

Rochester Police Department

Policy Manual

CHIEF'S PREFACE

The Rochester Police Department Policy Manual is intended to serve as a reference and provide guidance and policy direction for employees of the Rochester Police Department. It is comprised of our Vision Statement, Mission Statement, Core Values, and Standard Operating Procedures. This Manual establishes fundamental standards of conduct and performance consistent with the highest professional standards of policing. Our vision statement describes what we as a police department seek to achieve. Our mission statement describes how we as department members will achieve that vision. Our core values shape our conduct and performance both on and off duty. Our policies and procedures guide our standards of practice for situations most likely to be encountered in the course of our duties. These procedures provide direction to our members in a wide variety of situations that occur as they carry out the mission of the Rochester Police Department. Each officer is given the legal authority and is charged with the responsibility to prevent and detect criminal activity, apprehend offenders, protect life and property and enforce laws and ordinances vigorously. This must be accomplished in a manner that will inspire the trust, confidence, and respect of the public we serve.

Adherence to this Manual of Policy and Procedure is critical to the overall success of our Department. It is the responsibility of all employees of this Department to become familiar with the rules, regulations, policies, and procedures set forth in this Manual. It assists us in monitoring effectiveness, while serving to hold each of us accountable for our actions and activities. It stands as an immediate resource document ready to assist all members of our organization in accomplishing the goals of our stated mission.

James L. Franklin

Chief of Police

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LAW ENFORCEMENT CODE OF ETHICS

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

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

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

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

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

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

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MISSION STATEMENT AND CORE VALUES

MISSION STATEMENT

The mission of the Rochester Police department is to provide exceptional service and superior protection by reducing crime and enhancing the quality of life of the first class community we serve. The Rochester Police will accomplish this through strategic collaboration, along with a commitment to these core values.

CORE VALUES

Integrity

We will conduct ourselves with the highest level of integrity which merits the trust of the people we serve. We will strive for honesty and transparency. Our actions will be consistent with our core values, code of ethics, and the Constitution. We will maintain our commitment by having respect for the law in both our personal and professional lives.

Service

We are dedicated to delivering the highest quality of service to safeguard lives and property, reduce crime, and enhance public safety. We value proactive problem solving and enforcement in order to reduce crime and the fear of crime. We will engage with the community to build relationships and work together to resolve problems. We will be responsive to the needs of those we serve as we provide exceptional safety and security to our diverse community.

Compassion

Compassionate service is essential to human relationships and indispensable to the foundation of a just and peaceful community. We will show concern and empathy for the victims of crime and treat violators of the law with fairness and dignity. We will exercise our law enforcement authority with diligence, empathy, and compassion as entrusted to us by the community we serve.

Respect

We will treat everyone with fairness and impartiality. We are committed to respecting individual rights, human dignity, and the value of all members both in the community and within our department. We will cherish, defend, and protect the rights and liberties guaranteed by the Constitution. By demonstrating respect for others we will earn respect.

Innovation

We recognize that improvement is a continuous process. We support creativity and proactively seek opportunities to improve our level of service. We encourage new and more effective ideas that support the fulfillment of our mission. We will seek out and apply innovative approaches in providing the best service to our customers. Through continuous improvement, teamwork, and innovation we will strive for personal, professional, and organizational excellence.

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Chapter 1 - Law Enforcement Role and Authority

Law Enforcement Authority

100.1 PURPOSE AND SCOPE

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

100.2 POLICY

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

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

100.3 PEACE OFFICER POWERS

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

100.3.1 ARREST AUTHORITY WITHIN THE JURISDICTION OF THE ROCHESTER POLICE DEPARTMENT

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

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

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

100.3.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE ROCHESTER POLICE DEPARTMENT

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

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- (a) Anytime the officer may by law make an arrest for a criminal offense committed within the jurisdiction of the Rochester Police Department, and the person to be arrested escapes from custody or flees out of the officer's jurisdiction.
- (b) Whenever the officer is authorized by a court order.
- (c) Under the same conditions as if the officer was in the jurisdiction of the department, whenever the officer is acting in the course and scope of employment.

A full-time officer's warrantless arrest authority when off-duty and outside the jurisdiction of the department is limited to circumstances that would permit the officer to use deadly force under Minn. Stat. § 609.066 (see the Use of Force Policy) (Minn. Stat. § 629.40, Subd. 4). Under any other circumstances, the full-time off-duty officer is limited to the same power as are members of the general public.

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

100.3.3 GRANTING AUTHORITY TO OTHERS

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

100.4 CONSTITUTIONAL REQUIREMENTS

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

100.4 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended within other states:

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

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

Chief Executive Officer

101.1 PURPOSE AND SCOPE

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

Home Rule Charter, City of Rochester, Chapter IX, Section 9.00 establishes "There shall be in the city a police department, of which the mayor shall have such control and supervision as is not vested by law in the police civil service commission and of which department he shall be the chief executive officer and head."

The Chief of Police, under the general supervision of the mayor, shall plan, organize, direct and review the work of the police department in performing a variety of law enforcement functions. The numerous duties of the Chief include those outlined by the Rochester Police Civil Service Rules and Regulations. All employees of the department shall at all times when on duty be subject to the Chief's command and control.

101.1.1 CHIEF LAW ENFORCEMENT OFFICER REQUIREMENTS

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

Oath of Office

102.1 PURPOSE AND SCOPE

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

102.2 POLICY

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

102.3 OATH OF OFFICE

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

I, (employee name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Minnesota, and fully discharge the duties of the office of Police Officer of the City of Rochester, in the County of Olmsted and State of Minnesota, to the best of my ability. So help me God.

102.4 MAINTENANCE OF RECORDS

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

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103.1 PURPOSE AND SCOPE

The manual of the Rochester Police Department is hereby established and shall be referred to as the Policy Manual or the manual. The manual is a statement of the current policies, rules and guidelines of this department. All members are to conform to the provisions of this manual.

All prior and existing manuals, orders and regulations that are in conflict with this manual are rescinded, except to the extent that portions of existing manuals, procedures, orders and other regulations that have not been included herein shall remain in effect, provided that they do not conflict with the provisions of this manual. Each Division may create procedures governing Divisional operations provided they do not conflict with this manual.

103.2 POLICY

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

103.2.1 DISCLAIMER

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

103.3 AUTHORITY

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

103.4 DEFINITIONS

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

Adult - Any person 18 years of age or older.

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CFR- Code of Federal Regulations.

Child- Any person under the age of 18 years.

City - The City of Rochester.

Non-sworn - Employees and volunteers who are not licensed peace officers.

Department/RPD - The Rochester Police Department.

DPS- The Minnesota Department of Public Safety.

DVS- The Minnesota Department of Driver and Vehicle Services.

Employee/personnel - Any person employed by the Department.

Manual - The Rochester Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

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

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

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

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

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

Peace officer- An employee of the Department who is required to be certified by POST pursuant to Minn. Stat. § 626.84, Subd. 1 or otherwise holds a peace officer license. The term includes licensed full-time and part-time officers who perform the duties of a peace officer.

POST- The Minnesota Board of Peace Officer Standards and Training.

Rank - The title of the classification held by an officer.

Shall or will - Indicates a mandatory action.

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

Supervisor - A person in a position of authority that may include responsibility for hiring, transfer, suspension, promotion, discharge, assignment, reward or discipline of other department members, directing the work of other members or having the authority to adjust grievances. The

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supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

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

USC- United States Code.

103.5 ISSUING THE POLICY MANUAL

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

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

103.5.1 DISSEMINATION RESTRICTED

While most provisions of the Department Manual are classified as public data, some provisions are classified as non-public and should not be distributed outside of the Police Department without prior approval of the Chief or Administrative Services Manager.

103.6 PERIODIC REVIEW OF THE POLICY MANUAL

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

103.7 REVISIONS TO POLICIES

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

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

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

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

Chapter 2 - Organization and Administration

Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

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

200.2 DIVISIONS

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

- Support Services Division
- Patrol Division
- Investigation Division
- Community Services Division

200.2.1 SUPPORT SERVICES DIVISION

The Support Services Division is commanded by a Captain, whose primary responsibility is to provide general management, direction and control for the Support Services Division.

200.2.2 PATROL DIVISION

The Patrol Division is commanded by a Captain, whose primary responsibility is to provide general management, direction and control for the Patrol Division.

200.2.3 INVESTIGATION DIVISION

The Investigation Division is commanded by a Captain whose primary responsibility is to provide general management, direction and control for the Investigation Division.

200.2.4 COMMUNITY SERVICES DIVISION

The Community Services Divisions is commanded by a Captain whose primary responsibility is to provide general management, direction and control of the Community Services Division. The Community Services Division consists of the Community Action Team (CAT), Intel Unit, and Special Enforcement.

200.3 COMMAND PROTOCOL

200.3.1 SUCCESSION OF COMMAND

The Chief of Police exercises command over all personnel in the Department. For circumstances in which the Chief of Police is absent, the Chief of Police will designate a Captain to serve as the acting commander of the Police Department.

Except when designated as above, the order of command authority in the absence or unavailability of the Chief of Police follows rank structure and seniority within that rank.

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Organizational Structure and Responsibility

200.3.2 UNITY OF COMMAND

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

200.3.3 ORDERS

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

200.3.4 UNLAWFUL AND CONFLICTING ORDERS

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

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

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

200.4 SPAN OF CONTROL

To achieve effective direction, coordination and control, the number of employees under the immediate control of a supervisor will not be excessive. The exact number of employees supervised by any one supervisor will be dependent on the nature of the job being performed, the complexity of the task, the size of the area to be supervised, the experience level of the employees, and other factors having a bearing on the work environment.

Each commanding officer will continually review the number of employees being supervised by those under his/her command to ensure that appropriate limits are not exceeded.

Administrative Announcements and Special Orders

201.1 PURPOSE AND SCOPE

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

201.1.1 ADMINISTRATIVE ANNOUNCEMENTS PROTOCOL

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

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

Any Administrative Announcements issued shall be numbered consecutively starting with the last two digits of the year, followed by the number "01." For example, 10-01 signifies the first Administrative Announcement for the year 2010.

201.1.2 SPECIAL ORDERS PROTOCOL

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

201.2 RESPONSIBILITIES

201.2.1 STAFF

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

201.2.2 CHIEF OF POLICE

The Chief of Police or designee shall issue all Administrative Announcements and Special Orders.

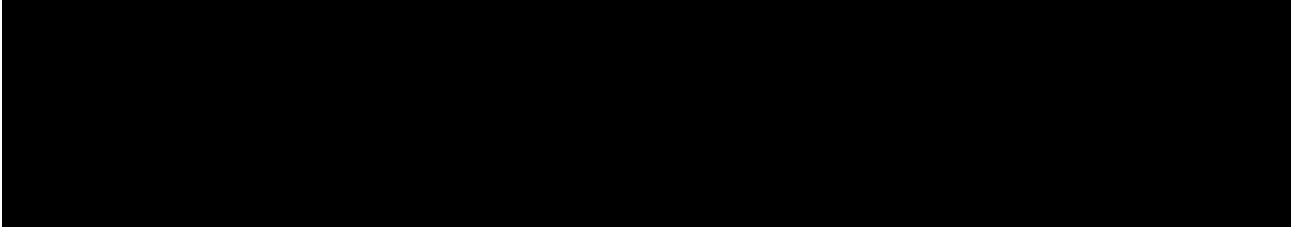
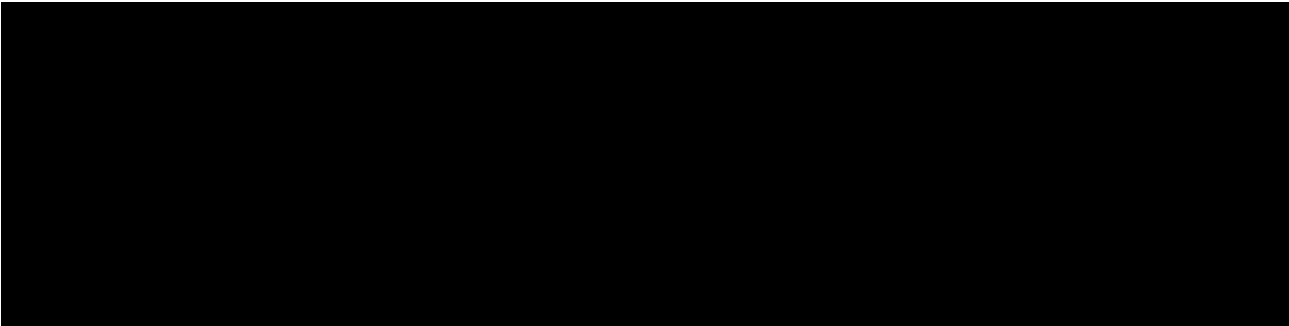
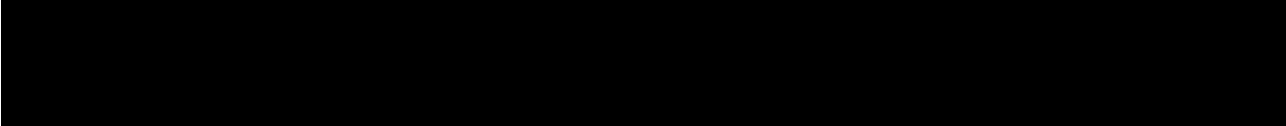
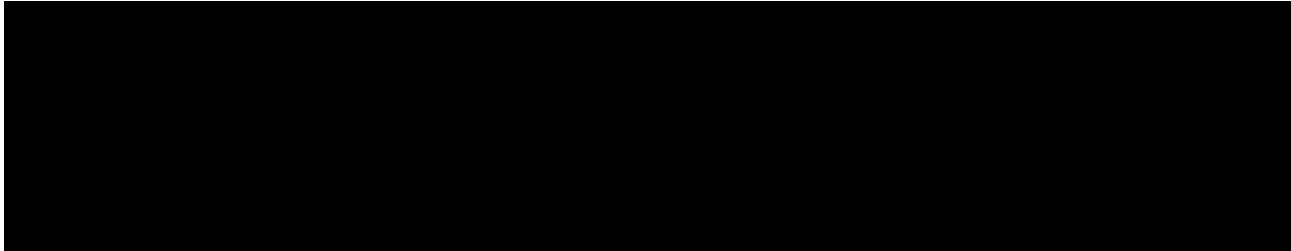

201.3 ACCEPTANCE OF ADMINISTRATIVE ANNOUNCEMENTS AND SPECIAL ORDERS

All employees are required to read and obtain any necessary clarification of all Administrative Announcements or special orders.

Emergency Operations Plan

202.1 PURPOSE AND SCOPE

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



Training

203.1 PURPOSE AND SCOPE

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

203.2 PHILOSOPHY

The Department seeks to provide ongoing training and encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels and legal mandates.

203.3 OBJECTIVES

The objectives of the Training Program are to:

- (a) Enhance the core values of the Department.
- (b) Increase the technical expertise and overall effectiveness of Department personnel.
- (c) Encourage innovation through professional development.
- (d) Ensure compliance with POST rules and regulations concerning law enforcement training.

203.4 TRAINING PLAN

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

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

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203.4.1 STATE MANDATED TRAINING

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

203.4.2 TRAINING PROCEDURES

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

203.5 TRAINING NEEDS ASSESSMENT

The Training Unit will identify training-needs and provide recommendations for training to the Chief of Police. Upon review and approval by the Chief of Police, the Training Division will implement the training plan.

