

## **Mandatory Section**

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## Bayport Police Department Policy and Procedure Manual

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Policy # MA-1 Pages: 5 Date: 1-20-09 revised; 6/26/13

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Subject: Allegations of Misconduct

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### POLICY ALLEGATIONS OF MISCONDUCT MODEL POLICY MN RULES 6700.2200 through 6700.2600

#### I. POLICY

It is the policy of the Bayport Police Department that any person who believes that an employee of this agency has acted improperly may bring a complaint to the chief law enforcement officer's attention pursuant to the following procedure.

#### II. DEFINITIONS

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

- A. **Chief Law Enforcement Officer** means the chief of police, sheriff, state law enforcement director or a designee. Within this model policy, the chief law enforcement officer will be referred to as CLEO.
- B. **Complainant** means a person who submits a complaint to the CLEO alleging misconduct by an agency member.
- C. **Complaint** means a written statement made to or by a CLEO alleging misconduct.
- D. **Member** means all voluntary and compensated personnel of the agency.
- E. **Discipline** means:
  - 1. oral reprimand,
  - 2. written reprimand,
  - 3. suspension,
  - 4. demotion, or
  - 5. discharge.
- F. **Exonerated** means a fair preponderance of the evidence established either that:
  - 1. the act or acts complained of did not occur;
  - 2. the agency member named in the complaint was not involved in the alleged misconduct; or
  - 3. the act(s) that provided the basis for the complaint occurred; however, the investigation reveals that such act(s) were justified, lawful or proper.
- G. **Not Sustained** means the investigation failed to disclose sufficient evidence to prove or disprove the allegations made in the complaint.

- H. **Sustained** means a fair preponderance of the evidence obtained in the investigation established that the accused person's actions constituted misconduct.
- I. **Formal Statement** means the questioning of an agency member in the course of obtaining a recorded, stenographic or signed statement to be used as evidence in a disciplinary proceeding against the agency member.
- J. **Respondent** means any agency member, whether full-time, part-time, temporary or voluntary, against whom a complaint has been filed.
- K. **Misconduct** means:
1. a violation of any agency policy and procedure governing conduct of agency members;
  2. the use of unnecessary or excessive force;
  3. the conviction of any criminal offense;
  4. abuse of authority;
  5. conduct which violates a person's civil rights;
  6. abusive or insulting language or conduct which is derogatory of a person's race, religion, sex, national origin or sexual preference;
  7. sexual harassment as that term is defined under Minnesota law;
  8. intimidation or retribution toward a complainant or witness involved in any complaint proceeding.
- L. **Policies and Procedures** mean the administrative rules adopted by the agency regulating the conduct of agency members.
- M. **Shall / Will** means, as used herein, that the action is mandatory.
- N. **May** means that the action is permissible.
- O. **Receiving authority** means the person who receives the complaint when the subject of the complaint is a CLEO.

### III. PROCEDURE

#### A. INITIATING COMPLAINT

1. Anyone who has personal knowledge of facts or reliable hearsay information may file a complaint. Any agency member who has personal knowledge of misconduct shall file a complaint according to the procedures stated herein.
2. Any agency member shall self-report to the CLEO and to the Peace Officer Standards and Training Board any action, inaction, or condition of that agency member which the agency member reasonably believes would constitute grounds for disciplinary action under any of the Peace Officer Standards and Training Board's regulatory provisions.

3. Upon receiving a complaint against a member within the agency, the CLEO receiving the complaint shall immediately have the complainant complete a Citizens Complaint Form (CCF) and assign an administrative case number. The complaint will not be considered filed until the complainant signs the CCF.
4. If the person making a complaint sets forth specific believable facts supporting an allegation of misconduct but wishes to remain anonymous, the CLEO receiving the complaint may, with sole discretion, permit the complainant to remain anonymous. In this instance the CLEO shall sign the complaint as the complainant. If the CLEO has reason to believe the complaint is unfounded, the CLEO shall have the authority to require an anonymous complainant to identify himself/herself. If that complainant refuses to do so, the CLEO may refuse to accept a complaint and shall advise the anonymous person of that fact.
5. After a CCF is filed, the CLEO shall sign the document keeping a copy for the agency and providing a copy to the complainant. The CLEO will forward a copy of the document to the respondent only after it is determined that the complaint does not allege a criminal violation and the notification will not impede a criminal investigation.
6. A complainant may be accompanied by an attorney or other representative at the time a complaint is filed or at any other stage of the process.
7. Any complaint made against a chief of police shall initially be made to the city administrator, manager or mayor. Any complaint made against a sheriff shall initially be made to the county attorney or the board of county commissioners. Upon receiving a complaint the receiving authority shall immediately have the complainant complete a Citizens Complaint Form (CCF) and assign an administrative case number. The complaint will not be considered until the complainant signs the CCF.
8. The city administrator, manager, mayor, county attorney or board of county commissioners should refer investigations of alleged misconduct against a CLEO to an outside law enforcement agency or criminal justice agency.

**B. THE INVESTIGATION OF A COMPLAINT**

1. Upon receipt of the Citizen Complaint Form (CCF), the CLEO shall make an initial determination as to whether the facts alleged require a formal investigation. If the CLEO decides that an investigation is not required, the disposition of the investigation is not required. The disposition of the complaint shall be either “not sustained” or “exonerated”. The complainant and the respondent will be notified of this decision and the basis for determination. If the complainant supplies additional information within thirty (30) days of that initial determination, the CLEO may reverse this decision and order a formal investigation.
2. If the CLEO determines a formal investigation is required an appropriate person will be assigned to investigate the complaint. When the CLEO believes an external investigation is appropriate and when the CLEO is the subject of the complaint, the investigation will be assigned to an external agency.

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

### **C. ADDITIONAL INVESTIGATION, REVIEW AND DISPOSITION**

1. Upon completion of the investigation the investigator shall submit the report, case file and all investigative notes to the CLEO. The CLEO may require additional investigation or make one of the following decisions: "exonerated," "not sustained," or "sustained."
2. The CLEO may postpone making a decision until any related criminal charges are resolved. The complainant and respondent shall be informed of this decision.

3. If the decision is “exonerated” or “not sustained” the CLEO shall immediately notify the complainant and the respondent of the decision.
4. If the complaint is “sustained” the CLEO will:
  - a) issue findings of fact including a summary of the acts constituting misconduct and the specific statutes, policies, regulations and procedures violated; and
  - b) take appropriate remedial and/or disciplinary action.
5. Prior to the implementation of remedial and/or disciplinary action the respondent will be provided with a copy of the findings of fact. The CLEO and/or appropriate person shall review the findings of fact with the respondent and explain the reasons for the remedial and/or disciplinary action.
6. The investigation may be re-opened by the CLEO at any time if substantial new evidence is discovered concerning the complaint.
7. When a “sustained” disposition is final the respondent may appeal the disposition pursuant to the rules and law governing the accused member’s employment.

#### **D. MAINTENANCE AND DISCLOSURE OF DATA**

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

PB Rev. 01/2011

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## Bayport Police Department Policy and Procedure Manual

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Policy # MA-2 Pages: 3 Date: 10-12-04; Revised 4-10-09; 06-28-13

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Subject: **Predatory Offender Release and Registration**

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### **PREDATORY OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION MODEL POLICY**

MN STAT 243.166, 243.167, 244.10, 244.052, 244.053,  
and MN STAT Chapter 13

#### **I. POLICY**

It is the policy of the Bayport Police Department to protect the public by disclosing information on predatory offenders residing in this agency's community. This agency will decide what information to disclose and who to disclose it to based on the level of danger posed by the offender, the offender's pattern of offending behavior and the needs of community members to enhance their individual and collective safety.

