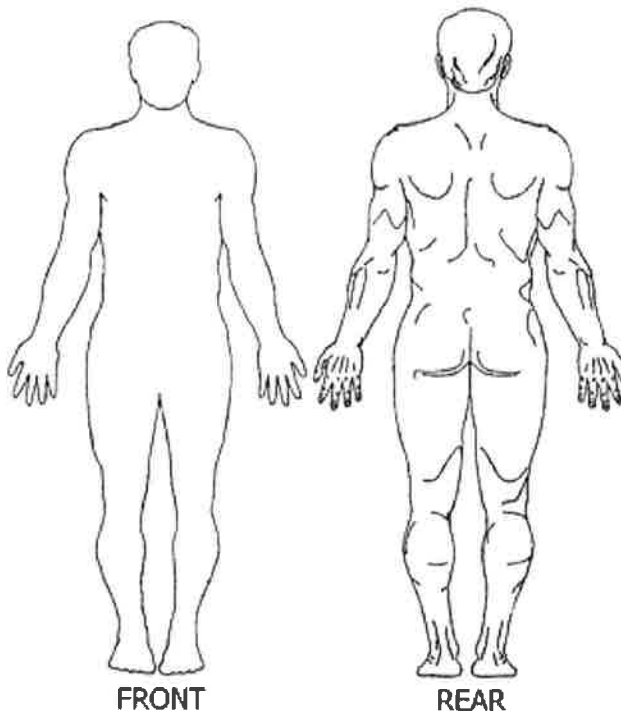
Did Dart Contacts Penetrate the Subject's Skin?   Probes Removed on Scene

Did TASER Application Cause Injury?   If Yes, was the Subject Treated for the Injury?

Description of Injury: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPLICATION AREAS

(Place "X's" where probes hit suspect AND "O's" where stunned)



SYNOPSIS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Need for Additional Applications?  Y  N Did the Device Respond Satisfactorily?  Y  N

Describe the Subject's Demeanor after the Device was Used or Displayed? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Chemical Spray:  Y  N Baton or Blunt Instrument:  Y  N

Authorized Control Holds:  Y  N If Yes, what Types? \_\_\_\_\_

Describe other means attempted to control the subject: \_\_\_\_\_  
\_\_\_\_\_

Photographs Taken:  Y  N Report Completed by: \_\_\_\_\_

ADDITIONAL INFORMATION

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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