203.6 TRAINING RECORDS

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

203.7 REPORTING TRAINING TO POST

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

203.8 DAILY TRAINING BULLETINS

The Lexipol Daily Training Bulletins (DTBs) are contained in a web-accessed system that provides training on the Rochester Police Department policy manual and other important topics. Generally,

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one training bulletin is available for each day of the month. However, the number of DTBs may be adjusted by the Training Division.

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

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

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

203.9 CLASSROOM DISCRIMINATION

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

Electronic Mail

204.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the electronic mail (email) system provided by the City of Rochester. Email is a communication tool available to employees to enhance efficiency in the performance of job duties. It is to be used in accordance with generally accepted business practices and current law (e.g., Minnesota Data Practices Act). Messages transmitted over the email system must only be those that involve official business activities or contain information essential to employees for the accomplishment of business-related tasks and/or communication directly related to the business, administration or practices of the Department.

204.2 EMAIL RIGHT OF PRIVACY

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

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

204.3 PROHIBITED USE OF EMAIL

Pursuant to Section 13.45, subd. 3 of the Rochester Code of Ordinances, employees may make incidental and reasonable use of City technology for private purposes. Should employees make incidental use of City technology to transmit personal messages, these messages will be treated no differently than other messages. They may be accessed, reviewed, copied, deleted or disclosed. You should expect that a message may be disclosed to or read by others beyond its original intended recipients.

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

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

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Electronic Mail

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

[See attachment: Technology Policy](#)

204.4 EMAIL RECORD MANAGEMENT

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

Administrative Communications

205.1 PURPOSE AND SCOPE

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

205.2 PERSONNEL ORDERS

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

205.3 CORRESPONDENCE

In order to ensure that the letterhead and name of the Department are not misused, all official external correspondence shall be on Department letterhead. All Department letterhead shall bear the signature element of the Chief of Police. Official correspondence and use of letterhead requires approval of a supervisor. Department letterhead may not be used for personal use or purposes.

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

205.4 SURVEYS

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

205.5 OTHER COMMUNICATIONS

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

Supervision Staffing Levels

206.1 PURPOSE AND SCOPE

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

206.2 MINIMUM PATROL SUPERVISION STAFFING LEVELS

Minimum staffing levels should result in the scheduling of at least two regular supervisors on-duty whenever possible. Shift Commanders will ensure that at least one field supervisor is deployed during each shift.

Permit to Carry a Pistol

207.1 PURPOSE AND SCOPE

The Sheriff is given the statutory authority to issue a permit to carry a pistol to residents within the county and persons who do not reside in Minnesota. This policy will provide a written process for the application and issuance of such permits.

207.2 QUALIFIED APPLICANTS

To apply for a permit to carry a firearm, the applicant must meet the following requirements (Minn. Stat. § 624.714 Subd. 2):

- (a) Be a citizen or a permanent resident of the United States.
- (b) Must be a Minnesota resident of the county in which the permit is requested. Non-Minnesota residents may apply to any Minnesota county sheriff.
- (c) Be at least 21 years of age.
- (d) Submit a fully completed permit application form.
- (e) Must not be prohibited from possessing a firearm under Minn. Stat. § 518B.01 Subd. 14, Minn. Stat. § 609.224 Subd. 3, Minn. Stat. § 609.2242 Subd. 3, Minn. Stat. § 609.749 Subd. 8, Minn. Stat. § 624.713, Minn. Stat. § 624.719 Minn. Stat. § 629.715, Subd. 2; or Minn. Stat. § 629.72 Subd. 2.
- (f) Present a photocopy of a driver's license, state identification card or the photo page of a passport.
- (g) Provide a certificate of completed authorized firearms training, conducted by a certified instructor, within one year of the original or renewal application.
- (h) Be free from any federal law prohibiting the applicant from possessing or owning a firearm.
- (i) Not be listed in the criminal gang investigative data system.
- (j) Pay the required processing fee.

207.3 APPLICATION PROCESS

Application forms shall be furnished by the Department upon request or available on the Internet (Minn. Stat. § 624.714 Subd. 3). The application must be submitted in person. Upon receipt of an application for a permit and any required fee, the Department must provide a signed receipt indicating the date of submission.

An investigation of the applicant to determine if he/she is eligible shall be conducted (Minn. Stat. § 624.714 Subd. 4). The Sheriff shall notify the Chief of Police, if any, of the municipality where the applicant resides.

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Permit to Carry a Pistol

The applicant will be notified within 30 days of the application whether the permit is issued or denied (Minn. Stat. § 624.714 Subd. 6). Failure to notify the applicant of a denial within the 30 days shall constitute issuance of the permit to carry.

The permit shall be issued to the applicant unless a substantial likelihood exists that he/she is a danger to themselves or the public, he/she is not qualified to possess a handgun pursuant to state or federal law or is not otherwise qualified to obtain a permit. Upon issuing a permit the Department shall provide a laminated permit card to the applicant by first class mail or personal delivery and submit the information to the Commissioner of Public Safety within five business days.

If the application is denied, the Department shall send the applicant written notification justifying the denial, which includes the source of the justification. The Department shall inform the applicant of his/her right to submit additional documentation in support of the application and the right to seek judicial review.

An applicant whose application for a permit is denied may seek judicial review by filing a petition in the district court for the county in which the application was submitted (Minn. Stat. § 624.714 Subd. 12).

207.4 EMERGENCY PERMIT

A Sheriff may issue an emergency permit valid for 30 days if a determination is made that the person is in an emergency situation that may constitute an immediate risk to the safety of the person or to someone residing in the person's household (Minn. Stat. § 624.714 Subd. 11a).

207.5 SUSPENDING APPLICATION OR PERMIT

An application or permit to carry a pistol may be suspended by a district court as a condition of release following arrest for a crime against a person, and the issuing Sheriff will be notified (Minn. Stat. § 624.714 Subd. 12a).

207.6 VOIDING OR REVOKING PERMIT

The permit to carry becomes void if the holder becomes prohibited by law from possessing a firearm. If the Sheriff has knowledge that a permit is void, the Sheriff must give notice to the permit holder in writing (Minn. Stat. § 624.714 Subd. 8). When a permit holder is convicted of an offense that prohibits the person from possession of a firearm, the court must take possession of the permit if it is available and deliver it to the Sheriff.

The Sheriff may file a petition with the district court for an order to revoke the permit on the grounds that there is a substantial likelihood that the person is a danger to him/herself or to the public if he/she is authorized to carry a pistol under permit. The court shall issue an order revoking the permit if the Sheriff proves such danger by clear and convincing evidence.

A permit holder whose permit was revoked may seek a judicial review by filing a petition in the district court for the county in which the application was submitted (Minn. Stat. § 624.714 Subd. 12).

Permit to Carry a Pistol

207.7 APPLICATION FOR RENEWAL

If a permittee wishes to renew the pistol permit, the permit may be renewed no earlier than 90 days prior to the expiration date in the same manner and under the same criteria the original permit was obtained (Minn. Stat. § 624.714 Subd. 7). The Sheriff shall issue a renewal if all statutory provisions are met.

The permittee must successfully retake an approved firearms course within one year of applying for the renewal permit (Minn. Stat. § 624.714 Subd. 2a).

207.8 CARRYING FIREARMS IN RESTRICTED AREAS

Firearm permittees, other than peace officers, are prohibited from carrying firearms within the following locations:

- (a) Secure areas of a public airport.
- (b) School property except as authorized by Minn. Stat. § 609.66, Subd. 1d.
- (c) A child care center while children are present except as authorized by Minn. Stat. § 609.66, Subd. 1d.
- (d) In a public place while under the influence of alcohol, or a controlled substance, or an intoxicating substance that the person has reason to know could cause impairment (Minn. Stat. § 624.7142, Subd. 1).
- (e) Public colleges and universities following implementation of a policy restricting the carrying or possession of firearms on their premises by employees and students while on campus. However, under Minn. Stat. § 624.714, Subd. 18 such prohibitions apply only to faculty and students. A violation of such restrictions by a person with a carry permit is not an arrestable offense and only subjects the violator to administrative sanctions.
- (f) Private establishments that have posted a sign banning firearms on their premises, provided the posting meets the requirements of Minn. Stat. § 624.714, Subd. 17.
- (g) Private establishments whose personnel inform the permit holder that firearms are prohibited and demand compliance. This provision is violated only after the permit holder refuses to depart the premises.
- (h) Places of employment, public or private, if the employer restricts the carrying or possession of firearms by employees. A violation of such restrictions by a person with a carry permit is not an arrestable offense and only subjects the violator to administrative sanctions.
- (i) State correctional facilities or state hospitals and grounds (Minn. Stat. § 243.55).
- (j) Any jail, lockup, or correctional facility (Minn. Stat. § 641.165).
- (k) Offices and courtrooms of the Minnesota Supreme Court and Court of Appeals as established by order of the court. Violation of such a ban by a permit holder may be enforced as civil or criminal contempt of court but is not a violation of the carry permit law.

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- (l) In a field while hunting big game by archery unless permitted by Department of Natural Resources regulations. (Minn. Stat. § 97B.211; Minn. Stat. § 97B.411).
- (m) In federal court facilities or other federal facilities (18 USC § 930).

Pistol permittees are required to comply with notices requiring presentation of the permit upon demand of a peace officer when carrying a firearm.

207.9 RECOGNITION OF PERMITS FROM OTHER STATES

A person who possesses a firearms permit from another state that is on the annual list of states with firearm regulations similar to Minnesota, published by the Commissioner of Public Safety, and that has reciprocity to carry a firearm in Minnesota has lawful authority to carry a pistol in Minnesota. The permit issued from another state is not valid if the holder is or becomes prohibited by law from possessing a firearm. The Chief of Police may file a petition with the appropriate court to suspend or revoke a license from another state when there is a substantial likelihood that the license holder is a danger to him/herself or the public (Minn. Stat. § 624.714, Subd. 16)

Retiree Concealed Firearms

208.1 PURPOSE AND SCOPE

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

208.2 POLICY

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

208.3 LEOSA

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

- (a) Separated from service in good standing from this department as an officer.
- (b) Before such separation, had regular employment as an officer for an aggregate of 10 years or more or, if employed as an officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this department.
- (c) Has not been disqualified for reasons related to mental health.
- (d) Has not entered into an agreement with this department where the officer acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.
- (e) Is not prohibited by federal law from receiving or possessing a firearm.

208.3.1 LEOSA IDENTIFICATION CARD FORMAT

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

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

208.3.2 AUTHORIZATION

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

- (a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:
 1. An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement

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agency to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.

2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.
 - (b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
 - (c) Not prohibited by federal law from receiving a firearm.
 - (d) Not in a location prohibited by Minnesota law or by a private person or entity on his/her property if such prohibition is permitted by Minnesota law.

208.4 FORMER OFFICER RESPONSIBILITIES

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

208.4.1 RESPONSIBILITIES UNDER LEOSA

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

- (a) Sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Department.
- (b) Remain subject to all applicable department policies and federal, state and local laws.
- (c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.
- (d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

208.5 DENIAL, SUSPENSION OR REVOCATION

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

208.6 FIREARM QUALIFICATIONS

The Training Supervisor may provide former officers from this department an opportunity to qualify. Written evidence of the qualification and the weapons used will be provided and will contain the

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Retiree Concealed Firearms

date of the qualification. The Training Supervisor will maintain a record of the qualifications and weapons used.

Handgun Purchase and Transfer Permit

209.1 PURPOSE AND SCOPE

The Chief of Police is given the statutory authority to issue a permit to purchase or transfer a pistol to persons within the community. However, the Olmsted County Sheriff's Office handles this responsibility.

Chapter 3 - General Operations

Use of Force

300.1 PURPOSE AND SCOPE

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

- Minn. Stat. § 626.8452, Deadly Force and Firearms Use
- Minn. Stat. § 626.8475, Duty to Intercede and Report
- Minn. Stat. § 609.06, Authorized Use of Force
- Minn. Stat. § 609.065, Justifiable Taking of Life
- Minn. Stat. § 609.066, Authorized Use of Force by Peace Officers

The primary purpose of this policy is to ensure officers respect the sanctity of every human life when exercising their lawful authority to use force under Minnesota law. Minnesota statute grants officers the authority to use force; however, use of force shall never be considered routine. In situations where officers are justified in using force, they shall do so with the utmost restraint while upholding the department's core values of service, integrity, compassion, respect, and innovation. In accordance with these values, officers must act in ways to preserve human life, avoid unnecessary use of force, and take action to minimize the amount of force used while protecting themselves and the public.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized Device - A device an officer has received permission from the agency to carry and use in the discharge of that officer's duties, and for which the officer has:

- (a) Obtained training in the technical, mechanical and physical aspects of the device
- (b) Developed a knowledge and understanding of the law, rules and regulations regarding the use of such a device.

Bodily Harm – Physical pain or injury

Choke Hold - A method by which a person applies sufficient pressure to a person to make breathing difficult or impossible, and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air. Choke hold also means applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.

Deadly Force - Force used by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm. 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.

Use of Force

De-Escalation - Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisement, warnings, verbal persuasion, and tactical repositioning.

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.

Other Than Deadly Force - Force used by an officer that does not have the purpose of causing, nor create a substantial risk of causing, death or great bodily harm.

300.2 POLICY

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

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose. Officers should exercise special care when interacting with individuals with known physical, mental health, developmental, or intellectual disabilities as an individual's disability may affect the individual's ability to understand or comply with commands from peace officers.

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

300.2.1 DUTY TO INTERCEDE AND REPORT

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

- (a) Present and observing another officer using force in violation of Minn. Stat. § 609.066, subdivision 2, or otherwise beyond that which is objectively reasonable under the circumstances
- (b) Physically or verbally able to do so

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Use of Force

Rochester police officers have a duty to intervene and stop uses of force by fellow officers that violate applicable law or department policy. Any employee having observed an officer about to use force that may be illegal, unnecessary, or excessive, absent extraordinary circumstances, must do whatever they can to interrupt the flow of events even before a violation of law or policy occurs. Officers must protect the public and their fellow officers by recognizing when verbal or physical intervention is necessary to prevent an officer from using force that is otherwise illegal or excessive.

An officer who observes another officer use force that exceeds the degree of force permitted by law has the duty to report the incident to a supervisor as soon as possible. In addition, within 24 hours of the observed use of the excessive force, the officer shall report the incident in writing to the chief law enforcement officer of the agency that employs the reporting officer.

300.3 USE OF FORCE PROCEDURE

Rochester police officers shall comply with the following general provisions:

- (a) Use of physical force should be discontinued when resistance ceases or when the incident is under control.
- (b) Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the amount of force necessary to control the situation shall be used.
- (c) Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.
- (d) All uses of force shall be documented and investigated pursuant to this agency's policies.