#### **II. DEFINITIONS**

**A. *Predatory Offender Registration and Community Notification*** refers to the Minnesota law that requires certain predatory offenders to register with the Minnesota Department of Public Safety Predatory Offender Unit. The law also provides for community notification about certain adult predatory offenders who have been incarcerated by the Minnesota Department of Corrections (DOC) or confined by the Minnesota Department of Human Services (DHS).

**B. *Offender Risk Levels*** means the level of notification is governed by the level of risk assigned by the DOC.

Three possible risk levels can be assigned to an offender. They are:

- Level 1 – low risk of re-offending
- Level 2 – moderate risk of re-offending
- Level 3 – high risk of re-offending

*Note:* Some offenders who are required to register as predatory offenders are not assigned a risk level because their sentence was completed prior to predatory offender legislation or because they have not spent time in state or federal prison. These offenders are not subject to community notification.

#### **III. REGISTRATION PROCEDURES**

For questions concerning predatory offender registration refer to the Bureau of Criminal Apprehension (BCA)'s Predatory Offender Registration website at [www.dps.state.mn.us/bca](http://www.dps.state.mn.us/bca) for detailed information, or contact the Predatory Offender Unit (BCA-POR) by calling (651) 793-7070 or 1-888-234-1248.

When an offender arrives to register with this agency, determine what state the offense was committed in and if the individual is required to register by reviewing the list of registrable offenses on the POR website.

If the offender is required to register, contact the BCA POR to verify the offender is already registered and a DNA sample has been submitted.

- If the offender is already registered, complete a *Change of Information Form* included on the BCA's website at [www.dps.state.mn.us/bca](http://www.dps.state.mn.us/bca).
- If the offender is not registered, complete a *Predatory Offender Registration Form* included on the BCA's website at [www.dps.state.mn.us/bca](http://www.dps.state.mn.us/bca).
- If the offender is from another state, contact the state (information for each state is listed on the BCA's website at [www.dps.state.mn.us/bca](http://www.dps.state.mn.us/bca)) and request a copy of the offender's original registration form, criminal complaint and sentencing documents.

It is recommended the agency verify the address of offenders living in their community.

- If the offender is not living at the registered address, contact the BCA-POR to determine if a *Change of Information Form* was submitted. If it was not, the offender may be charged with failure to notify authorities of a change in residence. To make this charge, contact the BCA-POR to request a prosecution packet. Submit the packet to the county attorney's office to file a formal charge.

*Note:* It must be verified that the offender is no longer residing at his/her last address prior to submitting the prosecution packet for charging. Depending on the county attorney, formal statements may be needed from friends, co-workers, neighbors, caretakers, etc.

#### **IV. COMMUNITY NOTIFICATION PROCEDURES**

For questions regarding community notification or the risk level assigned to an offender contact the Risk Assessment/Community Notification Unit of the Department of Corrections (DOC RA/CN Unit) at 651-361-7340 or at [notification.doc@state.mn.us](mailto:notification.doc@state.mn.us). The DOC will answer questions about the notification process and agency responsibilities. The DOC is also available to assist agencies in conducting public notification meetings when an offender subject to notification moves into a law enforcement jurisdiction.

Attached to this policy are examples of forms that are provided to law enforcement agencies by the DOC to assist them in performing community notifications:

1. CONFIDENTIAL - Fact Sheet - Law Enforcement Agency Use Only
2. Law Enforcement Agency Fact Sheet - Notification of Release in Minnesota-Risk Level Two
3. Law Enforcement Agency Fact Sheet - Notification of Release in Minnesota-Risk Level Three
4. Law Enforcement Fact Sheet - Health Care Facility Notification - Information on a Registered Offender Not for Distribution to Facility Residents
5. Law Enforcement Fact Sheet - Health Care Facility Notification - Information on a Registered Offender for Distribution to Facility Residents
6. VICTIM DATA - CONFIDENTIAL - For Law Enforcement Agency Use Only

##### **A. Notification Process**

Law enforcement agencies receive information from the BCA and DOC pertaining to the risk levels of offenders. The duty of law enforcement to provide notification depends on the risk level assigned as described below. Public notification must not be made if an offender is placed or resides in one of the DOC licensed residential facilities (halfway houses) operated by RS-Eden, Alpha House, 180 Degrees, Damascus Way, or Bethel Work Release. Do NOT disclose any information until the law enforcement agency is notified the offender will move to a residential location.

**Level 1** – Information maintained by law enforcement and may be subject to limited disclosure. See *attachment 1: Confidential Fact Sheet – For Law Enforcement Agency Use Only*.

- Mandatory disclosure
  - Victims who have requested disclosure
- Discretionary disclosure
  - Other witnesses or victims
  - Other law enforcement agencies.

**Level 2** – Information 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. See *attachment 2: Law Enforcement Agency Fact Sheet – Notification of Release in Minnesota – Risk Level 2*.

- In addition to Level 1 disclosures, the law enforcement agency may disclose information to:
  - Staff members of public and private educational institutions, day care establishments and establishments that primarily serve individuals likely to be victimized by the offender.
  - Individuals likely to be victimized by the offender.
- Discretionary notification must be based on the offender's pattern of offending or victim preference as documented by DOC or DHS.

**Level 3** – Information subject to disclosure, not only to safeguard facilities and protect the individuals they serve, but also to protect the community as a whole. See *attachment 3: Law Enforcement Agency Fact Sheet – Notification of Release in Minnesota*.

- In addition to Level 2 disclosures, law enforcement shall disclose information to other members of the community whom 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.
- A good faith effort must be made to complete the disclosure within 14 days of receiving documents from DOC.
- The process of notification is determined by the agency. The current standard for a Level 3 offender is to invite the community to a public meeting and disclose the necessary information. Assistance is available from DOC RA/CN Unit.

## **B. Health Care Facility Notification**

Upon notice that a registered predatory offender without a supervising agent has been admitted to a health care facility in its jurisdiction, law enforcement shall provide a fact sheet to the facility administrator with the following information: name and physical description of the offender; the offender's conviction history, including the dates of conviction; the risk level assigned to the offender, if any; and the profile of likely victims. See *attachment 4: Law Enforcement Agency Fact Sheet - Health Care Facility Notification Information on a Registered Offender Not For Distribution to Facility Residents* & *attachment 5: Law Enforcement Agency Fact Sheet - Health Care Facility Notification Information on a Registered Offender For Distribution to Facility Residents*.

## **C. Specialized Notifications**

### **1. Offenders from Other States and Offenders Released from Federal Facilities Subject to Notification**

- If a local law enforcement agency learns that a person under its jurisdiction is subject to registration and desires consultation on whether or not the person is eligible for notification, the agency must contact the DOC. The DOC will review the governing law of the other state and, if comparable to Minnesota requirements, inform law

enforcement that it may proceed with community notification in accordance with the level assigned by the other state.

- If DOC determines that the governing law in the other state is not comparable, community notification by law enforcement may be made consistent with that authorized for risk level 2.
- In the alternative, if a local law enforcement agency believes that a risk level assessment is needed, the agency may request an end-of-confinement review. The local law enforcement agency shall provide to the DOC necessary documents required to assess a person for a risk level.

## **2. Victim Notification**

Law enforcement agencies in the area where a predatory offender resides, expects to reside, is employed, or is regularly found shall provide victims who have requested notification with information that is relevant and necessary to protect the victim and counteract the offender's dangerousness.