300.3.1 DE-ESCALATION

The goal of every Rochester police officer should be to resolve all incidents without the use of force. In consideration of this goal, officers shall:

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

When reasonable, the development of a tactical plan prior to arriving at an incident location can help establish communication, slow momentum, and work in favor of de-escalating a potential volatile situation. Accessing risks, assembling resources and equipment, and coordinating

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approaches are particularly effective tactics when responding to persons in crisis and those who may have mental, physical, emotional, or intellectual disabilities

300.3.2 USE OF FORCE OTHER THAN DEADLY FORCE

When de-escalation techniques are not effective or appropriate, an officer may consider the use of other than deadly force to control a non-compliant or actively resistant individual. An officer is authorized to use agency-approved other than deadly force techniques and issued equipment in the following circumstances (Minn. Stat. § 609.06 and Minn. Stat. § 629.33) :

- (a) In effecting a lawful arrest.
- (b) In the execution of a legal process.
- (c) In enforcing an order of the court.
- (d) In executing any other duty imposed by law.
- (e) In preventing the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime.
- (f) In restraining a person with a mental illness or a person with a developmental disability from self-injury or injury to another.
- (g) In self defense or defense of another.

An officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance. However, officers shall be aware that in some instances retreat may be the best tactical decision to ensure officer safety as well as the safety of the public.

300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.

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- (g) Proximity of weapons or dangerous improvised devices. The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other reasonable and feasible options and their possible effectiveness (Minn. Stat. § 626.8452).
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects, and others.
- (l) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the individual or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

300.3.4 CONTROL TECHNIQUES

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

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply with lawful commands before using additional force.

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

300.3.5 RESTRAINT HOLDS

Except in cases where deadly force is authorized to protect an officer or another from death or great bodily harm (Minn. Stat. § 609.066), the use of a choke hold restraint is prohibited. Whenever a choke hold is used, an ambulance shall be requested without delay and supervisor notified. Officers shall closely monitor the subject until released to medical care. Once medically cleared, officers shall continue to monitor and evaluate the subject's condition during subsequent transport. Less than lethal measures must be considered by the officer prior to the application of a choke hold.

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Officers are prohibited from using the following types of restraints:

- (a) Tying all of a person's limbs together behind a person's back to render the person immobile.
- (b) Intentionally securing a person in a way that results in transporting the person face down in a vehicle.

300.3.6 USE OF FORCE TO SEIZE EVIDENCE

Officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers shall not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Rochester Police Department for this specific purpose.

300.4 DEADLY FORCE APPLICATIONS

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

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

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

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

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

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

In cases where deadly force is authorized, less than lethal measures must be considered first by the officer.

300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks.

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When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

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

300.5 REPORTING THE USE OF FORCE

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

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

300.5.1 NOTIFICATIONS TO SUPERVISORS

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

- (a) The application caused a visible injury.
- (b) The individual subjected to the force complained of injury or continuing pain.
- (c) The individual indicates intent to pursue litigation.
- (d) Any application of the TASER (TM) device or control device.
- (e) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (f) The individual subjected to the force was rendered unconscious.
- (g) An individual was struck or kicked.
- (h) An individual alleges unreasonable force was used or that any of the above has occurred.

300.5.2 STATE REPORTING REQUIREMENTS

The Chief of Police shall maintain records of the Rochester Police Department's compliance with use of force training requirements. In addition, the department shall provide for:

- (a) The filing of a report with the Bureau of Criminal Apprehension (BCA) on a monthly basis and in the form required by BCA (Minn. Stat. § 626.5534).
- (b) The collection and submission of data as required by Minn. Stat. § 626.8457 and consistent with the use of force reporting requirements as determined by POST (Minn. Stat. § 626.8457).

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300.6 MEDICAL CONSIDERATIONS

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

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

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

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

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:

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1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
1. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the individual may pursue civil litigation.
1. If there is an indication of potential civil litigation, the supervisor should notify the chain of command.
- (h) Evaluate the circumstances surrounding the incident and notify the chain of command if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

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

300.7.1 CHAIN OF COMMAND RESPONSIBILITY

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

300.8 TRAINING

All officers shall receive training, at least annually, on the Rochester Police Department's use of force policy and related legal updates. In addition, training shall be provided on a regular and periodic basis and designed to:

- (a) Provide techniques for use of and reinforce the importance of de-escalation
- (b) Simulate actual shooting situations and conditions through scenario based training
- (c) Enhance the discretion and judgment of officers in using other than deadly force in accordance with this policy

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

Before carrying an authorized device all officers shall receive training and instruction in the use of the device, including training as it relates to its use in deadly force and/or other than deadly force situations. Such training and instruction shall continue on an annual basis. Officers will carry

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and use only authorized devices unless circumstances exist which pose an immediate threat to the safety of the public or the officer requiring the use of a device or object that has not been authorized to counter such threat. With Training Unit approval, an officer may modify or cause to be altered an authorized device in their possession or control.

300.8.1 PROHIBITED TRAINING

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

300.9 USE OF FORCE ANALYSIS

At least annually, the Professional Standards Manager should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

Use of Force Review Boards

301.1 PURPOSE AND SCOPE

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

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

301.2 POLICY

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

301.3 REMOVAL FROM LINE DUTY ASSIGNMENTS

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

301.4 REVIEW BOARD

The Use of Force Review Board will be convened at the discretion of the Chief of Police.

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

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

It will be the responsibility of the Captain or supervisor of the involved employee to provide notification of any incidents requiring board review. The involved employee's Captain or supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

301.4.1 COMPOSITION OF THE BOARD

The Chief of Police should select five Use of Force Review Board members as appropriate.

301.4.2 RESPONSIBILITIES OF THE BOARD

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

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear.

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The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process.

The board does not have the authority to recommend discipline.

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

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

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

The Board shall make the following recommended findings:

- (a) Reasonableness of force.
- (b) Department policy and procedure compliance.
- (c) Findings, and recommendations as deemed necessary, related to incident supervision, training considerations, and training recommendations.

The use of force review panel does not recommend discipline. If there appears to be policy violations or conduct concerns outside the scope of the use of force, the incident and those details will be referred to the professional standards manager.

At the conclusion of a review, the panel's use of force findings will be forwarded to the Chief of Police for appropriate action.

The Chief of Police shall evaluate the recommendation and make a final determination as to whether the employee's actions were within policy and procedure and whether any additional actions, investigations, or reviews are appropriate.

Handcuffing and Restraints

302.1 PURPOSE AND SCOPE

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

302.2 POLICY

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

302.3 USE OF RESTRAINTS

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

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

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

302.3.1 RESTRAINT OF DETAINEES

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

302.3.2 RESTRAINT OF PREGNANT PERSONS

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

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

302.3.3 RESTRAINT OF JUVENILES

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

302.3.4 NOTIFICATIONS

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

302.4 HANDCUFFS OR PLASTIC CUFFS

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

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

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

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

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

302.5 SPIT HOODS

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

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

Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide

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assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual. Officers should avoid comingling individuals wearing spit hoods with other detainees.

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

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

302.6 AUXILIARY RESTRAINT DEVICES

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

Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

302.7 LEG RESTRAINT DEVICES

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

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

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

302.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.

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- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (f) When transported by ambulance/paramedic unit, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

302.8 REQUIRED DOCUMENTATION

If a person is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints.

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

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

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

302.9 TRAINING

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

- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.
- (b) Response to complaints of pain by restrained persons.

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- (c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.
- (d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

Control Devices

303.1 PURPOSE AND SCOPE

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

303.2 POLICY

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

303.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

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

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

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

303.4 RESPONSIBILITIES

303.4.1 TRAINING UNIT RESPONSIBILITIES

Department members who have successfully completed the required training may carry authorized control devices.

303.4.2 TRAINING SUPERVISOR RESPONSIBILITIES

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

Every control device will be periodically inspected by the Training Supervisor or the designated instructor for a particular control device. The inspection shall be documented.

303.4.3 USER RESPONSIBILITIES

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

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

303.5 BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys, and groin should not be intentionally targeted except when the officer reasonably believes the use of deadly force is appropriate. See the Use of Force Policy for additional guidance.

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

303.6 TEAR GAS GUIDELINES

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

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

303.7 OLEORESIN CAPSICUM (OC) AND NON-OC CHEMICAL GUIDELINES

As with other control devices, oleoresin capsicum (OC) spray, pepper projectiles, and non-OC chemical spray may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior. Pepper projectiles, OC spray, and non-OC chemical spray should not be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

303.7.1 OC AND NON-OC CHEMICAL DETERRENT SPRAY

Uniformed personnel carrying OC spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor. Different divisions or units of the department may, upon approval and completion of training from the Training Division, be issued types of aerosol or non-OC chemical spray that is better suited to their assignment or unit. Upon meeting the requirements of the Training Division, authorization to carry non-OC chemical spray will be at the direction of an officer's supervisor.

303.7.2 PEPPER PROJECTILE SYSTEMS

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Because the compressed gas launcher delivers the projectiles with enough force to burst the projectiles on

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impact and release the OC powder, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine, or groin. Therefore, personnel deploying a pepper projectile system should not intentionally target those areas, except when the officer reasonably believes the use of deadly force is appropriate. See the Use of Force Policy for additional guidance.

Officers encountering a situation that warrants the use of a pepper projectile system shall notify a supervisor as soon as practicable. A supervisor shall respond to all pepper projectile system incidents where the suspect has been hit or exposed to the chemical agent. The supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

Each deployment of a pepper projectile system shall be documented. This includes situations where the launcher was directed toward the suspect, whether or not the launcher was used. Unintentional discharges shall be promptly reported to a supervisor and documented on the appropriate report form. Only non-incident use of a pepper projectile system, such as training and product demonstrations, is exempt from the reporting requirement.

303.7.3 TREATMENT FOR OC AND NON-OC CHEMICAL SPRAY EXPOSURE

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

303.8 POST-APPLICATION NOTICE

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

303.9 KINETIC ENERGY PROJECTILE GUIDELINES

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

303.9.1 DEPLOYMENT AND USE

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

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

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Control Devices

Circumstances appropriate for deployment include, but are not limited to, situations in which:

- (a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- (b) The suspect has made credible threats to harm him/herself or others.
- (c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- (d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

303.9.2 DEPLOYMENT CONSIDERATIONS

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

- (a) Distance and angle to target.
- (b) Type of munitions employed.
- (c) Type and thickness of subject's clothing.
- (d) The subject's proximity to others.
- (e) The location of the subject.
- (f) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

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

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

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the use of deadly force is appropriate. See the Use of Force Policy for additional guidance.

303.9.3 SAFETY PROCEDURES

Absent compelling circumstances, officers who must transition from conventional ammunition to kinetic energy projectiles will employ the two-person rule for loading. The two-person rule is a safety measure in which a second officer watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

Control Devices

303.10 TRAINING FOR CONTROL DEVICES

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

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

303.11 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

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

Conducted Energy Device

304.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the TASER (TM) device.

304.2 POLICY

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

304.3 ISSUANCE AND CARRYING TASER DEVICES

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

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

Officers shall only use the TASER device and cartridges that have been issued by the Department. Uniformed officers who have been issued the TASER device shall wear the device in an approved holster on their person. Non-uniformed officers may secure the TASER device in the driver's compartment of their vehicle.

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

When carried while in uniform, officers shall carry the TASER device in a weak-side holster on the side opposite the duty weapon.

- (a) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Officers shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.
- (c) Officers should not hold both a firearm and the TASER device at the same time.

304.4 VERBAL AND VISUAL WARNINGS

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

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the TASER device may be deployed.

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If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the electrical arc or the laser in a further attempt to gain compliance prior to the application of the TASER device. The aiming lasers should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

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

304.5 USE OF THE TASER DEVICE

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

304.5.1 APPLICATION OF THE TASER DEVICE

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

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

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

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

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

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.

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

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

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

304.5.3 TARGETING CONSIDERATIONS

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

304.5.4 MULTIPLE APPLICATIONS OF THE TASER DEVICE

Officers should apply the TASER device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the TASER device against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

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

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

Officers should generally not intentionally apply more than one TASER device at a time against a single subject.

304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers shall request EMS to the scene of all TASER deployments for initial assessment and notify a supervisor. The expended cartridge, along with both probes and wire, should be submitted into evidence. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

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304.5.6 DANGEROUS ANIMALS

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

304.5.7 TASER® CAM™

The TASER CAM is not currently issued.

304.5.8 OFF-DUTY CONSIDERATIONS

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

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

304.6 DOCUMENTATION

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

304.6.1 TASER DEPLOYMENT DOCUMENTATION

Items that should be included in the TASER device deployment report are:

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

The Training Unit should periodically analyze the report forms to identify trends, including deterrence and effectiveness.

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304.6.2 REPORTS

The officer should include the following in the arrest event report:

- (a) Identification of all personnel firing TASER devices
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication or other medical problems

304.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove TASER device probes that are deeply embedded or imbedded in a sensitive area of the body. Used TASER device probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by TASER device probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The TASER device probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

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

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304.8 SUPERVISOR RESPONSIBILITIES

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

A supervisor should review each incident where a person has been exposed to an activation of the TASER device. The device's onboard memory should be downloaded annually or as necessary for evidentiary purposes. Supervisors should ensure photographs of probe sites are taken and witnesses interviewed.

304.9 TRAINING

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

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

A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training Unit. All training and proficiency for TASER devices will be documented in the officer's training file.

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

Application of TASER devices during training could result in injury to personnel and should not be mandatory for certification.

The Training Unit should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the TASER device.

Officer-Involved Shootings and Deaths

305.1 PURPOSE AND SCOPE

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

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

305.2 POLICY

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

305.3 TYPES OF INVESTIGATIONS

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

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

305.4 CONTROL OF INVESTIGATIONS

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

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

305.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

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

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

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305.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

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

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

305.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

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

305.4.4 POST ADMINISTRATIVE INVESTIGATIONS

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

305.5 INVESTIGATION PROCESS

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

305.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

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

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

305.5.2 SUPERVISOR RESPONSIBILITIES

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

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

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

305.5.3 SHIFT COMMANDER RESPONSIBILITIES

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

All outside inquiries about the incident shall be directed to the designated media liaison.

305.5.4 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Chief of Police
- Department Captains
- Outside agency investigators (if appropriate)
- Professional Standards Manager
- Administrative Services Manager
- Psychological/peer support personnel
- Chaplain
- Medical Examiner (if necessary)

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- Involved officer's agency representative (if requested)

305.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
 1. Involved RPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
 2. Requests from involved non-RPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information.
- (d) A licensed psychotherapist shall be provided by the Department to each involved RPD officer. A licensed psychotherapist may also be provided to any other affected RPD members, upon request.
 - (a) Interviews with a licensed psychotherapist will be considered privileged.
 - (b) An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
 - (c) A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Communications with peer counselors are confidential and shall not be disclosed except as provided in Minn. Stat. § 181.9731, Subd. 4 (Minn. Stat. § 181.9731).

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

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

305.6 CRIMINAL INVESTIGATION

Investigative personnel from this department may be assigned to partner with investigators from outside agencies to avoid duplicating efforts in related criminal investigations.

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

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

305.6.1 REPORTS BY INVOLVED RPD OFFICERS

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

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

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

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

305.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

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

- (a) Identification of all persons present at the scene and in the immediate area.

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1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to his/her departure should be made whenever feasible.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.
1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

305.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Investigative Division supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with investigators from the investigating agency.

All related department reports, except administrative reports, will be forwarded to the designated Investigative Division supervisor for approval. Administrative reports will be forwarded to the appropriate Captain.

305.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, the Chief of Police may direct the initiation of an internal administrative investigation of involved RPD officers to determine conformance with department policy. This investigation will be conducted under the supervision of the Professional Standards Manager and will be considered a confidential officer personnel file.

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

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening in accordance with the drug and alcohol testing guidelines in the Drug- and Alcohol-Free Workplace Policy adopted under the authority of Minn. Stat. § 181.950 to Minn. Stat. § 181.957. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.

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- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
 - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information (Minn. Stat. § 626.89).
 - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
 - 2. The interview must be taken at the RPD or at a place agreed to by the interviewer and the involved officer.
 - 3. The interview must be of reasonable duration and provide the involved officer reasonable periods for rest and personal necessities. When practicable, the interview must be held during the involved officer's regularly scheduled work shift. If not, the involved officer must be compensated at his/her current pay rate.
 - 4. If requested, the officer shall have the opportunity to select an uninvolved representative or an attorney, or both, to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative collectively or in groups prior to being interviewed.
 - 5. Administrative interviews shall be recorded electronically or otherwise by the investigator. The officer may also record the interview. A complete copy or transcript of the interview must be provided to the involved officer upon written request without charge or undue delay.
 - 6. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed in writing or on the record that the interview will be for administrative purposes only and that the statement cannot be used criminally.
 - 7. The Professional Standards Manager shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
 - 8. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.

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9. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

305.8 CIVIL LIABILITY RESPONSE

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

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

305.9 AUDIO AND VIDEO RECORDINGS

The Department will abide by the investigative protocols established by the assigned outside investigating agency. In an officer involved shooting, death, or critical incident, department employees should not review available Mobile Audio/Video, body-worn video, or other video or audio recordings unless:

- (a) A recording is believed to contain information relevant to an immediate threat to public safety, and a delay in accessing that information would compromise the safety of officers or the community.
- (b) An outside agency assigned to investigate the incident determines it is necessary to aid the investigative process.
- (c) As directed by the Chief of Police.

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

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

305.10 DEBRIEFING

Following an officer-involved shooting or death, the Rochester Police Department should conduct both a critical incident/stress debriefing and a tactical debriefing.

305.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The peer support supervisor is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event (Minn. Stat. § 181.9732).

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The debriefing is not part of any investigative process. Communications with critical incident stress management team members, as defined in Minn. Stat. § 181.9732, are confidential and shall not be disclosed except as provided in Minn. Stat. § 181.9732, Subd. 4 (Minn. Stat. § 181.9732).

Members who witness a critical incident are prohibited from providing critical incident stress management services at a debriefing about the incident that they witnessed (Minn. Stat. § 181.9732).

Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., dispatchers, other non-sworn personnel). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory and Professional Standards Manager personnel.

305.10.2 TACTICAL DEBRIEFING

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

305.11 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Shift Commander, Investigation Captain and Captain of Investigations in the event of inquiries from the media.

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

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

305.12 REPORTING

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

Firearms

306.1 PURPOSE AND SCOPE

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

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

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

306.1.1 AUTHORIZATION TO CARRY FIREARMS

All licensed personnel shall successfully complete department training regarding the use of force, deadly force and the use of firearms before being issued a firearm or being authorized to carry a firearm in the course of their duties (Minn. Stat. § 626.8452, Subd. 3; Minn. Stat. § 626.8463).

306.2 POLICY

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

306.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by a member of the Training Unit. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized department range.

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

306.3.1 HANDGUNS

The authorized department-issued handgun is the Glock 17 .9 mm.

The following additional handguns are approved for on-duty use:

MAKE	MODEL	CALIBER
Glock	19	.9mm
Glock	21	.45

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306.3.2 PATROL RIFLES

Only rifles issued and approved by the Training Unit shall be utilized for patrol duty.

Members may deploy the patrol rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

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

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

306.3.3 AUTHORIZED SECONDARY HANDGUN

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

- (a) The handgun shall be in good working order and on the department list of approved firearms.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the Department.
- (d) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (e) The handgun shall be inspected by a member of the Training Unit prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (f) Ammunition shall be the same as department issue. If the caliber of the handgun is other than department issue, the Chief of Police or the authorized designee shall approve the ammunition.
- (g) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.

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- (h) Members shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Training Supervisor, who will maintain a list of the information.

306.3.4 AMMUNITION

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

Members carrying personally owned authorized firearms of a caliber differing from department-issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Training Supervisor when needed, in accordance with established policy.

306.4 EQUIPMENT

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

306.4.1 REPAIRS OR MODIFICATIONS

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

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

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

306.4.2 HOLSTERS

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

306.4.3 TACTICAL LIGHTS

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

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306.4.4 OPTICS OR LASER SIGHTS

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

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

306.5 SAFE HANDLING, INSPECTION AND STORAGE

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

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Training Supervisor. Members shall not dry fire or practice quick draws except as instructed by the Training Supervisor or other firearms training staff.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle, using clearing barrels.
- (e) Members shall not place or store any firearm or other weapon on department premises except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when securing or processing an arrestee, but shall place all firearms in a secured location. Members providing access to the jail section to persons from outside agencies are responsible for ensuring firearms are not brought into the jail section.
- (f) Members shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.
- (g) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Department or a Training Supervisor approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Training Supervisor will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

306.5.1 INSPECTION AND STORAGE

Handguns shall be inspected regularly and upon access or possession by another person. Shotguns and rifles shall be inspected at the beginning of the shift by the member to whom the weapon is issued. The member shall ensure that the firearm is carried in the proper condition and

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loaded with approved ammunition. Inspection of the shotgun and rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction or into clearing barrels.

Personally owned firearms may be safely stored in lockers at the end of the shift. Department-owned firearms shall be stored in the appropriate equipment storage room. Handguns may remain loaded if they are secured in an appropriate holster. Shotguns and rifles shall be unloaded in a safe manner outside the building and then stored in the appropriate equipment storage room.

306.5.2 STORAGE AT HOME

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

306.5.3 ALCOHOL AND DRUGS

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

306.6 FIREARMS TRAINING AND QUALIFICATIONS

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

Members will qualify with secondary firearms annually.

Training and qualifications must be on an approved range course.

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

306.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

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

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

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

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- (b) Members shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- (c) No range credit will be given for the following:
 - 1. Unauthorized range make-up
 - 2. Failure to meet minimum standards or qualify after remedial training

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

306.7 FIREARM DISCHARGE

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

In all other cases, written reports shall be made as follows:

- (a) If on-duty at the time of the incident, the member shall file a written report with his/her Captain or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- (b) If off-duty at the time of the incident, a written report shall be submitted or recorded statement provided no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

306.7.1 DESTRUCTION OF ANIMALS

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

In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, department members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, TASER (TM) device, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

306.7.2 INJURED ANIMALS

With the approval of a supervisor, a member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical.

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306.7.3 WARNING AND OTHER SHOTS

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

306.7.4 REPORTING FIREARMS DISCHARGE

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

306.8 TRAINING SUPERVISOR DUTIES

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

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

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

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

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

306.9 FLYING WHILE ARMED

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

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- (a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure and must have a need to have the firearm accessible, as determined by the Department based on the law and published TSA rules.
- (b) Officers must carry their Rochester Police Department identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature and the signature of the Chief of Police or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver's license, passport).
- (c) The Rochester Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Rochester Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary and include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.
- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification can be accomplished by early check-in at the carrier's check-in counter.
- (g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.
- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Officers should resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
- (j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

306.10 CARRYING FIREARMS OUT OF STATE

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

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- (a) The officer shall carry his/her Rochester Police Department identification card whenever carrying such weapon.
- (b) The officer is not the subject of any current disciplinary action.
- (c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) The officer will remain subject to this and all other department policies (including qualifying and training).

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

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

Vehicle Pursuits

307.1 PURPOSE AND SCOPE

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

307.1.1 PHILOSOPHY

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

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

307.2 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

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

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

307.3 OFFICER RESPONSIBILITIES

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

Operating an emergency vehicle in a pursuit with emergency lights and siren does not relieve the operator of an authorized emergency vehicle of the duty to drive with due regard for the safety of all persons, and does not protect the driver from the consequences of a reckless disregard for the safety of others.

307.3.1 WHEN TO INITIATE A PURSUIT

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

The only circumstances that may justify a pursuit are:

- (a) An officer reasonably believes that an occupant in the suspect vehicle has committed a violent felony that necessitates immediate apprehension; or
- (b) The suspect vehicle is being operated in a manner that would likely result in great bodily harm or death if that driving conduct continued and this hazardous driving conduct was observed prior to attempting the traffic stop and was not the suspect driver's response to the initiation of the stop.

The following factors individually and collectively shall be considered in deciding whether to initiate or continue a pursuit (Minn. Stat. § 626.8458 Subd. 2(2); Minn. R. § 6700.2701):

- (a) Seriousness of the known or reasonably suspected crime and its relationship to community safety.
- (b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists and others.
- (c) Apparent nature of the fleeing suspect (e.g., whether the suspect represents a serious threat to public safety).
- (d) The identity of the suspect has been verified and there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.

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- (e) Safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic (e.g., school zones) and the speed of the pursuit relative to these factors.
- (f) Pursuing officer's familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor, and the driving capabilities of the pursuing officers under the conditions of the pursuit.
- (g) Weather, traffic and road conditions that unreasonably increase the danger of the pursuit when weighed against the risks resulting from the suspect's escape.
- (h) Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.
- (i) Vehicle speeds.
- (j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).
- (k) Age of the suspect and occupants.
- (l) Availability of other resources, such as aircraft assistance.
- (m) The police unit is carrying passengers other than on-duty police officers. Pursuits should not be undertaken with a prisoner in the pursuit vehicle unless exigent circumstances exist, and then only after the need to apprehend the suspect is weighed against the safety of the prisoner in transport. A unit containing more than a single prisoner should not participate in a pursuit.

307.3.2 WHEN TO TERMINATE A PURSUIT

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

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

In addition to the factors listed above, the following factors should be considered when deciding whether to terminate a pursuit (Minn. Stat. § 626.8458 Subd. 2 (2); Minn. R. § 6700.2701):

- (a) Distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.
- (b) Pursued vehicle's location is no longer definitely known.

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- (c) Officer's pursuit vehicle sustains damage or a mechanical failure that renders it unsafe to drive.
- (d) Pursuit vehicle suffers an emergency equipment failure that causes the vehicle to no longer qualify for emergency operation use.
- (e) Extended pursuits of violators for misdemeanors not involving abuse or risk of serious harm (independent of the pursuit) are discouraged.
- (f) Hazards to uninvolved bystanders or motorists.
- (g) If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, officers should strongly consider discontinuing the pursuit and apprehending the offender at a later time.
- (h) When directed to terminate the pursuit by a supervisor.
- (i) When radio communications are broken or inadequate.
- (j) When the danger that the continued pursuit poses to the public, the officers or the suspect is too great, balanced against the risk of allowing the suspect to remain at large.

307.3.3 SPEED LIMITS

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

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

- (a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.
- (b) Pursuit speeds have exceeded the driving ability of the officer.
- (c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

307.4 PURSUIT UNITS

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

An officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would be insufficient to safely arrest the suspect(s). All other officers shall stay out of the pursuit but should remain alert to its progress and location. Any officer who drops out of a pursuit may then, if necessary, proceed to the termination point at legal speeds, following the appropriate rules of the road.

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

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307.4.1 VEHICLES WITHOUT EMERGENCY EQUIPMENT

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

307.4.2 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing officer will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the violator's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect(s) without unreasonable danger to him/herself or other persons (Minn. Stat. § 626.8458 Subd. 2 (4)).

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

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

Unless relieved by a supervisor or secondary unit, the officer in the primary unit shall be responsible for broadcasting the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary unit should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit to minimize distractions and allow the primary unit to concentrate foremost on safe pursuit tactics (Minn. R. § 6700.2701).

307.4.3 SECONDARY UNITS RESPONSIBILITIES

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

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

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- (c) Broadcasting the progress of the pursuit unless the situation indicates otherwise.
- (d) Serve as backup to the primary unit once the subject has been stopped.

307.4.4 PURSUIT DRIVING TACTICS

The decision to use or not use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. The following are tactics for units involved in the pursuit (Minn. Stat. § 626.8458 Subd. 2 (3)):

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.
- (b) Officers may proceed past a red, or stop signal, or stop sign but only after slowing down and utilizing a flashing red lamp or siren as may be necessary for safe operation (Minn. Stat. § 169.03, Subd. 2).
- (c) As a general rule, officers should not pursue a vehicle driving the wrong way on a roadway, highway, or freeway (Minn. Stat. § 169.03). In the event the pursued vehicle does so, the following tactics should be considered:
 - 1. Request assistance from an available air unit.
 - 2. Maintain visual contact with the pursued vehicle by paralleling on the correct side of the roadway.
 - 3. Request other units to observe exits available to the suspects.
- (d) Notify the Minnesota State Patrol or other law enforcement agency if it appears the pursuit may enter their jurisdiction.
- (e) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit, and a clear understanding of the maneuver process exists between the involved officers.

307.4.5 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT

Non-pursuing personnel should not parallel the pursuit route. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public.

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

307.4.6 PURSUIT TRAILING

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

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

307.4.7 AIRCRAFT ASSISTANCE

When available, aircraft assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, it should assume control over the pursuit. The primary and secondary ground units should consider whether the participation of an aircraft warrants their continued involvement in the pursuit (Minn. Stat. § 626.8458 Subd. 2 (4)).

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

307.5 SUPERVISORY CONTROL AND RESPONSIBILITIES

It is the policy of this department that available supervisory and management control will be exercised over all vehicle pursuits involving officers from this department (Minn. Stat. § 626.8458 Subd. 2 (4); Minn. R. § 6700.2701).

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

- (a) Upon becoming aware of a pursuit, immediately notify involved officers and Dispatch of supervisory presence and ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established Department guidelines.
- (b) Engage in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercise management and control of the pursuit even if not engaged in it.
- (d) Ensure that no more than the number of required law enforcement units needed are involved in the pursuit under the guidelines set forth in this policy.
- (e) Direct that the pursuit be terminated if, in his/her judgment, it is not justified to continue the pursuit under the guidelines of this policy.
- (f) Ensure that aircraft assistance is requested if available.
- (g) Ensure that the proper radio channel is being used.
- (h) Ensure the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.
- (i) Control and manage RPD units when a pursuit enters another jurisdiction.

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

307.5.1 SHIFT COMMANDER RESPONSIBILITIES

Upon becoming aware that a pursuit has been initiated, the Shift Commander should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and requirements of this policy. The Shift Commander has the final responsibility for the coordination, control and termination of a vehicle pursuit and shall be in overall command (Minn. Stat. § 626.8458 Subd. 2 (4); Minn. R. § 6700.2701).

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

307.6 COMMUNICATIONS

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

307.6.1 DISPATCH RESPONSIBILITIES

Upon notification that a pursuit has been initiated, Dispatch will be responsible for the following (Minn. Stat. § 626.8458 Subd. 2 (4)):

- (a) Coordinate pursuit communications of the involved units, personnel and jurisdictions.
- (b) Notify and coordinate with other involved or affected agencies as practicable.
- (c) Ensure that a field supervisor is notified of the pursuit.
- (d) Assign an incident number and log all pursuit activities.
- (e) Broadcast pursuit updates as well as other pertinent information as necessary.
- (f) Notify the Shift Commander as soon as practicable.