DOC will provide victim contact information to the law enforcement agency when there is a victim who has requested notification. *See attachment 6: VICTIM DATA – CONFIDENTIAL – For Law Enforcement Agency Use Only.*

Law enforcement personnel may directly contact the victim. Community victim advocacy resources may also be available to assist with locating a victim and with providing notification. Assistance is also available from the DOC Victim Services staff.

Law enforcement also may contact other victims or witnesses as well as other individuals who are likely to be victimized by the offender.

## **3. Homeless Notification Process**

If public notice (Level 2 or 3) is required on a registered homeless offender, that notice should include as much specificity as possible, for example "in the vicinity of \_\_\_\_\_". These offenders are required to check in with local law enforcement on a weekly basis.

PB Rev 01/2011

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## Bayport Police Department Policy and Procedure Manual

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**Policy #** MA-3

**Pages:** 1

**Date:** 2-16-04; Revised 4-10-09

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**Subject:** Criminal Conduct on School Buses

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### **I. POLICY**

It is the policy of the Bayport Police Department to respond to allegations of criminal conduct, which occur within our jurisdiction on school buses. This agency shall work with and consult 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. This policy recognizes that responding to reports of alleged criminal conduct on school buses within this jurisdiction is the responsibility of this office in cooperation with any other law enforcement agency that has jurisdiction over the alleged offense. This policy is not intended to interfere with or replace school disciplinary policies that relate to student misconduct on school buses.

### **II. PROCEDURE**

This agency shall:

- A. Respond to calls for assistance from any citizen, school, or bus transportation company official as they may pertain to criminal conduct on school buses;
- B. Issue citations, release pending further investigation, or apprehend and transport individuals committing crimes on school buses, to the extent authorized by law;
- C. Investigate reports of crimes committed on school buses by using the same procedures as followed in other criminal investigations, involving juveniles or adults as appropriate;
- D. Submit reports regarding the incident to superior officers and the prosecuting attorney as required by agency policy;
- E. Follow through with any other investigation necessary to prepare a case pertaining to criminal conduct on school buses as requested by the prosecuting attorney;
- F. Provide information to the school regarding the incident as required or authorized by law.

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**Bayport Police Department Policy and Procedure Manual**

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**Policy #** MA-4      **Pages:**      **Date:** 6-10-04; Revised 1-28-09, 06-28-13, 6-13-18

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**Subject: Domestic Abuse Policies**

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**DOMESTIC ABUSE RESPONSE AND ARREST MODEL POLICY**

Minn. Stat. 629.342

**I. POLICY**

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

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

**II. DEFINITIONS**

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

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

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

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

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

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

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

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

**D. *Family or Household Member*** has the meaning given it in Minn. Stat. 518B.01, subd. 2(b)(1)-(7): spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they have been married or have lived together at any time, and persons involved in a significant romantic or sexual relationship. It also includes a man and a woman if the woman is pregnant and the man is

alleged to be the father, regardless of whether they have been married or have lived together at any time.

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

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

- G. **Order for Protection (OFP)** is an order issued under Minn. Stat. 518B.01 by a judge in civil court upon the request of the petitioner. Any family or household member of the abuser (called a respondent) may ask the court for an OFP. The relief granted to the petitioner may include an order for the respondent to stop domestic abuse, no direct or indirect contact with petitioner, temporary custody of minor children, temporary financial support, and/or counseling for the respondent. Other forms or relief are also available. Violating an OFP is a crime.
- H. **Domestic Abuse No Contact Order (DANCO)** is an order issued under Minn. Stat. 629.75 by a judge in criminal court limiting contact between a defendant and a victim of domestic abuse. DANCOs may be issued as pretrial condition of release and/or as a probationary condition of sentence.
- I. **Harassment Restraining Order (HRO)** is an order issued under Minn. Stat. 609.748 by a judge in civil court when a petitioner requests a court order preventing another person from having contact with him/her. These orders generally prohibit all contact of any kind (including, but not limited to, phone calls, letters, e-mail, social media and contact through a third party) and may limit the respondent's ability to come within a certain distance of the petitioner's home, work or school. This type of order can be issued no matter what the relationship between the individuals involved. Violating an HRO is a crime.
- J. **Harassment** has the meaning given to it in Minn. Stat. 609.748, subd. 1(a): a single incident of physical or sexual assault or repeated incidents of intrusive or unwanted acts, words or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target.
- K. **Stalking** has the meaning given to it in Minn. Stat. 609.749, subd. 1: engaging in conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated, and

causes this reaction on the part of the victim regardless of the relationship between the actor and victim.

### III. PROCEDURE

#### A. DISPATCHING THE CALLS

1. **Receiving the Domestic Call:** Upon receiving a domestic call, the dispatcher will assign domestic calls a high priority and should assign at least two officers to the call. If only one officer is available, all reasonable attempts should be made to obtain another officer to assist the officer who was initially dispatched.
2. **Information to be Obtained:** The dispatcher receiving a domestic call should attempt to elicit from the caller and should communicate to the responding peace officers as much of the following information as possible:
  - the nature of the incident,
  - the address of the incident, including apartment number, if applicable,
  - the telephone numbers where the caller can be reached,
  - whether weapons are involved or present in the dwelling,
  - whether someone is injured and the nature of the injury,
  - information about the suspect including whether the suspect is present, description, direction of flight, mode of travel, etc.,
  - the relationship between the caller and the suspect,
  - whether there has been prior calls involving these individuals,
  - whether there is an order for protection (OFP), harassment restraining order (HRO) or criminal pre-trial or probationary domestic abuse no contact order (DANCO),
  - whether children are present at the scene, and
  - whether there are non-English speaking people, or people with mobility impairments or hearing impairments at the scene.

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

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

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

#### B. RESPONDING TO THE CALLS

1. **Driving to the Scene:** The peace officers should respond directly and without unreasonable delay to the scene.
2. **Initial Contact with Occupants:** Upon arriving at the scene of a domestic call, the responding officers should identify themselves as peace officers; explain their presence, and request entry into the home. The officers should ask to see the person who is the alleged victim. The officers should separate parties prior to taking statements. If the person who called the law enforcement agency is someone other than the subject of the call, the officer should not reveal the caller's name. The officer should ensure all of the occupants are safe.
3. **Entry**
  - Refused Entry – If refused entry, the officers should be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused the officers should request the dispatcher to contact the caller.
  - Forced Entry – If access is still refused and the officers have reason to believe that someone is in imminent danger the officers are permitted to force entry.
  - Search Warrant Entry – If the officers are refused entry and have no legal grounds for forced entry and have reasonable grounds to believe a crime has been committed, the officers should contact the appropriate authority to obtain a search warrant.
4. **First Aid:** After securing the scene, the responding peace officers shall provide the necessary first aid.

## C. ARREST DECISIONS

1. **Making Arrests:** After securing the scene and providing any first aid, the peace officers will conduct an assessment of the lethality of the situation based on the totality of the circumstances and begin a criminal investigation to determine if there is probable cause to believe a crime has been committed based on the evidence and not solely upon the victim's desire to make an arrest. The officers should collect relevant physical evidence including weapons which may have been used, take photographs of the scene or any injuries and take statements from the involved parties and witnesses. Some of the evidence and statements include:
  - photos of the scene,
  - condition of clothing,
  - property damage,
  - evidence of physical injury including strangulation,
  - excited utterances of the victim and the suspect,
  - demeanor of the victim and the suspect,
  - medical records including the victim's statements to paramedics, nurses and doctors,
  - recorded interviews of witnesses including children who may have been present,
  - evidence of any prior domestic abuse – related convictions including dates, and
  - any existing OFPs, HROs or DANCOS.

NOTE: When determining probable cause, the peace officers should consider their observations and any statements made by the parties involved and any witnesses.

Prior convictions may provide the basis for enhancement to a gross misdemeanor or felony charges (see D below).

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

- ownership, tenancy rights of either party, or the fact the incident occurred in a private place,
- belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction,
- verbal assurances that the abuse will stop,
- disposition of previous police calls involving the same victim or suspect,
- denial by either party that the abuse occurred when there is evidence of domestic abuse,
- lack of a court order restraining or restricting the suspect,
- concern about reprisals against the victim,
- adverse financial consequences that might result from the arrest, or
- chemical dependency or intoxication of the parties.

**3. Predominant Aggressor and Dual Arrests:** The agency shall discourage dual arrest<sup>1</sup>. Where there are allegations that each party assaulted the other, the peace officer shall determine whether there is sufficient evidence to conclude that one of the parties is the predominant aggressor based on the following criteria and the officer's judgment:

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

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

## **D. AUTHORITY AND TYPES OF ARREST**

**1. Warrantless Probable Cause Arrest for Fifth Degree Assault or Domestic Assault:**

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

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

definition, even if the assault did not take place in the presence of the peace officer (Minn. Stat. 629.341). A peace officer acting in good faith and exercising due care in making an arrest pursuant to this statute is immune from civil liability that might result from the officer's action.

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

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

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

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

If there is a prior conviction for assault or terroristic threats against any person within two years, a gross misdemeanor may also be charged.

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

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

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

- a) *Gross Misdemeanors:* A person who stalks another by committing any of the following acts is guilty of a gross misdemeanor:
- directly or indirectly, or through third parties, manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;

- follows, monitors, or pursues another, whether in person or through any available technological or other means;
- returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;
- repeatedly makes telephone calls, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;
- makes or causes the telephone of another to repeatedly or continuously ring;
- repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, through assistance devices for the visually or hearing impaired, or any communication made through any available technologies or other objects; or
- knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties.

Also, according to Minn. Stat. 607.749., subd.1a., the State does not have to prove the actor intended to cause the victim to feel frightened, threatened, oppressed, persecuted or intimidated. The intent of the defendant is immaterial. Obtaining a complete domestic abuse history is usually the key to making the determination that the current act, under the circumstances, constitutes the crime of stalking.

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

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

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

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

- c) *Venue* (Minn. Stat. 609.749, subp. 1b.): If a suspect commits acts of stalking in different counties, the acts may be consolidated and prosecuted in any county in

which one of the acts was committed. If the conduct that constitutes stalking is done through use of a wireless or electronic communication device, the conduct can be prosecuted in the county where either the suspect or victim resides.

4. **Probable Cause Warrantless Arrest:** The domestic abuse arrest statute (Minn. Stat. 629.72) provides an officer may not issue a citation in lieu of arrest in harassment/stalking, domestic abuse, violation of an order for protection, or violation of a domestic abuse no contact order cases. According to Minn. Stat. 629.34, subd.1(c)(5) an officer may also make a warrantless probable cause arrest even if the offense did not occur in the officer's presence if the officer has reasonable cause to believe the offense was a gross misdemeanor or felony (no 24 hour restriction).
5. **Probable Cause Felony Arrests for Other Crimes:** At a domestic call peace officers shall consider whether other felonies have been committed including but not limited to, burglary, felony assault, terroristic threats, kidnapping, false imprisonment, and witness tampering.

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

6. **Violation of Court Orders:** The peace officer shall verify whether any of the following orders exist before or during an arrest. The peace officer or someone acting at the officer's direction may make this verification. Methods of verification include personally seeing a copy of the order or obtaining verification from the court or law enforcement agency that has the actual order. The police report shall include identifying information of the specific court order violated, including county of origin, the file number, and the provision allegedly violated.
  - a) *Order for Protection (OFP):* A peace officer shall arrest and take into custody without a warrant a person who the peace officer has probable cause to believe has violated any condition of an OFP granted pursuant to Minn. Stat. 518B.01, subsd. 6, 7, and 9. Such an arrest shall be made even if the violation of the order did not take place in the presence of the peace officer, if the officer can verify the existence of the order.

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

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

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

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

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

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

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

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

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

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

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

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

eliminated. If a domestic abuse intervention program is available the peace officer should make contact for immediate intervention.

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

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

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

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

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

## F. CHILDREN

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

## G. REPORTS AND FORMS

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

- detailed statements from the victim, suspect and witnesses;
- description of injuries;
- information about past abuse;
- description of the scene;

- predominant aggressor;
- existence of language barriers;
- presence of elderly victims or those with disabilities; and
- documentation of evidence.

#### **H. FURTHER INVESTIGATION**

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

### Enhancements Table

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

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

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

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

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

PB Rev 04/2013

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## Bayport Police Department Policy and Procedure Manual

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Policy # MA-5 Pages: 1 Date: 06-16-04; Revised 4-10-09

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### Subject: Impartial Policing

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#### I. POLICY

It is the policy of the Bayport Police Department to reaffirm our commitment to impartial/unbiased policing and to reinforce procedures that serve to assure the public that we are providing service and enforcing laws in a fair and equitable manner to all.

##### A. Policing Impartially

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

##### B. Preventing Perceptions of Biased Policing – Procedural Guidelines

In an effort to prevent the perception of biased law enforcement, peace officers shall utilize the following guidelines:

- Be respectful and professional.
- Introduce or identify yourself to the citizen and state the reason for the contact as soon as practical, unless providing this information will compromise officer or public safety.
- Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense.
- Attempt to answer any relevant questions the citizen may have regarding the citizen/officer contact, including relevant referrals to other agencies when appropriate.
- Provide your name and badge number when requested, preferably in writing or on a business card.
- Explain and/or apologize if you determine that the reasonable suspicion was unfounded (e.g. after an investigatory stop).

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

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# Bayport Police Department Policy and Procedure Manual

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Policy # MA-6 Pages: 1 Date: 02-11-04; Revised 4-10-09

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Subject: Lighting Exemption of Law Enforcement Vehicles

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## I. POLICY

It is the policy of the Bayport Police Department to provide a uniform guideline for all department personnel to use when operating a department vehicle without headlights, taillights or marine navigational lighting, while functioning as a peace officer.

## II. DEFINITIONS

For the purpose of this policy, the following definitions apply:

- A. *Vehicle*: A motor vehicle or watercraft owned, leased or otherwise the property of the City of Bayport, or a political subdivision.
- B. *Lights*: refers to headlights, taillights and marine navigational lighting as referenced in MN Statutes, Sections 84.87, 84.928, 169.48 to 169.65 and 86B.511.

## III. PROCEDURE

- A. A peace officer may **not** operate a vehicle without lights:
  - 1. On an interstate highway
  - 2. At speeds greater than what is reasonable and prudent under existing weather, road and traffic conditions
  - 3. Faster than the posted speed limit
  - 4. In situations where the peace officer is an active participant in the pursuit of a motor vehicle in violation of MN Statutes, Section 609.487
  - 5. Contrary to the elements of MN Statutes, Section 169.541

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## Bayport Police Department Policy and Procedure Manual

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**Policy #** MA-7      **Pages:** 6      **Date:** 06-02-04; Revised 4-15-09

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**Subject: Professional Conduct of Officers**

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### **POLICY**

It is the policy of the Bayport Police Department to investigate circumstances that suggest an officer has engaged in unbecoming conduct, and impose disciplinary action when appropriate.