307.6.2 LOSS OF PURSUED VEHICLE

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

307.7 INTER-JURISDICTIONAL CONSIDERATIONS

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

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

307.7.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

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

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

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

307.7.2 PURSUITS EXTENDING INTO THIS JURISDICTION

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

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

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

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

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

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

307.8 PURSUIT INTERVENTION

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

307.8.1 WHEN USE AUTHORIZED

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

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

307.8.2 USE OF FIREARMS

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

307.8.3 INTERVENTION STANDARDS

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

- (a) Blocking or vehicle intercept should only be considered in cases involving felony suspects or impaired drivers who pose a threat to public safety when officers reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. Because of the potential risks involved, this technique should only be employed by officers who have received training in such tactics and after giving consideration to the following:
 1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risks of injury or death to occupants of the suspect vehicle, officers or other members of the public.

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2. All other reasonable intervention techniques have failed or reasonably appear ineffective.
 3. Employing the blocking maneuver does not unreasonably increase the risk to officer safety.
 4. The target vehicle is stopped or traveling at a low speed.
 5. At no time should civilian vehicles be used to deploy this technique.
- (b) Only those officers trained in the use of the PIT will be authorized to use this procedure and only then with approval of a supervisor upon consideration of the circumstances and conditions presented at the time, including the potential for risk of injury to officers, the public and occupants of the pursued vehicle.
- (c) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the officer's disposal have been exhausted. This tactic should be reserved for situations where there does not appear to be another reasonable alternative method. This policy is an administrative guide to direct officers in their decision-making process before ramming another vehicle. When ramming is used as a means to stop a fleeing vehicle, the following factors should be present:
1. The suspect is an actual or suspected felon, who reasonably appears to represent a serious threat to the public if not apprehended.
 2. The suspect is driving with willful or wanton disregard for the safety of other persons or is driving in a reckless and life-endangering manner.
 3. If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized.
- (d) As with all intervention techniques, pursuing officers should obtain supervisor approval before attempting to box a suspect vehicle during a pursuit. The use of such a technique must be carefully coordinated with all involved units, taking into consideration the circumstances and conditions apparent at the time, as well as the potential risk of injury to officers, the public and occupants of the pursued vehicle.
- (e) Spike strips should be deployed only when it is reasonably apparent that only the pursued vehicle will be affected by their use. Prior to the deployment of spike strips, the officer shall notify pursuing units and the supervisor of the intent and location. Officers should carefully consider the limitations of such devices as well as the potential risks to officers, the public and occupants of the pursued vehicle.
- (f) Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in the direct path of a pursued vehicle is generally discouraged and should not be deployed without prior approval of a supervisor, and only then under extraordinary conditions when all other reasonable intervention techniques have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risks of injury or death to occupants of the pursued vehicle, officers or other members of the public.

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307.8.4 CAPTURE OF SUSPECTS

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

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

307.9 REPORTING AND REVIEW REQUIREMENTS

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

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

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307.9.1 REGULAR AND PERIODIC PURSUIT TRAINING

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

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

307.9.2 POLICY REVIEW

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

307.9.3 YEARLY CERTIFICATION

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

307.9.4 PUBLIC DISCLOSURE

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

Officer Response to Calls

308.1 PURPOSE AND SCOPE

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

308.2 POLICY

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

308.3 RESPONSE TO CALLS

308.3.1 RESPONSE TO EMERGENCY CALLS

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

Responding with a red light, emergency lighting and/or siren does not relieve the operator of an authorized emergency vehicle or a law enforcement vehicle of the duty to drive with due regard for the safety of all persons and does not protect the driver from the consequences of his/her reckless disregard for the safety of others. The use of any other warning equipment without emergency lights and siren does not provide an exemption under Minnesota law (Minn. Stat. § 169.17).

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

308.3.2 LIGHTING EXEMPTION OF LAW ENFORCEMENT VEHICLES

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

308.4 REQUESTING EMERGENCY ASSISTANCE

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

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

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

308.4.1 NUMBER OF UNITS PARTICIPATING

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

308.5 INITIATING EMERGENCY CALL RESPONSE

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

308.6 RESPONSIBILITIES OF RESPONDING OFFICERS

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

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

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

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

Officer Response to Calls

308.7 COMMUNICATIONS RESPONSIBILITIES

A dispatcher shall ensure acknowledgment and response of assisting units when an officer requests emergency assistance or when the available information reasonably indicates that the public is threatened with serious injury or death and an immediate law enforcement response is needed. The dispatcher shall:

- (a) Attempt to assign the closest available unit to the location requiring assistance.
- (b) Immediately notify a field supervisor.
- (c) Notify and coordinate outside emergency services (e.g., fire and ambulance).
- (d) Continue to obtain and broadcast information as necessary concerning the response, and monitor the situation until it is stabilized or terminated.
- (e) Control all radio communications during the emergency and coordinate assistance under the direction of a field supervisor.

308.8 SUPERVISORY RESPONSIBILITIES

Upon being notified that an emergency response has been initiated, a field supervisor shall verify the following:

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

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

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

When making the decision to authorize an emergency call response, the field supervisor should consider the following:

- The type of call or crime involved.
- The necessity of a timely response.

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- Traffic and roadway conditions.
- The location of the responding units.

308.9 FAILURE OF EMERGENCY EQUIPMENT

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

308.10 TRAINING

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

Canines

309.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of canines to augment law enforcement services in the community including, but not limited to locating individuals and contraband and apprehending criminal offenders.

309.2 POLICY

It is the policy of the Rochester Police Department that teams of handlers and canines meet and maintain the appropriate proficiency to effectively and reasonably carry out legitimate law enforcement objectives.

309.3 ASSIGNMENT

Canine teams should be assigned to assist and supplement the Patrol Division to function primarily in assist or cover assignments. However, they may be assigned by the Shift Commander to other functions, such as routine calls for service, based on the current operational needs.

Canine teams should generally not be assigned to handle routine matters that will take them out of service for extended periods of time. If such assignment is necessary, it should only be made with the approval of the Shift Commander.

309.4 CANINE UNIT SUPERVISOR

The canine unit supervisor shall be appointed by and directly responsible to the Patrol Captain or the authorized designee.

The responsibilities of the coordinator include but are not limited to:

- (a) Reviewing all canine use reports to ensure compliance with policy and to identify training issues and other needs of the program.
- (b) Maintaining a liaison with the vendor kennel.
- (c) Maintaining a liaison with command staff and functional supervisors.
- (d) Maintaining a liaison with other law enforcement agency canine units.
- (e) Maintaining accurate records to document canine activities.
- (f) Recommending and overseeing the procurement of equipment and services for the teams of handlers and canines.
- (g) Scheduling all canine-related activities and community engagement events.
- (h) Ensuring the canine teams are scheduled for regular training and meet all USPCA requirements and certifications.

Canines

309.5 CANINE TRAINING COORDINATOR

The canine training coordinator shall be appointed by and responsible to the canine unit supervisor.

- (a) Must actively handle a police canine for the Rochester Police Department.
- (b) Must be a certified level one trainer or greater through the USPCA.

The responsibilities of the canine training coordinator include but are not limited to:

- (a) Scheduling and logistics of monthly unit training.
- (b) Coordination of training with outside jurisdictions.
- (c) Address individual training needs of canine teams.
- (d) Documentation of training issues and corrective action.
- (e) Coordination of all training functions with canine unit supervisor.

309.6 REQUESTS FOR CANINE TEAMS

Patrol Division members are encouraged to request the use of a canine. Requests for a canine team from department units outside of the Patrol Division shall be reviewed by the Patrol supervisor. RPD canine teams may be available on-duty or on an on-call basis. Canine teams from other agencies should not be requested or utilized within the city limits except in exigent circumstances and only with approval of an on-duty supervisor.

309.6.1 OUTSIDE AGENCY REQUEST

All requests for canine assistance from outside agencies must be approved by the Shift Commander and are subject to the following:

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.
- (b) The canine handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.
- (c) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.
- (d) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.

309.6.2 PUBLIC DEMONSTRATIONS

All public requests for a canine team shall be reviewed and, if appropriate, approved by the canine unit supervisor prior to making any resource commitment. The canine unit supervisor is responsible for obtaining resources and coordinating involvement in the demonstration to include proper safety protocols. Canine handlers shall not demonstrate any apprehension work unless authorized to do so by the canine coordinator.

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309.7 APPREHENSION GUIDELINES

A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has committed, is committing, or is threatening to commit any serious offense and if any of the following conditions exist:

- (a) There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, any officer, or the handler.
- (b) The suspect is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be reasonable and necessary to overcome such resistance.
- (c) The suspect is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy. Such events require consideration of the totality of the circumstances and the use of an objective reasonableness standard applied to the decision to use a canine.

Absent a reasonable belief that a suspect has committed, is committing, or is threatening to commit a serious offense, mere flight from a pursuing officer without any of the above conditions, shall not serve as the basis for the use of a canine to apprehend a suspect.

Use of a canine to locate and apprehend a suspect wanted for a lesser criminal offense than those identified above requires approval from the Shift Commander. Absent a change in circumstances that presents an imminent threat to officers, the canine, or the public, such canine use should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual.

In all applications, once the suspect has been located and no longer reasonably appears to present a threat or risk of escape, the handler should secure the canine as soon as it becomes reasonably practicable.

If the canine has apprehended the suspect with a secure bite, and the handler believes that the suspect no longer poses a threat, the handler should promptly command the canine to release the suspect.

309.7.1 PREPARATION FOR DEPLOYMENT

Prior to the use of a canine to search for or apprehend any suspect, the canine handler and/or the supervisor on-scene should carefully consider all pertinent information reasonably available at the time. The information should include but is not limited to:

- (a) The nature and seriousness of the suspected offense.
- (b) Whether violence or weapons were used or are anticipated.
- (c) The degree of resistance or threatened resistance, if any, the suspect has shown.
- (d) The suspect's known or perceived age.

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- (e) The potential for injury to officers or the public caused by the suspect if the canine is not utilized.
- (f) Any potential danger to the public and/or other officers at the scene if the canine is released.
- (g) The potential for the suspect to escape or flee if the canine is not utilized.

As circumstances permit, the canine handler should make every reasonable effort to communicate and coordinate with other involved members to minimize the risk of unintended injury.

It is the canine handler's responsibility to evaluate each situation and determine whether the use of a canine is appropriate and reasonable. The canine handler shall have the authority to decline the use of the canine whenever he/she deems deployment is unsuitable.

A supervisor who is sufficiently apprised of the situation may prohibit deploying the canine.

Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.

309.7.2 WARNINGS AND ANNOUNCEMENTS

Unless it would increase the risk of injury or escape, a clearly audible warning announcing that a canine will be used if the suspect does not surrender should be made prior to deploying a canine. The handler should allow a reasonable time for a suspect to surrender and should quiet the canine momentarily to listen for any verbal response to the warning. If reasonably feasible, other members should be in a location opposite the warning to verify that the announcement could be heard. If available, warnings given in other languages should be used as necessary. Additional warnings should be given when the canine team moves to a location where it is likely that that the previous warning would not have been heard.

If a warning is not given, the handler shall document the circumstances.

309.7.3 REPORTING DEPLOYMENTS, BITES, AND INJURIES

Handlers should document canine deployments in an event report. Whenever a canine deployment results in a bite or causes injury to an intended suspect, the canine unit supervisor and on-duty supervisor should be promptly notified and the injuries documented in the canine use report. The injured person shall be promptly treated by Emergency Medical Services personnel and, if appropriate, transported to an appropriate medical facility for further treatment. The deployment and injuries should also be included in any related incident or arrest report. Canine handlers should also conduct an interview from the subject regarding the circumstances about the canine apprehension not collecting elements to the criminal offense.

Any unintended bite, injury or damage caused by a canine, whether on- or off-duty, shall be promptly reported to the canine unit supervisor. Unintended bites or injuries caused by a canine should be documented in an administrative report, not in an event report.

If an individual alleges an injury, either visible or not visible, a supervisor shall be notified and both the individual's injured and uninjured areas shall be photographed as soon as reasonably

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practicable after first tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current department evidence procedures. The photographs shall be retained until the criminal proceeding is completed and the time for any related civil proceeding has expired.

Canines used by law enforcement agencies are generally exempt from dangerous dog registration, impoundment, and reporting requirements (Minn. Stat. § 347.51, Subd. 4).

309.8 NON-APPREHENSION GUIDELINES

Properly trained canines may be used to track or search for non-criminals (e.g., lost children, individuals who may be disoriented or in need of medical attention). The canine handler is responsible for determining the canine's suitability and equipment utilized for such assignments based on the conditions and the particular abilities of the canine. When the canine is deployed in a search or other non-apprehension operation the following guidelines apply.

- (a) Absent a change in circumstances that present an imminent threat to officers, the canine or the public, such applications should be conducted on a five foot-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual, if located.
- (b) Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.
- (c) Throughout the deployment, the handler should periodically give verbal assurances that the canine will not bite or hurt the individual and encourage the individual to make him/herself known.
- (d) Once the individual has been located, the handler should secure the canine as soon as reasonably practicable.

309.8.1 ARTICLE DETECTION

A canine trained to find objects or property related to a person or crime may be used to locate or identify articles. A canine search should be conducted in a manner that minimizes the likelihood of unintended bites or injuries.

309.8.2 NARCOTICS DETECTION

A canine trained in narcotics detection may be used in accordance with current law and under certain circumstances, including:

- (a) The search of vehicles, buildings, bags, and other articles.
- (b) Assisting in the search for narcotics during a search warrant service.
- (c) Obtaining a search warrant by using the narcotics-detection trained canine in support of probable cause.

A dual purpose narcotics-detection trained canine will not be used to search a person.

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309.8.3 BOMB/EXPLOSIVE DETECTION

Because of the high risk of danger to the public and officers when a bomb or other explosive device is suspected, the use of a canine team trained in explosive detection may be considered. When available, an explosive-detection canine team may be used in accordance with current law and under certain circumstances, including:

- (a) Assisting in the search of a building, structure, area, vehicle, or article where an actual or suspected explosive device has been reported or located.
- (b) Assisting with searches at transportation facilities and vehicles (e.g., buses, airplanes, trains).
- (c) Preventive searches at special events, VIP visits, official buildings, and other restricted areas. Searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.
- (d) Assisting in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.

At no time will an explosive-detection trained canine be used to render a suspected device safe or clear.

309.9 HANDLER SELECTION

The minimum qualifications for the assignment of canine handler include:

- (a) An officer with two years police experience who is currently off probation.
- (b) Willing, along with family, to meet the requirements to safely house a canine and take home squad car. Canines will not be kept inside the handler's home and should be secured in an outside kennel with access to shelter.
- (c) Living within 15 minutes travel time from the Rochester City limits.
- (d) Agreeing to be assigned to the position for a minimum of five years.

309.10 HANDLER RESPONSIBILITIES

The canine handler shall ultimately be responsible for the health and welfare of the canine and shall ensure that the canine receives proper nutrition, grooming, training, medical care, affection, and living conditions.

The canine handler will be responsible for the following:

- (a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.
- (c) When not in service, the handler should maintain the canine vehicle in a secure location.
- (d) When a handler is off-duty for an extended number of days, the assigned canine vehicle should be stored at the Rochester Police Department facility.

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- (e) Handlers shall permit the canine unit supervisor to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.
- (f) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine unit supervisor as soon as possible.
- (g) When off-duty, the canine shall be in a kennel at the home of the handler. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, the canine may only be let out of the kennel while under the direct control of the handler.
- (h) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.
- (i) Under no circumstances will the canine be lodged at another location unless approved by the canine unit supervisor or Shift Commander.
- (j) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the canine coordinator or Shift Commander.
- (k) Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations the handler shall give reasonable notice to the canine coordinator so that appropriate arrangements can be made.

309.10.1 CANINE IN PUBLIC AREAS

The canine should be kept on a leash when in areas that allow access to the public. Exceptions to this rule would include specific law enforcement operations for which the canine is trained.

- (a) A canine shall not be left unattended in any area to which the public may have access.
- (b) When the canine vehicle is left unattended, all windows and doors shall be secured in such a manner as to prevent unauthorized access to the canine. The handler shall also ensure that the unattended vehicle remains inhabitable for the canine.

309.11 HANDLER COMPENSATION

The canine handler shall be available for call-out under conditions specified by the canine coordinator.

The canine handler shall be compensated for time spent in the care, feeding, grooming, and other needs of the canine in accordance with the Fair Labor Standards Act (FLSA), and according to the terms of the memorandum of understanding (29 USC § 207).

309.12 CANINE INJURY AND MEDICAL CARE

In the event that a canine is injured, or there is an indication that the canine is not in good physical condition, the injury or condition will be reported to the canine coordinator or Shift Commander as soon as practicable and appropriately documented.

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All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian. All records of medical treatment shall be maintained in the handler's personnel file.

309.13 TRAINING

Before assignment in the field each canine team shall be trained and certified to meet current nationally recognized standards or other recognized and approved certification standards. Cross-trained canine teams or those canine teams trained exclusively for the detection of narcotics and/or explosives also shall be trained and certified to meet current nationally recognized standards or other recognized and approved certification standards established for their particular skills.

The canine unit supervisor and canine training coordinator shall be responsible for scheduling periodic training for all department members in order to familiarize them with how to conduct themselves in the presence of department canines. Because canines may be exposed to dangerous substances such as opioids, as resources are available, the canine coordinator should also schedule periodic training for the canine handlers about the risks of exposure and treatment for it.

All canine training shall be conducted while on-duty unless otherwise approved by the canine coordinator or Shift Commander.

309.13.1 CONTINUED TRAINING

Each canine team shall thereafter be recertified to a current nationally recognized standard or other recognized and approved certification standards on an annual basis. Additional training considerations are as follows:

- (a) Dual-purpose canine teams should maintain twenty hours of documented training each month. Single purpose canine teams should maintain twelve hours of documented training. Additional training can be required by the training coordinator for canine teams to address documented deficiencies or objectives.
- (b) Canine handlers are encouraged to engage in additional training with approval of the canine training coordinator.
- (c) To ensure that all training is consistent, no handler, trainer, or outside vendor is authorized to train to a standard that is not reviewed and approved by the Department.

309.13.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

Any canine team failing to graduate, obtain yearly certification, or meet monthly required training hours shall not be deployed in the field for tasks. The team shall not be considered for deployment until requirements are met. When reasonably practicable, pending successful certification, the canine handler shall be temporarily reassigned to regular patrol duties.

309.13.3 TRAINING RECORDS

All canine training records shall be maintained in the canine handler's and the canine's training file.

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309.13.4 TRAINING AIDS

Training aids are required to effectively train and maintain the skills of canines. Officers possessing, using or transporting controlled substances or explosives for canine training purposes must comply with federal and state requirements. Alternatively, the Rochester Police Department may work with outside trainers with the applicable licenses or permits.

309.13.5 CONTROLLED SUBSTANCE TRAINING AIDS

Officers acting in the performance of their official duties may possess or transfer controlled substances for the purpose of narcotics-detection canine training in compliance with federal laws and if they comply with applicable state requirements (21 USC § 823(f)).

The Chief of Police or the authorized designee may authorize a member to utilize controlled substances seized by the Rochester Police Department to be possessed by the member or a narcotics-detection canine trainer who is working under the direction of this department for training purposes, provided the controlled substances are no longer needed as criminal evidence.

As an alternative, the Chief of Police or the authorized designee may request narcotics training aids from the Drug Enforcement Administration (DEA).

These procedures are not required if the canine handler uses commercially available synthetic substances that are not controlled narcotics.

309.13.6 CONTROLLED SUBSTANCE PROCEDURES

Due to the responsibilities and liabilities involved with possessing readily usable amounts of controlled substances and the ever-present danger of the canine's accidental ingestion of these controlled substances, the following procedures shall be strictly followed:

- (a) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler or trainer.
- (b) The weight and test results shall be recorded and maintained by this department.
- (c) Any person possessing controlled substance training samples pursuant to court order or DEA registration shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.
- (d) All controlled substance training samples will be inspected, weighed, and tested quarterly. The results of the quarterly testing shall be recorded and maintained by the canine coordinator with a copy forwarded to the dispensing agency.
- (e) All controlled substance training samples will be stored in locked, airtight, and watertight cases at all times, except during training. The locked cases shall be secured in the canine storage area at the department.
- (f) The canine coordinator shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.
- (g) Any unusable controlled substance training samples shall be returned to the Property and Evidence or to the dispensing agency.

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- (h) All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.

309.13.7 EXPLOSIVE TRAINING AIDS

Officers may own, possess, or use explosives or destructive devices in compliance with state and federal laws (Minn. Stat. § 609.668, Subd. 3(a)(1); Minn. Stat. § 609.668 Subd. 4; 18 USC § 842; 27 CFR 555.41).

Explosive training aids designed specifically for canine teams should be used whenever reasonably feasible. Due to the safety concerns in the handling and transportation of explosives, inert or non-hazardous training aids should be employed whenever feasible. The use of explosives or destructive devices for training aids by canine teams is subject to the following:

- (a) All explosive training aids, when not in use, shall be properly stored in a secure facility appropriate for the type of materials.
- (b) An inventory ledger shall be maintained to document the type and quantity of explosive training aids that are stored.
- (c) The canine coordinator shall be responsible for verifying the explosive training aids on hand against the inventory ledger once each quarter.
- (d) Only members of the canine team shall have access to the explosive training aids storage facility.
- (e) A primary and secondary custodian should be designated to minimize the possibility of loss of explosive training aids during and after the training. Generally, the handler will be designated as the primary custodian while the trainer or authorized second person on-scene will be designated as the secondary custodian.
- (f) Any lost or damaged explosive training aids shall be promptly reported to the canine coordinator who will determine if any further action will be necessary. Any loss of explosives will be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

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310.1 PURPOSE AND SCOPE

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

310.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

Domestic Abuse Program - A public or private intervention project or advocacy program which provides support and assistance to the victims of domestic abuse.

Child - A person under the age of 18.

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.

Domestic Call - A request for assistance to a law enforcement agency regarding domestic abuse or any other crime against a family of household member.

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

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QDVRO, the new offense may be chargeable as a higher-level crime. (See Enhancement Table appended hereto.)

Order for Protection (OFP) - 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.

Domestic Abuse No Contact Order (DANCO) - 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.

Harassment Restraining Order (HRO) - 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.

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.

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.

310.2 POLICY

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

310.3 OFFICER SAFETY

The investigation of domestic abuse cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede

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the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

310.4 INVESTIGATIONS

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

- (a) Calls of reported, threatened, imminent, or ongoing domestic abuse and the violation of any court order are of extreme importance and should be considered among the highest response priorities. Officers should respond directly and without unreasonable delay to the scene. This includes incomplete 9-1-1 calls.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Investigative Division in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.
- (j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
 - 1. Whether the suspect lives on the premises with the victim.
 - 2. Claims by the suspect that the victim provoked or perpetuated the violence.

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3. The potential financial or child custody consequences of arrest.
4. The physical or emotional state of either party.
5. Use of drugs or alcohol by either party.
6. Denial that the abuse occurred where evidence indicates otherwise.
7. A request by the victim not to arrest the suspect.
8. Location of the incident (public/private).
9. Speculation that the complainant may not follow through with the prosecution.
10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
11. The social status, community status, or professional position of the victim or suspect.

310.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

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

310.4.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

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

310.5 VICTIM ASSISTANCE

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

- (a) Victims should be provided with the department's domestic abuse information handout, even if the incident may not rise to the level of a crime.
- (b) Victims should be alerted to any available victim advocates, shelters, and community resources.

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- (c) When an involved person requests law enforcement assistance while removing essential items of personal property, officers should stand by for a reasonable amount of time.
- (d) If the victim has sustained injury or complains of pain, officers should seek medical assistance as soon as practicable.
- (e) Officers should ask the victim whether he/she has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.
- (f) Officers should make reasonable efforts to ensure that any children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (g) If appropriate, officers should seek or assist the victim in obtaining an emergency order.

310.6 DISPATCH ASSISTANCE

All calls of domestic abuse, including incomplete 9-1-1 calls, should be dispatched as soon as practicable. At least two officers should be assigned to a domestic abuse call.

The dispatcher receiving a domestic call should attempt to elicit from the caller and should communicate to the responding officers as much of the following information as possible:

- (a) The nature of the incident
- (b) The address of the incident, including apartment number, if applicable
- (c) The telephone numbers where the caller can be reached
- (d) Whether weapons are involved or present in the dwelling
- (e) Whether someone is injured and the nature of the injury
- (f) Information about the suspect including whether the suspect is present, description, direction of flight, mode of travel, etc.
- (g) Relationship between the caller and the suspect
- (h) Whether there has been prior calls involving these individuals
- (i) Whether there is an order for protection, harassment restraining order (HRO) or criminal pre-trial or probationary no contact order (DANCO)
- (j) Whether children are present at the scene
- (k) Whether there are non-English speaking people, or people with mobility impairments or hearing impairments

Note: When a pre-trial no contact order is issued in connection with a pending domestic abuse prosecution or when a probationary no contact order is issued as a condition of probation after conviction for a domestic abuse offense, this is now designated as a Domestic Abuse No Contact Order. Violation of such an order is a misdemeanor. MN Statutes, Section 518B.01, subd. 22.

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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 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 officer.

If the responding 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.

Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

310.7 FOREIGN COURT ORDERS

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

310.7.1 CANADIAN ORDERS FOR PROTECTION

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

310.8 VERIFICATION OF COURT ORDERS

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

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

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- (e) The officer shall verify whether any of the following orders exist before or during an arrest:

Order for Protection: An officer shall arrest and take into custody without a warrant a person who the officer has probable cause to believe has violated the restraint or exclusion section of an order for protection granted pursuant to MN Statutes, Section 518B.01, subds. 6, 7, and 9. Such an arrest shall be made even if the violation of the order did not take place in the presence of the officer, if the officer can verify the existence of the order.

NOTE: There are three key points related to the Order for Protection:

- (a) The law requires an arrest regardless of whether or not the excluded party was invited back to the residence.
- (b) There is no hour limitation for a warrantless arrest for a violation of an Order for Protection.
- (c) If there is evidence that an individual has violated another provision of an Order for Protection, other than the restraint or exclusion clauses, a police report should be submitted to the prosecutor indicating specifically how the order was violated.

A violation of an Order for Protection is a misdemeanor but is enhanceable to a gross misdemeanor if the offense occurs within ten years of date 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.

Harassment Restraining Order: An officer shall arrest and take into custody a person who the officer has probable cause to believe has violated a harassment restraining order pursuant to MN Statutes, Section 609.748, subds. 4 and 5, if the officer can verify the existence of the order.

NOTE: A person who violates a harassment restraining order is guilty of a misdemeanor if the violator knows of the order. This offense is enhanceable of 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:

- (a) Within 10 years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency;
- (b) 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;
- (c) By falsely impersonating another;
- (d) While possessing a dangerous weapon;

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- (e) 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 persons performance of official duties in connection with a judicial proceeding; or
- (f) Against a victim under the age of 18, if the respondent is more than 36 months older than the victim.

Domestic Abuse No Contact Order (DANCO) (Minn. Stat. 629.75): An officer shall arrest without a warrant and take into custody any person who s/he 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, the production by the victim 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.

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

310.9 LEGAL MANDATES AND RELEVANT LAWS

Minnesota law provides for the following:

310.9.1 STANDARDS FOR ARRESTS

Officers investigating a domestic abuse report should consider the following:

- (a) An officer has the authority to arrest a person without a warrant, including at the person's residence, if the peace officer has probable cause to believe that the person has, within the preceding 72 hours, exclusive of the day probable cause was established, assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm any person covered by the "family or household member" definition, even if the assault did not rise to the level of a felony or did not take place in the presence of the peace officer (Minn. Stat. § 629.34; Minn. Stat. § 629.341).
- (b) Officers should generally not make dual arrests but may make an arrest of a primary aggressor. Where there are allegations that each party assaulted the other, the officer shall determine whether there is sufficient evidence to conclude that one of the parties was the primary aggressor based on the following criteria and the officer's judgment (Minn. Stat. § 629.342, Subd. 2):
 1. Comparative extent of any injuries inflicted
 2. Fear of physical injury because of past or present threats
 3. Actions taken in self-defense or to protect oneself

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4. History of domestic abuse perpetrated by one party against the other
 5. Existence or previous existence of an order for protection
- (c) An officer shall not issue a citation in lieu of arrest and detention to an individual charged with any of the following offenses (Minn. Stat. § 629.72):
1. Stalking
 2. Domestic abuse
 3. Violation of an order for protection
 4. Violation of a domestic abuse no contact order
- (d) Officers shall arrest and take into custody, without a warrant, a person whom the peace officer has probable cause to believe has violated a court order issued pursuant to Minn. Stat. § 518B.01 or Minn. Stat. § 629.75. Such an arrest shall be made even if the violation of the order did not take place in the presence of the peace officer, if the officer can verify the existence of the order. If the person is not released on citation in lieu of continuing detention, the person shall be held in custody for these violations for at least 36 hours unless released by a court (Minn. Stat. § 518B.01; Minn. Stat. § 629.75).
- (e) An arrest for a violation of an order of protection may be made regardless of whether the excluded party was invited back to the residence (Minn. Stat. § 518B.01, Subd. 18).
- (f) Following an arrest, the Records Division should provide notification to the local domestic abuse program and provide the name and address of the victim and a brief factual account of events associated with the action.
- (g) An officer shall arrest and take into custody a person whom the officer has probable cause to believe has violated a harassment restraining order, pursuant to Minn. Stat. § 609.748, if the officer can verify the existence of the order.
- (h) Officers are authorized to make an arrest without a warrant when there is probable cause to believe the person has violated the provisions of any other no contact or restraining order issued by a court, even if the offense did not rise to the level of a felony (Minn. Stat. § 629.34). While conducting a domestic abuse investigation officers shall attempt to verify whether there has been a court order issued.
- (i) Officers should consider whether other offenses have been committed that may not qualify as a domestic abuse including, but not limited to, burglary, felony assault, other threats of violence, kidnapping, false imprisonment, witness tampering, trespassing, criminal damage to property, disorderly conduct, or assault.