### **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.

## **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, sex, marital status, 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, sex, marital status, 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 paragraph "c" below.
- 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, while on duty/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 as defined under Minnesota law, constitute sexual assault or indecent exposure. 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 shall not, in the course of performing their duties, 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 otherwise 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, fellow 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: (1) for personal or financial gain, for themselves or another person; (2) for obtaining privileges not otherwise available to them except in the performance of duty; and (3) for 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 be reasonably 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 the officer's actions would or could conflict with the officer's appropriate responsibilities.
2. Rules:
  - a) A peace officer shall, unless required by law or policy, 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) A peace officer shall, unless required by law or policy, 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 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 Statutes, Section 626.89, Peace Officer Discipline Procedures Act and the law enforcement agency's policy on Allegations of Misconduct as required by POST Board Rules, *MN Rules*, Chapters 6700.2000 to 6700.2600.

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## Bayport Police Department Policy and Procedure Manual

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**Policy #** MA-8      **Pages:** 4      **Date:** 06-11-04; Revised 4-15-09

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**Subject: Response to Reports of Missing and Endangered Children**

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### POLICY

It is the policy of the Bayport Police Department to establish guidelines and responsibilities for the consistent response to, and investigation of, all reports of missing and endangered children as defined in MN Statutes, Chapter 299C.52, subd. 1 (c) and (e) (“Minnesota Missing Children Program”).

This policy addresses *only* those investigations where the child has been determined to be both missing and endangered.

The Bayport Police Department recognizes that there is a critical need for immediate and consistent response to reports of missing and endangered children. The decisions made and actions taken during the preliminary stages have a profound affect on the outcome of the case. Therefore, this agency has established the following responsibilities and guidelines for the investigation of missing and endangered children. All peace officers employed by this agency will be informed of and comply with the following required procedures.

After this agency has received a report of a missing child, obtained the basic facts of the case, descriptions of the missing child and abductor (if known), and determined that there is sufficient evidence to believe that the child is endangered, the agency will respond according to the following five types of general procedures:

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

The facts surrounding each missing and endangered child report will dictate when the procedures are warranted and what the order and priority should be within each of the five categories. However, each of the procedures must be carried out immediately as circumstances warrant and many of the steps will need to be done simultaneously.

#### I. DEFINITIONS

- A. *Missing*: “the status of a child after a law enforcement agency that has received a report of a missing child has conducted a preliminary investigation and determined that the child cannot be located” (MN Statutes, Chapter 299C.52, subd. 1 (c)).
- B. *Endangered*: “a law enforcement official has received sufficient evidence that the child is with a person who presents a threat of immediate physical injury to the child or physical or sexual abuse of the child” (MN Statutes, Chapter 299C.52, subd. 1 (e)).

- C. *Child*: “any person under the age of 18 years or any person certified or known to be mentally incompetent” (MN Statutes, Chapter 299C.52, subd. 1 (a)).
- D. *Sufficient Evidence*: facts and circumstance which would induce a reasonably prudent peace officer to believe that a crime has been or is about to be committed.
- E. *NCIC*: the National Crime Information Center
- F. *CJIS*: the Criminal Justice Information System

## II. PROCEDURES

### A. INITIAL RESPONSE

1. Dispatch an officer to the scene to conduct a preliminary investigation.
2. Obtain interpretive services if necessary.
3. Interview parent(s) or the person who made the initial report.
4. Determine when, where, and by whom the missing child was last seen.
5. Interview the individual(s) who last had contact with the child.
6. Obtain a detailed description of the missing child, abductor, vehicles, etc.
7. **Load the NCIC Missing Person File (involuntary category) with complete descriptive and critical information regarding the missing and endangered child.**
8. **Load the NCIC system with complete descriptive information regarding suspects(s).**
9. Request investigative and supervisory assistance.
10. Update additional responding personnel.
11. Broadcast known details on all police communication channels to other patrol units, other local law enforcement agencies, and surrounding law enforcement agencies. If necessary, use the National Law Enforcement Telecommunications Systems (NLETS) and the Minnesota Crime Alert Network to alert state, regional, and federal law enforcement agencies.
12. Notify the family that crime victim services are available, and give the family the Crime Victim Services card.
13. Secure the crime scene, do not allow individuals to leave the area until interviewed, and try to determine if anyone may have left prior to the arrival of law enforcement.
14. Activate protocols for working with the media.
15. **As required by MN Statutes, Chapter 299C.53, subd. 1, contact the Bureau of Criminal Apprehension regarding the incident. Request assistance as necessary.**
16. Implement multi-jurisdictional coordination / mutual aid plan as necessary; i.e.:
  - a) when the primary agency has limited resources;
  - b) when the investigation crosses jurisdictional lines; and
  - c) when jurisdictions have pre-established task forces or investigative teams.

### B. INITIAL INVESTIGATION

1. Conduct a neighborhood/vehicle canvas.
2. Arrange for use of helpful media coverage.
3. Maintain records of telephone communications/messages.
4. Ensure that everyone at the scene is identified and interviewed separately.
5. Search the home or building where the incident took place and conduct a search including all surrounding areas. Obtain consent or a search warrant if necessary.
6. Assign a trained and/or experienced investigator whose duties will include coordination of the investigation.

### C. INVESTIGATION

1. Begin setting up the Command Post/Operation Base away from the child's residence. Know the specific responsibilities of the Command Post Supervisor, Media Specialist, Search Coordinator, Investigative Coordinator, Communication Officer, Support Unit Coordinator, and two liaison officers (one at the command post and one at the victim's residence). The role of the liaison at the home will include facilitating support and advocacy for the family.
2. Establish the ability to "trap and trace" all incoming calls. Consider setting up a separate telephone line or cellular telephone for agency use.
3. Compile a list of known sex offenders in the region.
4. In cases of infant abduction, investigate claims of home births made in that area.
5. Obtain child protective agency records for reports of abuse on the child.
6. Review records for previous incidents related to the missing child and prior police activity in the area, including prowlers, indecent exposure, attempted abductions, etc.
7. Obtain the child's medical and dental records.
8. Update the NCIC missing person file with any additional information regarding the child or suspect as necessary.
9. Interview delivery personnel, employees of gas, water, electric and cable companies, taxi drivers, post office personnel, sanitation workers, etc.
10. Contact the National Center for Missing and Exploited Children (NCMEC) for photo dissemination and other case assistance.
11. Determine if outside help is necessary and utilize local and state resources related to specialized investigative needs, including:
  - a) Crime Victim Advocates,
  - b) Minnesota Bureau of Criminal Apprehension,
  - c) Federal Bureau of Investigation,
  - d) County Attorney,
  - e) Customs Investigative Services,
  - f) Minnesota State Patrol,
  - g) Minnesota Crime Alert Network,
  - h) Investigative experts in the areas of sexual assault, child maltreatment, and/or homicide.
  - i) Searches:
    - Ground Searches – personnel, vehicles, and/or mounted patrols
    - Canine assisted
    - Water and underwater searches
    - Air searches
  - j) Investigative Resources:
    - Child interviewing
    - Polygraph
    - Profiling/behavioral analysis
    - MN Sex and Violent Crime Analysis Programs
    - Crime analysis/computer assistance
    - Forensic artistry/Crime scene and evidence processing
    - Memory retrieval
  - k) Interpretive Services
  - l) The Department of Natural Resources
  - m) Telephone Services (traps, traces, etc.)
  - n) Media Assistance (Local and National)

#### **D. PROLONGED INVESTIGATION**

1. Develop a profile on the possible abductor.
2. Consider the use of a polygraph for the parents and other key individuals.
3. Re-read all reports and transcripts of interviews, revisit the crime scene, review all photographs and videotapes, re-interview key individuals, and re-examine all physical evidence collected.
4. Review all potential witness/suspect information obtained in the initial investigation and consider background checks on anyone identified in the investigation.
5. Develop a time-line and other visual exhibits.
6. Critique the results of the on-going investigation with appropriate investigative resources.
7. Arrange for periodic media coverage.
8. Utilize rewards and crime-stoppers programs.
9. Update NCIC Missing Person File information as necessary.
10. Re-contact the National Center for Missing and Exploited Children (NCMEC) for age progression assistance.

#### **E. RECOVERY/CASE CLOSURE**

1. Arrange for a comprehensive physical examination of the victim.
2. Conduct a careful interview of the child, document the results of the interview, and involve all appropriate agencies.
3. Refer family for effective reunification assistance.
4. Cancel alarms and remove case from NCIC and other information systems, and remove posters and other publications from circulation.
5. Perform constructive post-case critique. Re-assess the procedures used and update the department's policy and procedures as appropriate.

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## Bayport Police Department Policy and Procedure Manual

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Policy # MA-9 Pages: 2 Date: 01-10-05; Revised 4-15-09

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Subject: Supervision of Part-time Licensed Peace Officers

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### POLICY

It is the policy of the Bayport Police Department to protect lives while enforcing the law. In addition, it is the responsibility of this agency to guide its officers in the safe and reasonable performance of their duties. To accomplish these goals, the following policy is provided to assist agencies in their regulation of part-time peace officers as required under Minnesota Statutes, Section 626.8465 and *Minnesota Rules*, Chapters 6700.1101-6700.1300. Part-time peace officers are most effectively utilized as a supplement to regular, fully trained peace officers. The use of part-time peace officers when the need for services would otherwise justify the use of peace officers is discouraged.

### DEFINITIONS

- A. **Part-time Peace Officer:** “Part-time peace officer” has the meaning given it in MN Statutes, Section 626.84, subd. 1 (f).
- B. **Appointment:** the official declaration provided by the agency to the POST Board which indicates that the agency has engaged the services of a peace officer or part-time peace officer beginning on a specified date.
- C. **Active Duty Status:** when a part-time peace officer is authorized by agency policy to act as an agent of the appointing authority with power to arrest and authority to carry a firearm.
- D. **Hours Worked:** the actual numbers of hours served while the part-time peace officer is on active duty status. All active duty hours must be documented regardless of compensation.
- E. **Supervision of Part-time Peace Officer:** the part-time peace officer and the designated peace officer are aware of their respective identities; the part-time peace officer has the ability to directly contact the designated peace officer, and the part-time or designated peace officer can achieve direct personal contact within a reasonable time.

### PROCEDURES FOR SUPERVISION OF PART-TIME PEACE OFFICERS

It is this agency’s policy that supervision be provided to part-time peace officers by peace officers as required under *MN Rules*, Chapter 6700.1110. This policy minimally addresses the following requirements found within the rule which include:

- A. An agency which designates a peace officer to supervise a part-time peace officer shall establish written procedures, which at a minimum include:
  - 1. How the designated peace officer is to be notified of the designated peace officer’s responsibility for assuming supervision of a part-time peace officer;

2. The duties and responsibilities of the designated peace officer in exercising supervisory responsibility for a part-time peace officer;
  3. The means by which the part-time peace officer is to notify the designated peace officer that the part-time peace officer is on active duty status;
  4. The means by which the designated peace officer is to be notified when the part-time peace officer is no longer on active duty status.
- B. An agency which agrees to designate a peace officer for the supervision of a part-time peace officer who is not employed by the same agency as the designated peace officer shall establish at a minimum:
1. All policies required under *MN Rules*, Chapter 6700.1105, Subpart 2;
  2. All policies required under *MN Rules*, Chapter 6700.1110; and
  3. A written joint powers agreement which confers upon the designated peace officer full power and authority within the jurisdiction of the part-time peace officer to be supervised.

### **RESPONSIBILITIES OF THE PART-TIME PEACE OFFICER**

- A. The hours of active duty status during the calendar year of a part-time peace officer are limited to no more than 1,040 hours.
- B. A part-time peace officer shall record all active duty hours worked on a form provided by the POST Board, or an acceptable electronic spreadsheet, for each agency by whom the part-time peace officer is appointed. The part-time peace officer shall record the date, time, and total hours of active duty. The part-time peace officer shall also record the name of the agency for which the hours were worked and the name of the designated peace officer assigned for each shift or time entry on the log.
- C. On the last day of every month, the part-time peace officer shall provide the chief law enforcement officer of every agency for whom the part-time peace officer worked a written notice of the total number of hours worked for all agencies. The notice shall be provided on a form provided by the POST Board.
- D. The part-time peace officer shall keep and maintain copies of active duty reporting forms for five years and shall make the forms available to the POST Board upon request.

### **POLICY DISTRIBUTION**

Copies of policies required under *MN Rules*, Chapters 6700.1105 to 6700.1130, must be provided to all part-time peace officers before they are authorized to exercise part-time peace officer authority on behalf of a unit of government. Copies of these policies shall also be distributed to all designated peace officers.

*Reference: Minnesota Rules, Chapter 6700.1110*

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## Bayport Police Department Policy and Procedure Manual

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**Policy #** MA-10      **Pages:** 5      **Date:** 03-11-03; Revised 4-15-09

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**Subject:** Use of Force and Deadly Force

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### POLICY

It is the policy of the Bayport Police Department to provide officers with guidelines for the use of force and deadly force in accordance with:

- MN Statutes, Section 626.8452 Deadly Force and firearms use; policies and instruction required;
- MN Statutes, Section 609.06 Authorized Use of Force;
- MN Statutes, Section 609.065 Justifiable Taking of Life; and
- MN Statutes, Section 609.066 Authorized Use of Force by Peace Officers.

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

#### I. DEFINITIONS

- A. *Non-Deadly Force*:** all force used by an officer that does not have the purpose of causing, nor create a substantial risk of causing, death or great bodily harm.
- B. *Deadly Force*:** all use of force techniques used by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.
- C. *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.
- D. *Weapon*:** any instrument used, or designed to be used, to apply force to the person of another.
- E. *Approved Weapon*:** a device or instrument which an officer has received permission from the agency to carry and use in the discharge of that officer's duties, and for which the officer has:
- obtained training in the technical, mechanical and physical aspects of the device; and
  - developed a knowledge and understanding of the law, rules and regulations regarding the use of such weapons.

- F. *Impact Weapons*:** objects and instruments that are used, or are designed to be used, to apply force to the person of another by coming into physical contact with that person.
- G. *Chemical Agents*:** chemical irritants including CN/Chloracetophenone, OC/Oleoresin Capsicum, CS/Orthochlorobenzalmalononitrile or combinations of these chemical agents.
- H. *Electronic Incapacitation Devices*:** a portable device which is designed or intended by the manufacturer to be used, offensively or defensively, to temporarily immobilize or incapacitate persons by means of electric pulse or current. Per MN Statutes, Section 624.731, Subd. 1(b), Electronic incapacitation device does *not* include cattle prods, electric fences or other electric devices that are used in agricultural, animal husbandry or food production activities.

## II. PROCEDURE

### A. Use of Deadly Force

It is the policy of this agency to accord officers discretion in the use of force to the extent permitted by MN Statutes, Section 609.066, Subd. 2, which authorizes peace officers acting in the line of duty to use deadly force only when necessary to:

1. protect the peace officer or another from apparent death or great bodily harm;
2. effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or
3. effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer believes that the person will cause death or great bodily harm if the person's apprehension is delayed.

If feasible, an officer should give a verbal warning before using or attempting to use deadly force.