310.9.2 REPORTS AND RECORDS

- (a) Officers should include information related to the following in a report, as applicable (Minn. Stat. § 629.341). Reports shall be written in all cases where an allegation of domestic abuse is being reported, even if probable cause is not established:
1. Names, addresses, telephone numbers and email address of all involved persons

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2. Condition of clothing
 3. Description of the scene, including any property damage
 4. Evidence of physical injury, including strangulation
 5. Presence of elderly victims or persons with disabilities
 6. Facts related to any person who may have been a primary aggressor
 7. Excited utterances of the victim and the suspect
 8. Demeanor of the victim and the suspect
 9. Medical records, including the victim's statements to paramedics, nurses and doctors
 10. Detailed statements of interviews of witnesses, including children, who may have been present, noting any language barriers
 11. A detailed explanation of the reasons for the officer's decision not to arrest or seek an arrest warrant
 12. Evidence of any prior domestic abuse, related convictions, including dates
 13. Any existing orders for protection, harassment restraining order or no contact orders
 14. Identifying information of a specific court order violated, including county of origin, the file number and the provision allegedly violated
- (b) Domestic abuse reports should be forwarded to the appropriate prosecutor for review and consideration of criminal charges.
- (c) If a child was present at the scene of a domestic abuse incident or was the victim of domestic abuse, the officer should determine whether the child has been subjected to physical abuse, sexual abuse or neglect, and comply with the mandatory reporting requirements of Minn. Stat. § 626.556.
1. The officer shall also attempt to verify whether there has been an order for protection issued under Minn. Stat. § 260C.201 and take appropriate action.
- (d) Fees will not be charged for the release of reports related to domestic abuse, as directed in Minn. Stat. § 13.82.

310.9.3 SERVICE OF COURT ORDERS

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

310.9.4 COURT-ORDERED FIREARM SURRENDERS

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

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

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

310.9.5 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)

<u>Offense</u>	<u>Victim of Offense</u>	<u>Time Limit</u>	<u>Prior Conviction</u>	<u>Offense Level</u>
Assault 5	Same Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of 1st of 2 or more convictions	QDVRO	Felony
	Any Victim	w/in 3 years of conviction	QDVRO	Gross Misdemeanor
		w/in 3 years of 1st 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 1st of 2 or more convictions for Domestic Assault or Assault 5	QDVRO	Felony

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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 1st 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

Search and Seizure

311.1 PURPOSE AND SCOPE

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

311.2 POLICY

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

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

311.3 SEARCHES

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

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

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

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

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

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

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311.4 SEARCH PROTOCOL

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

- (a) Members of this department will strive to conduct searches with dignity and courtesy.
- (b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- (e) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:
 1. Another officer or a supervisor should witness the search.
 2. Such a search must be limited to the outer clothing unless the officer has reason to believe that the suspect is hiding a weapon under his/her clothing.

311.4.1 CONSENT SEARCHES

The area of consent searches is a complicated legal issue. Searches will be conducted in accordance with current legal requirements and Department policy.

Consent Searches of Persons and Vehicles:

Consent searches are not permissible during the course of a traffic stop. Under Article I, Section 10, of the Minnesota Constitution any expansion of the scope or duration of a traffic stop must be justified by a reasonable articulable suspicion of other criminal activity. If an officer has probable cause to search a person or vehicle then consent is unnecessary. This in no way limits the officer's ability to search pursuant to *Terry v. Ohio*, 393 U.S. 1 (1968) for purposes of officer safety. A police officer making a lawful stop of an individual may conduct a limited protective pat down search for weapons if there exists a reasonable suspicion, based on articulable facts, that a person may be armed and presently dangerous.

Consent Searches of Premises:

Both the Minnesota and United States Constitution protect against unreasonable searches and seizures. In the absence of a warrant a search is per se unreasonable (and the evidence must be suppressed) unless it comes within a defined exception. The person offering the consent must have common authority, mutual use, and joint access or control over the premises. Consent must be positive; silence is not consent. Consent must not be coerced. Indicating that a search warrant will be obtained if consent is not granted is considered coercive. The general rule is that landlords

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cannot give consent to a warrantless search of the premises if occupied by a tenant. A third-party consent may be limited where the owner takes physical precautions against intrusion by a third party.

311.4.2 PROBATION SEARCHES

The Fourth Amendment guarantees “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.U.S. Cont. amend.IV. Warrantless residential searches and seizures are presumptively unreasonable under the Fourth Amendment but the U.S. Supreme Court has held that a state’s probation system “presents “special needs” beyond normal law enforcement that may justify departures from the usual warrant and probable cause requirements. ”One such special need is the state’s exercise of supervision to ensure that probationers observe the restrictions placed upon them. A warrantless search of a probationer’s residence is reasonable when(1) a valid probation search regulation or condition is present; and (2) the probation officer has reasonable suspicion to believe the residence contains contraband.

Reasonable suspicion requires a sufficiently high probability that criminal conduct is occurring to make the intrusion reasonable.Reasonable suspicion is more than an unarticulated hunch, it is a particularized and objected basis for suspecting a person of criminal activity.

Officers requested by probation agents to assist in the search of a probationer’s residence should take into consideration the following factors and document their actions:

- Is a probation search regulation or probation search condition present?
- Is reasonable suspicion for the search present?
- Does the probationer reside at the residence?
- Are there other occupants present who do not consent to the search of the residence?

If the probationer or a co-occupant refuses to allow access or consent to the search officers will not forcibly enter an offender’s residence unless an exigency to the warrant requirement exists. Officers will document their actions and obtain a warrant prior to entering the residence.

311.4.3 VEHICLE SEARCHES

Vehicles may be searched without a warrant in the following circumstances:

- (a) Probable Cause exists to believe that located somewhere in the vehicle are the fruit or instrumentalities of a crime, contraband, or weapons with which to assault officers.In such cases, all areas of a vehicle, including closed containers, may be searched. However, only those containers which may reasonably hold the item searched for can be entered. If probable cause relates specifically to a particular container, e.g., “the marijuana is in a green back-pack,” a warrantless search of the vehicle for the container is allowed. Probable cause to believe that a particular package contains evidence does not mean that the entire vehicle may be searched.
- (b) When an officer stops a vehicle and has reasonable suspicion to believe that the occupant has been, or is about to be, involved in criminal activity and may be

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dangerous, the occupant may be searched for weapons. The passenger compartment of the vehicle, where a weapon might be accessible, may be searched.

- (c) When an officer impounds a vehicle, the officer shall conduct an inventory search of the entire vehicle.

311.5 DOCUMENTATION

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

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

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

Temporary Custody of Juveniles

312.1 PURPOSE AND SCOPE

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

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

312.1.1 DEFINITIONS

Definitions related to this policy include:

Custodian or Guardian - A person who is under a legal obligation or who is in fact providing care and support for a minor (Minn. Stat. § 260B.007, Subd. 13; Minn. Stat. § 260C.007, Subd. 10).

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

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

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

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

Examples of secure custody include:

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

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

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

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

312.2 POLICY

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

312.3 JUVENILES WHO SHOULD NOT BE HELD

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

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

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

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

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

312.3.1 SUICIDE PREVENTION OF JUVENILES IN CUSTODY

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

312.4 CUSTODY OF JUVENILES

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

No juvenile should be held in temporary custody at the Rochester Police Department without authorization of a supervisor.

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

312.4.1 CUSTODY OF JUVENILE NON-OFFENDERS

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

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

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

312.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

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

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312.4.3 CUSTODY OF JUVENILE OFFENDERS

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

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

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

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

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

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

312.4.4 SCHOOL NOTIFICATION

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

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

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

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312.5 ADVISEMENTS

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

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

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

312.6 JUVENILE CUSTODY DOCUMENTATION

Any time a juvenile is held in custody at the Department the custody shall be promptly and properly documented, including:

- (a) Identifying information about the juvenile being held.
- (b) Date and time of arrival and release from the Rochester Police Department.
- (c) Supervisor notification and approval to temporarily hold the juvenile.

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- (d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender, or non-offender.
- (e) Any changes in status.
- (f) Time of all welfare checks.
- (g) Any medical and other screening requested and completed.
- (h) Circumstances that justify any secure custody.
- (i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

A supervisor shall approve reports related to temporary custody documentation.

312.7 NO-CONTACT REQUIREMENTS

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

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Rochester Police Department shall maintain a constant, immediate presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact.

312.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Rochester Police Department shall ensure the following:

- (a) A supervisor should be notified if it is anticipated that a juvenile may need to remain at the Rochester Police Department more than four hours. This will enable the supervisor to ensure no juvenile is held at the Rochester Police Department more than six hours.
- (b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (c) Personal visual checks and significant incidents/activities shall be documented.
- (d) There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware. Therefore an employee should inform a juvenile under his/her care that the juvenile will be monitored at all times unless he/she is using the toilet. This does not apply to surreptitious and legally obtained recorded interrogations.
- (e) Juveniles shall have reasonable access to toilets and wash basins.
- (f) Food should be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile.
- (g) Juveniles shall have reasonable access to a drinking fountain or water.

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- (h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (i) Juveniles should have privacy during family, guardian, and/or lawyer visits.
- (j) Juveniles should be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (k) Blankets should be provided as reasonably necessary.
- (l) Adequate shelter, heat, light, and ventilation should be provided without compromising security or enabling escape.
- (m) Juveniles shall have adequate furnishings, including suitable chairs or benches.
- (n) Juveniles shall have the right to the same number of telephone calls as an adult in custody.
- (o) No discipline may be administered to any juvenile nor may juveniles be subjected to corporal or unusual punishment, humiliation, or mental abuse.

312.9 USE OF RESTRAINT DEVICES

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

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

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

312.10 PERSONAL PROPERTY

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

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

312.11 SECURE CUSTODY

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

Temporary Custody of Juveniles

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

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

312.11.1 LOCKED ENCLOSURES

A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room should be photographed and documented in the crime report.

The following requirements shall apply to a juvenile offender who is held inside a locked enclosure:

- (a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.
- (b) Juveniles shall have constant auditory access to department members.
- (c) Initial placement into and removal from a locked enclosure shall be documented.
- (d) Random personal visual checks of the juvenile by a staff member shall occur no less than every 15 minutes.
 - 1. All checks shall be documented.
 - 2. The check should involve questioning the juvenile as to his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
 - 3. Requests or concerns of the juvenile should be documented.
- (e) Males and females shall not be placed in the same locked room.
- (f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
- (g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

312.12 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY OF A JUVENILE

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

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

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Temporary Custody of Juveniles

312.13 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

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

312.14 RESTRICTION ON PHOTOGRAPHING

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

Adult Abuse

313.1 PURPOSE AND SCOPE

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

313.1.1 DEFINITIONS

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

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

313.2 POLICY

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

313.3 MANDATORY NOTIFICATION

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

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

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

313.3.1 NOTIFICATION PROCEDURE

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

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

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

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

313.4 QUALIFIED INVESTIGATORS

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

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

313.5 INVESTIGATIONS AND REPORTING

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

Investigations and reports related to suspected cases of adult abuse should address, as applicable:

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

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

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

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

313.6 PROTECTIVE CUSTODY

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

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

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking an adult abuse victim into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking the adult into protective custody. The Supervisor shall notify investigations when a vulnerable adult is taken into protective custody.

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

313.7 INTERVIEWS

313.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, only qualified officers should conduct interviews with a suspected adult abuse victim. Officers should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an investigation.

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313.7.2 DETAINING VICTIMS FOR INTERVIEWS

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

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

313.8 MEDICAL EXAMINATIONS

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

In cases where the alleged offender is a family member, guardian, agency or entity having legal custody and is refusing to give consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

313.9 DRUG-ENDANGERED VICTIMS

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

313.9.1 SUPERVISOR RESPONSIBILITIES

The Investigative Division supervisor should:

- (a) Work with professionals from the appropriate agencies, including the applicable adult protective services agency, other law enforcement agencies, medical service providers and local prosecutors, to develop procedures for responding to situations where there are adult abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the Investigative Division supervisor that he/she has responded to a drug lab or other narcotics crime scene where an adult abuse victim is present or where evidence indicates that an adult abuse victim lives.

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313.9.2 OFFICER RESPONSIBILITIES

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

- (a) Document the environmental, medical, social and other conditions of the adult, using photography as appropriate and the checklist or form developed for this purpose.
- (b) Notify their supervisor regarding the circumstances of their response.

313.10 STATE MANDATES AND OTHER RELEVANT LAWS

Minnesota requires or permits the following:

313.10.1 RECORDS UNIT RESPONSIBILITIES

The Records Unit is responsible for:

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

313.10.2 RELEASE OF REPORTS

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

313.11 TRAINING

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

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

Discriminatory Harassment

314.1 PURPOSE AND SCOPE

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

314.2 POLICY

The Rochester Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The Department will not tolerate, discrimination against employees in hiring, promotion, discharge, compensation, fringe benefits, and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The non-discrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

314.3 DEFINITIONS

Definitions related to this policy include:

314.3.1 DISCRIMINATION

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

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes; stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or department equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.

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314.3.2 RETALIATION

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

314.3.3 SEXUAL HARASSMENT

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

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position, or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

314.3.4 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles, or standards including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) and the Minnesota Department of Human Rights.
- (b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with City or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

314.4 RESPONSIBILITIES

This policy applies to all department personnel. All members shall follow the intent of these guidelines in a manner that reflects department policy, professional standards, and the best interest of the Department and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to the member's immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Director of Human Resources, or the City Administrator.

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

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retaliation, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

314.4.1 SUPERVISOR RESPONSIBILITIES

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

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
- (c) Ensuring that their subordinates understand their responsibilities under this policy.
- (d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notifying the Chief of Police or the Director of Human Resources in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

314.4.2 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

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

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline in a manner that is consistent with established procedures.

314.4.3 QUESTIONS OR CLARIFICATION

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

314.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved members should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all

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

314.5.1 SUPERVISOR RESOLUTION

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

314.5.2 FORMAL INVESTIGATION

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

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint, or for offering testimony or evidence in an investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed, or retaliated against because of their protected status are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, the Director of Human Resources or the City Administrator.

314.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Department. Members who believe that they have been harassed, discriminated against, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

314.6 DOCUMENTATION OF COMPLAINTS

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

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

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314.6.1 NOTIFICATION OF DISPOSITION

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

314.7 TRAINING

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

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

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315.1 PURPOSE AND SCOPE

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

315.1.1 DEFINITIONS

Definitions related to this policy include:

Child - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

Child abuse (also known as maltreatment of minors) - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency (Minn. Stat. § 260E.03; Minn. Stat. § 260E.06).

315.2 POLICY

The Rochester Police Department will investigate all reported incidents of alleged criminal child abuse and ensure the county social services agency is notified as required by law.

315.3 MANDATORY NOTIFICATION

Members of the Rochester Police Department shall notify the county social services agency when they have reason to believe any of the following may have occurred or when someone reports any of the following (Minn. Stat. § 260E.06):

- (a) A child is being neglected or has been neglected within the preceding three years.
- (b) A child is being physically abused or has been physically abused within the preceding three years by a person responsible for the child's care.
- (c) A child is being sexually abused, threatened with sexual abuse, or has been sexually abused within the preceding three years by a person responsible for the child's care, by a person who has a significant relationship to the child, or by a person in a position of authority.
- (d) A woman is pregnant and has used a controlled substance for a non-medical purpose during the pregnancy, including but not limited to tetrahydrocannabinol (marijuana), or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive (Minn. Stat. § 260E.03, subd. 15; Minn. Stat. § 260E.31).