### B. Use of Non-Deadly Force

It is the policy of this agency to accord officers discretion in the use of non-deadly force to the extent permitted by MN Statutes, Section 609.06, which permits police officers to use reasonable force in:

- effecting a lawful arrest; or
- the execution of legal process; or
- enforcing an order of the court; or
- executing any other duty imposed upon the public officer by law.

In determining the degree of force that is reasonable under the circumstances, officers should consider:

- the severity of the crime at issue;
- whether the suspect poses an immediate threat to the safety of the officers or others; and
- whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

### **C. General Rules Governing Use of Force**

1. Officers should use the least amount of force reasonably necessary to accomplish the intended objective without impairing the safety of others. This provision should not be construed to require officers to first attempt using types and degrees of force that reasonably appear to be inadequate to accomplish the intended objective.
2. Protracted hand-to-hand combat may be harmful to the public safety, the safety of law enforcement personnel, and the safety of the person being arrested or captured. Accordingly, it shall be deemed reasonable for officers to use that type and degree of non-deadly force necessary to bring a subject whom the officer intends to arrest or capture quickly under control.
3. Officers will carry and use only approved weapons unless circumstances exist which pose an imminent threat to the safety of the officer or the public requiring the immediate use of a non-approved weapon to counter such a threat. This provision should not be construed as authorizing officers to use a non-approved weapon where, under the circumstances, it would be feasible to procure approval for use of the particular weapon prior to its use.
4. No officer will modify, alter or cause to be altered an approved weapon in his or her possession or control.
5. Displays of Firearms - firearms may be readied for use in situations where it is reasonably anticipated that they may be required.
6. Threatening the Use of Force - an officer may announce to another his or her intention to use only that type and degree of force that may reasonably be necessary under the circumstances. This provision should not be construed to authorize or endorse the use of discourteous, abusive or unprofessional language.

### **D. Specific Rules Relating to the Use of Specific Weapons**

1. Impact Weapons
  - a) Impact weapons should be used only where efforts involving the use of less force have failed or where it reasonably appears that such methods would be ineffective if attempted.
  - b) Officers striking another person with an impact weapon should avoid striking, if possible, bodily areas likely to result in serious injury or death unless deadly force

is authorized under this section. These areas include the head, neck, throat, groin, armpits and spine.

- c) Officers striking another person with an impact weapon should attempt to strike, if possible, bodily areas likely to result only in incapacity. These areas include center mass target areas such as the arms, legs and body.

## 2. Chemical Agents

The provisions governing non-deadly force will govern the use of chemical agents. Only chemical agents that are approved weapons will be used.

- a) Officers will exercise due care to ensure that only intended persons are sprayed or otherwise subject to the application of chemical agents.
- b) Chemical agents will not be applied to any person for the purpose of effecting punishment.
- c) First aid or medical attention will be provided to all persons sprayed with chemical agents.

## 3. Use of Electronic Incapacitation Devices

- a) The use of electronic incapacitation devices will be subject to the provisions governing non-deadly force.
- b) Only electronic devices that are approved weapons, as previously defined, will be used.

## E. Reporting Requirements

Agencies should consider the following reporting requirements:

- how and when use of force reports will be required of officers;
- who will review the reports;
- how the reports will be used;
- the retention of the reports;
- who will have access to the reports; and
- procedures to be followed if the agency's use of force policy is violated.

Agencies should also consider procedures for dealing with officers after a use of force incident that results in serious injury or death. In addition, agencies should make available resources with expertise in post-trauma stress.

## F. Training Considerations

The following training guidelines are required by **Minnesota Statute 626.8452** [*Deadly Force and firearms use; and polices and instruction*]. Please note these are *training* requirements, *not policy* requirements.

Subdivision 2. **Deadly Force and firearms use; initial instruction.** Beginning January 1, 1992, the head of every local and state law enforcement agency shall provide the instruction on the use of force, deadly force, and the use of firearms to every peace officer and part-time peace officer newly appointed by or beginning employment with the agency. This instruction must occur before the agency head issues a firearm to the officer or otherwise authorizes the officer to carry a firearm in the course of employment. The

instruction must be based on the agency's written policy and on the instructional materials required by the Board for peace officer and part-time peace officer licensure.

**Subdivision 3. Deadly force and firearms use; continuing instruction.** Beginning January 1, 1992 the head of every local and state law enforcement agency shall provide the instruction described in subdivision 2 to every peace officer and part-time peace officer currently employed by the agency. This instruction must be provided at least once a year.

**Recordkeeping required.** The head of every local and state law enforcement agency shall maintain written records of the agency's compliance with the requirements of Subdivisions 2 and 3.

**Licensing sanctions; injunctive relief.** The Board may impose licensing sanctions and seek injunctive relief under MN Statutes, Section 214.11 for failure to comply with the requirements of this section.

It is our policy that before being authorized to carry a firearm, all officers shall receive training and instruction with regard to: the proper use of deadly force; the agency's policies and state statutes with regard to such force; and be provided with copies of said policies and statutes. Such training and instruction shall continue throughout the officer's duty career and on an annual basis.

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## Bayport Police Department Policy and Procedure Manual

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Policy # MA 11 Pages: 6 Date: Revised 06/07/20



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**Subject: Vehicular Pursuits**

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### Introduction

It is the primary mission of the Bayport Police Department to protect lives while enforcing the law. In addition, it is the responsibility of the Bayport Police Department to guide its officers in the safe and reasonable performance of their duties. To accomplish these goals, the following policy is provided to control and regulate the manner in which emergency vehicle operations are undertaken and performed as well as to reduce potential dangers involved with emergency vehicle operation. When engaged in emergency vehicle operations in the performance of official duties, drivers of authorized emergency vehicles are granted statutory exemptions from certain traffic laws. All officers operating emergency vehicles shall be thoroughly familiar with all of the statutes concerning emergency vehicle authorization.

### Definitions

A. Motor Vehicle Pursuit

1. An active attempt by a sworn member operating a patrol unit to apprehend a driver of a motor vehicle who, having been given a visual and audible signal by a peace officer directing said driver to bring their vehicle to a stop, increases speed, extinguishes motor vehicle headlights or taillights, refuses to stop the vehicle, or uses other means with intent to attempt to elude a peace officer. (Minn. Stat. sec. 609.487)
2. Other instances in which a sworn member activates emergency lights and siren or otherwise clearly gives a signal to stop and the driver complies by coming to a stop in a reasonably short distance are not considered motor vehicle pursuits.

B. Discontinue a Pursuit

A member is deemed to have discontinued a pursuit when he/she turns off emergency lights and siren, returns to nonemergency operation, and informs dispatch.

C. Intentional Contact

Controlled contact between the patrol unit and the pursued vehicle at low speeds intended to safely end the pursuit.

D. Required Initial Information

The minimum amount of information that must be communicated to dispatch as soon as possible upon initiation of a pursuit (**TRIPS**):

- Travel direction/location
  - Reason for initial contact (specific violations)
  - Identity of fleeing driver, if known
  - Plate number if available, and/or vehicle description
  - Speed of the fleeing vehicle
- E. Evolving Information  
 Additional information to be conveyed as soon as possible and continuously updated throughout the pursuit:
- Traffic conditions including cross traffic, controlled intersection violations, and presence of pedestrians
  - Speed and location of fleeing vehicle, including wrong way travel and maneuvers placing anyone at risk
  - Number of occupants, description of occupants.
- F. Primary Pursuit Unit  
 The first unit immediately behind the fleeing driver.
- G. Support Units  
 Any units actively involved in the pursuit other than the primary unit.
- H. Other Assisting Units  
 Units not actively involved in the pursuit itself but assisting by deploying stop sticks, blocking intersections, compelling paths, or otherwise working to minimize risk.
- I. Severe and Imminent Threat  
 The fleeing driver or other person in the fleeing vehicle is believed to have recently caused great bodily harm (as defined in Minn. Stat. sec. 609.02, subd. 8) or death to another person, or it is reasonably likely to occur if immediate action is not taken to apprehend him/her. The pursuit itself does not constitute a severe and imminent threat.

### **Pursuit Decision-making**

- A. In the decision to engage in a pursuit, members must weigh the risks associated with the pursuit against any need for immediate apprehension of the fleeing driver and/or other occupants and continuously evaluate the decision to continue the pursuit as risk factors may change.
- B. When the risk factors present outweigh any need for immediate apprehension of the fleeing driver and/or other occupants, the pursuit shall be discontinued. Risk factors to be continuously evaluated include, but are not limited to, the following: intersections, speed, duration, likelihood of pedestrians, sight lines, traffic conditions, and weather.
1. In cases with a nonviolent offense (e.g., traffic violations, stolen vehicle or other property crime, drugs, or unknown offense), members shall give strong consideration to quickly discontinuing the pursuit.
  2. In the case of a suspected impaired driver, members shall consider whether or not the pursuit is making an already dangerous situation even more dangerous. In cases where the known impaired fleeing driver is creating an obvious threat to public safety, members should consider the use of any available and reasonable pursuit intervention strategies to end the pursuit with safety in mind.

3. In pursuits involving a severe and imminent threat, accepting additional risk may be reasonable given the severity of the crime(s) involved and the danger to public safety should the offender not be apprehended.

### **Pursuit Intervention Strategies**

Before employing a pursuit intervention strategy to safely end a pursuit, members shall consider: 1) the necessity to continue the pursuit and if so; 2) whether the strategy is practicable given the situation; and 3) whether the strategy is reasonable when considering the risk of injury to all involved. The type of strategy utilized will depend on the circumstances of each pursuit. Members shall employ any strategy consistent with their training.

#### **A. Intentional Contact**

1. Intentional contact shall only be used when other intervention strategies have been considered and determined not practicable.
2. Intentional contact shall be considered a use of force (reported as a pursuit), up to and including deadly force, and must be reasonably applied based on the totality of circumstances presented.
3. Unless deadly force is authorized, intentional contact shall only occur:
  - a. at low speeds; and
  - b. when there is a reasonable belief that no one will be injured as a result.
4. Intentional contact with any vehicle having fewer than four wheels shall only occur if deadly force is authorized.

#### **B. Channeling/Compelling Path/Boxing In**

The use of the unit or other devices is allowed as a means to direct a fleeing driver in order to safely end a pursuit.

#### **C. Roadblock**

The use of a roadblock is allowed, but only when the maneuver can be executed with reasonable safety for all involved, including the member, motoring public, and fleeing driver. In any roadblock, the location and deployment method shall allow the fleeing driver ample opportunity to voluntarily stop.

### **Assisting Other Agencies**

- A. Members shall consider the purpose, intent and likelihood of a traffic safety benefit from their individual involvement before joining an allied agency's pursuit.
- B. Members shall only become involved, and remain in, an allied agency's pursuit as a primary or support unit if:
  1. The pursuing agency requests it, unless it is clear that an emergency exists which dictates immediate intervention and assistance; **and**
  2. The pursuit meets the Bayport Police Department policy; **and**
  3. Required initial information (TRIPS) is communicated to the member and dispatch; evolving information is continuously communicated; **and**
  4. The originating agency remains in the pursuit, unless extenuating circumstances

prohibit it (e.g. pursuits entering Minnesota, originating agency's vehicle becomes disabled, etc.). The originating agency's internal policy or their supervisory decisions are not extenuating circumstances.

### **Shooting from or at a moving vehicle**

- A. Members shall not shoot from or at a moving vehicle, except when deadly force is authorized.
- B. Members should make every effort not to place themselves in a position that would increase the possibility that the vehicle they are approaching can be used as a deadly weapon against members or other users of the road.
- C. Firearms shall not be utilized when the circumstances do not provide a high probability of striking the intended target or when there is substantial risk to the safety of other persons, including risks associated with vehicle crashes.

### **Pursuit Responsibilities**

- A. General
  1. In order to be engaged in a pursuit, members shall be in a pursuit-rated vehicle and shall use flashing emergency lights and siren.
  2. In order to diminish the likelihood of a pursuit developing, members intending to stop a vehicle shall be within close proximity to the subject vehicle prior to activating the emergency signal devices.
  3. When there is an equipment failure involving emergency lights, siren, radio, brakes, steering, or other essential mechanical equipment, members shall discontinue their involvement in the pursuit unless otherwise directed by a supervisor.
  4. Members are responsible for providing assistance to anyone potentially injured during the course of the pursuit.
  5. Members will not pursue motorcycles unless a deadly force situation exists.
  6. Members will discontinue or not enter into a pursuit if there is a passenger in the members vehicle that is not an employee of the Bayport Police Department. The pursuit may be continued if the passenger is safely and responsibly removed from the police vehicle.
- B. Primary Pursuit Unit

Upon becoming involved in a pursuit situation, the primary pursuit vehicle shall immediately comply with the following:

  1. Immediately notify dispatch that a pursuit is underway and provide Required Initial Information (TRIPS).
  2. Provide Evolving Information unless a support unit assumes that responsibility.
- C. Support Unit
  1. Support units shall announce their involvement when joining the pursuit. The support unit immediately behind the primary unit should assume responsibility for providing Evolving Information.
  2. The number of support units involved in the pursuit should be only those that are reasonably needed for the situation.

D. Other Assisting Units

Other assisting units shall announce their intentions and communicate with primary and support units.

E. Pilot/ Air Unit

When a fleeing vehicle comes under the surveillance of a State Patrol Air Unit, the pilot or other air crew member shall affirmatively communicate to all ground units that flight is overhead so that units know to discontinue.

F. Supervisory Responsibility

Upon being notified of the pursuit, the supervisor shall:

1. Verbally acknowledge on the radio (or if monitoring by phone, have dispatch acknowledge) that they are monitoring the pursuit.
2. Ensure that involved member responsibilities are being followed.
3. Obtain the Required Initial and Evolving Information to continuously evaluate the pursuit for compliance with this policy.
4. Direct that the pursuit be discontinued if, in his/her judgment, it is not justified to continue under the guidelines of this policy or for any other reason.

### **Pursuit Follow-up and Reporting Responsibilities**

A. Member(s)

1. Primary and support units involved in a pursuit, or members having used an intervention strategy (even if the pursuit was discontinued), shall complete the Pursuit Report. The reports shall be submitted and validated prior to the conclusion of the work shift unless otherwise directed by a supervisor. The report must include all pertinent and detailed information indicating the member's involvement, including all Required Initial and Evolving Information known to the member. Such information should demonstrate that the member continuously evaluated the need to apprehend the driver or occupants given any specific risk factors present during the pursuit.
2. If the fleeing driver and/or other occupants are not apprehended, members shall conduct further investigation with the intent to identify and charge any suspects (i.e., requesting a KOPS alert on the vehicle, contacting the registered owner, etc.).

B. Monitoring Supervisor

Complete a supplemental report.

C. Supervisor Review

1. Review the pursuit for compliance with Bayport Police policy by a thorough review of all field report(s), pursuit report(s), and video(s).
2. Ensure that reports substantiate the elements of any crimes charged and that all pertinent information (including Required Initial Information (TRIPS) and Evolving Information) is included in the reports. Ensure a follow-up investigation occurred for any fleeing driver and/or other occupants who were not apprehended.
3. Ensure that a post-pursuit review is completed by a supervisor with the involved members as soon as practicable after the incident.