Notification is mandatory for any acts of neglect, physical abuse, and sexual abuse that constitute a crime, whether or not the suspect had any relationship to or responsibility for the child (Minn. Stat. § 260E.12).

For purposes of notification, physical abuse includes injuries, mental injuries, or injuries that cannot be reasonably explained (e.g., punching, kicking, burning). Sexual abuse includes criminal

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

315.3.1 NOTIFICATION PROCEDURE

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

- (a) The member tasked with the investigation shall call the county social services agency and report the alleged abuse as soon as possible but always within 24 hours. The time of the call and the name of the person should be documented.
- (b) Notification, when possible, should include:
 - 1. The child's current location and whether the child is in immediate danger.
 - 2. A description of when and where the incident occurred and what happened to the child.
 - 3. A description of the injuries or present condition of the child.
 - 4. The names and addresses of the child, parents, or caregivers.
 - 5. Whether there were any witnesses to the incident and their names.
 - 6. Any additional information about the child, family, or caregivers that may be helpful.
 - 7. Whether the incident occurred in a licensed facility or a school and what actions the facility employees may have taken.
 - 8. Whether there are immediate family, relative, or community resources that would offer protection or support to the child.
- (c) Forms that may be required by the county social services agency or other written notification shall be completed and faxed or delivered to the county social services agency as soon as possible but always within 72 hours, exclusive of weekends and holidays.
- (d) Approved investigation reports should be forwarded to the county social services agency as soon as practical.
- (e) When the child abuse occurred at a facility or by a person from a facility that requires a state license or a profession that requires a state license (e.g., foster homes, group homes, day care, educator), notification shall also be made to the agency responsible for licensing the facility or person (Minn. Stat. § 260E.11).

315.4 QUALIFIED INVESTIGATORS

Qualified officers should be available for child abuse investigations. These officers should:

- (a) Conduct interviews in child-appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to child abuse investigations.
- (c) Present all cases of alleged child abuse to the prosecutor for review.

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- (d) Coordinate with other enforcement agencies, social service agencies, and school administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians, and support for the child and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable.

315.5 INVESTIGATIONS AND REPORTING

In all reported or suspected cases of child abuse, a report will be written. Officers shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.
- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

315.6 PROTECTIVE CUSTODY

Before taking any child into protective custody, the officer should make reasonable attempts to contact the county social services agency. Generally, removal of a child from his/her family,

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guardian or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

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

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody. The supervisor shall notify investigations when a child is taken into protective custody.

Children may only be removed from a parent or guardian in the following situations (Minn. Stat. § 260C.175):

- (a) When a court has issued an order for removal.
- (b) When a child is found in surroundings or conditions that pose an imminent threat to the child's health or welfare or that a peace officer reasonably believes pose an imminent threat to the child's health or welfare.
- (c) If an Indian child is a resident of a reservation or is domiciled on a reservation but temporarily located off the reservation, taking the child into custody under this clause shall be consistent with the Indian Child Welfare Act (25 USC § 1922).

315.6.1 NOTICE TO PARENT OR CUSTODIAN AND CHILD

Whenever an officer takes a child into protective custody, the officer shall notify the parent or custodian, and the child (age 10 years or older) that they may request that the child be placed with a relative instead of in a shelter care facility. The officer also shall give the parent or custodian a list, published by the Minnesota Department of Human Services, of names, addresses, and telephone numbers of social services agencies that offer child welfare services. When placement with a relative is requested, the [officer/deputy] will coordinate with the responsible social services agency to ensure the child's safety and well-being in compliance with Minn. Stat. § 260C.181 (Minn. Stat. § 260C.175).

If the parent or custodian was not present when the child was removed from the residence, the list shall be left with an adult who is on the premises or left in a conspicuous place on the premises if no adult is present. If the officer has reason to believe the parent or custodian is not able to read and understand English, the officer must provide a list that is written in the language of the parent or custodian (Minn. Stat. § 260C.175; Minn. Stat. § 260C.181).

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315.6.2 SAFE PLACE FOR NEWBORNS

A person may leave an unharmed newborn less than seven days old with the staff of a hospital, urgent care facility or ambulance service without being subject to prosecution (Minn. Stat. § 609.3785). The responsible social service agency is charged with addressing these matters but may contact law enforcement if child abuse is suspected (Minn. Stat. § 145.902; Minn. Stat. § 609.3785).

315.7 INTERVIEWS

315.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

315.7.2 DETAINING ABUSE VICTIMS FOR INTERVIEW

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

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

315.7.3 NOTIFICATION TO PARENTS

Generally, officers should cooperate with parents and guardians and seek consent prior to conducting interviews of children. However, when reasonably necessary, state law grants officers the authority to interview a child who is the alleged victim of abuse or neglect, and any other children who currently reside or have resided with the alleged victim, without parental consent (Minn. Stat. § 260E.22, Subd. 1).

The interview may take place at school or at any facility or other place where the alleged victim or other children might be found, or the child may be transported to, and the interview conducted at, a place that is appropriate for the interview and has been designated by the local welfare agency or law enforcement agency. When it is possible and substantial child endangerment or sexual

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

The officer shall notify the parent, legal custodian, or guardian that the interview occurred as soon as reasonably practicable after the interview, unless the juvenile court has determined that reasonable cause exists to withhold the information (Minn. Stat. § 260E.22).

315.7.4 INTERVIEWS AT SCHOOL

If officers assigned to investigate a report of maltreatment determine that an interview should take place on school property, written notification of the intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property (Minn. Stat. § 260E.22, Subd. 7).

The investigating officer shall determine who may attend the interview, although school officials may set reasonable conditions as to the time, place, manner, and individuals present during the interview (Minn. Stat. § 260E.22, Subd. 7).

315.7.5 DOCUMENTING AND RECORDING INTERVIEWS

Any statement made by an alleged child abuse victim during the course of a criminal investigation shall be documented. The documentation of the interview must contain, at a minimum (Minn. Stat. § 260E.23):

- (a) The date, time, place, and duration of the interview.
- (b) The identity of the persons present at the interview.
- (c) A summary of the information obtained during the interview if it was not audio recorded.

Members should follow the written guidelines of the county attorney's office regarding recording interviews of a child abuse victim.

315.8 MEDICAL EXAMINATIONS

If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The officer should also arrange for the child's transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination.

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315.9 DRUG-ENDANGERED CHILDREN

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

315.9.1 SUPERVISOR RESPONSIBILITIES

The Investigative Division supervisor should:

- (a) Work with professionals from the appropriate agencies, including the county social services agency, other law enforcement agencies, medical service providers and local prosecutors to develop procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the Investigative Division supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.

315.9.2 OFFICER RESPONSIBILITIES

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

- (a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.
- (b) Notify their supervisor regarding the circumstances of their response.

315.9.3 SCHOOL NOTIFICATION

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

315.10 STATE MANDATES AND OTHER RELEVANT LAWS

Minnesota requires or permits the following:

315.10.1 RELEASE OF REPORTS

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Minn. Stat. § 260E.35).

315.10.2 CHILD MORTALITY REVIEW PANELS

Child mortality review panels are entitled to access all investigative information of law enforcement agencies regarding the death of a child. This department shall cooperate fully with any such team and investigation (Minn. Stat. § 256.01, Subd. 12).

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315.10.3 COORDINATION WITH SOCIAL SERVICES

In every case of child abuse that would require notification to a local county social services agency, the investigating officer shall coordinate the planning and execution of the investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. The investigating officer shall prepare a report separate from the social services agency (Minn. Stat. § 260E.12; Minn. Stat. § 260E.14, Subd. 5).

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

315.10.4 NOTIFICATION PROCESS

The investigating officer's supervisor is responsible for ensuring the mandatory notifications to the county social service agency are carried out. This should be achieved, in part, by establishing and reviewing related procedures and through ongoing training (Minn. Stat. § 260E.01 et seq.).

315.10.5 COURT-ORDERED FIREARM SURRENDERS

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

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

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

315.11 TRAINING

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

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

Missing Persons

316.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

316.1.1 DEFINITIONS

Definitions related to this policy include:

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

- (a) The person is missing because of a confirmed abduction or under circumstances that indicate the person's disappearance was not voluntary.
- (b) The person is missing under known dangerous circumstances.
- (c) The person is missing more than 30 days.
- (d) The person is under the age of 21 and at least one other factor is applicable.
- (e) There is evidence that the person is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person's health if the person does not receive the needed care or medication.
- (f) The person does not have a pattern of running away or disappearing.
- (g) The person is mentally impaired.
- (h) There is evidence that a non-custodial parent may have abducted the person.
- (i) The person has been the subject of past threats or acts of violence.
- (j) There is evidence that the person is lost in the wilderness, backcountry or outdoors where survival is precarious and immediate and effective investigation and search-and-rescue efforts are critical.
- (k) Any other factor the Department deems to indicate the person may be at risk of physical injury or death, including a determination by another law enforcement agency that the person is missing and endangered.
- (l) There is sufficient evidence that a child is with a person who presents a threat of immediate physical injury to the child or physical or sexual abuse of the child.
- (m) Qualify for a state AMBER Alert™ pursuant to Minn. Stat. § 299A.61, Subd. 1.

Missing person - Has the meaning given it in Minn. Stat. §299C,52, Subd. 1 (d), "The status of a person after a law enforcement agency has received a report of a missing person, has conducted a preliminary investigation, and determined that the person cannot be located".

Child - Has the meaning given it in Minn. Stat. §299C,52, Subd. 1 (a), "Any person under the age of 18 years or any person certified or known to be mentally incompetent".

NCIC – Means The National Crime Information Center.

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CJIS – Means the Criminal Justice Information System.

DNA – Has the meaning given it in Minn. Stat.299 § C.52, Subd. 1 (b), Deoxyribonucleic acid from a human biological specimen.

316.2 POLICY

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

316.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS

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

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

316.4 ACCEPTANCE OF REPORTS

As required by Minn. Stat. §299C.53, Subd. 1(a), Law Enforcement shall accept, without delay, any report of a missing person. Law enforcement shall not refuse to accept a missing person report on the basis that:

- (a) The missing person is an adult.
- (b) The circumstances do not indicate foul play.
- (c) The person has been missing for a short amount of time.
- (d) The person has been missing for a long amount of time.
- (e) There is no indication that the missing person was in the jurisdiction served by the law enforcement agency at the time of the disappearance.
- (f) The circumstances suggest that the disappearance may be voluntary.
- (g) The reporting person does not have personal knowledge of the facts.
- (h) The reporting person cannot provide all of the information requested by the law enforcement agency.
- (i) The reporting person lacks a familial or other relationship with the missing person.

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- (j) Any other reason, except in cases where the law enforcement agency has direct knowledge that the person is, in fact, not missing, and the whereabouts and welfare of the person are known at the time the report is filed.

316.5 INITIAL INVESTIGATION

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

- (a) Dispatch an officer to the scene to conduct a preliminary investigation to determine whether the person is missing, and if missing, whether the person is endangered.
- (b) Obtain interpretive services if necessary.
- (c) Interview the person who made the initial report, and if the person is a child, the child's parent(s) or guardian(s).
 1. Determine when, where, and by whom the missing person was last seen.
- (d) Interview the individual(s) who last had contact with the person.
- (e) Obtain a detailed description of the missing person, abductor, vehicles, etc. and ask for recent photo of missing person.
- (f) Immediately enter the complete descriptive and critical information, regarding the missing and endangered person, into the appropriate category of the NCIC Missing Person File.
 1. As required by 42 U.S.C. 5779(a) (Suzanne's Law) law enforcement shall immediately enter missing children less than 21 years of age into the NCIC.
 2. As required by Minn. Stat. § 299C.53, Subd. 1(b), if the person is determined to be missing and endangered, the agency shall immediately enter identifying and descriptive information about the person into the NCIC.
 3. Enter complete descriptive information regarding suspects/vehicle in the NCIC system.
- (g) Request investigative and supervisory assistance.
- (h) Update additional responding personnel.
- (i) Communicate known details promptly and as appropriate to other patrol units, local law enforcement agencies, and surrounding law enforcement agencies. If necessary, use the International Justice & Public Safety Network (NLETS) the Minnesota Crime Alert Network, and MNJIS KOPS Alert to alert state, regional and federal law enforcement agencies.
- (j) Notify the family of the Minnesota Missing/Unidentified Persons Clearinghouse services available.
- (k) Secure the crime scene and/or last known position of the missing person and attempt to identify and interview persons in the area at the time of the incident.
- (l) Obtain and protect uncontaminated missing person scent articles for possible use by search canines.

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- (m) Activate protocols for working with the media.(AMBER Alert, Minnesota Crime Alert Network).
- (n) As required by Minn. Stat. §Chapter 299C.53, Subd. 1(b), consult with the Minnesota Bureau of Criminal Apprehension if the person is determined to be an endangered missing person. Request assistance as necessary.
- (o) Implement multi-jurisdictional coordination/mutual aid plan as appropriate such as when:
 - 1. The primary agency has limited resources.
 - 2. The investigation crosses jurisdictional lines.
 - 3. Jurisdictions have pre-established task forces or investigative teams.
- (p) Based on the preliminary investigation, determine whether or not a physical search is required.
- (q) Conduct a canvas of the neighborhood and of vehicles in the vicinity.
- (r) Arrange for use of helpful media coverage.
- (s) Maintain records of telephone communications/messages.
- (t) Ensure that everyone at the scene is identified and interviewed separately.
- (u) Search the home, building or other area/location where the incident took place and conduct a search including all surrounding areas.Obtain consent or a search warrant if necessary.
- (v) Assign an investigator or officer whose duties will include coordination of the investigation.

316.5.1 CRIME SCENE INVESTIGATION AND MANAGEMENT

If a crime scene is identified:

- (a) Begin setting up the Command Post/Operation Base away from the person'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.
- (b) Establish the ability to "trap and trace" all incoming calls.Consider setting up a separate telephone line or cellular telephone for agency use and follow up on all leads.
- (c) Compile a list of known sex offenders in the region.
- (d) In cases of infant abduction, investigate claims of home births made in the area.
- (e) In cases involving children, obtain child protective agency records for reports of child abuse.
- (f) Review records for previous incidents related to the missing person and prior police activity in the area, including prowlers, indecent exposure, attempted abductions, etc.

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- (g) Obtain the missing person's medical and dental records, fingerprints and DNA when practical or within 30 days.
- (h) Create a Missing Persons' Profile with detailed information obtained from interviews and records from family and friends describing the missing person's health, relationships, personality, problems, life experiences, plans, equipment, etc.
- (i) Update the NCIC file, as necessary with any additional information, regarding the missing person, suspect(s) and vehicle(s).
- (j) Interview delivery personnel, employees of gas, water, electric and cable companies, taxi drivers, post office personnel, sanitation workers, etc.
- (k) For persons' under the age of 21, contact the National Center for Missing and Exploited Children (NCMEC) for photo dissemination and other case assistance.
- (l) Determine if outside help is needed and utilize local, state and federal resources related to specialized investigative needs, including:
 - 1. Available Search and Rescue (SAR) resources
 - 2. Investigative Resources
 - 3. Interpretive Services
 - 4. Telephone Services (traps, traces, triangulation, etc.)
 - 5. Media Assistance (Local and National)
- (m) Secure electronic communication information such as the missing person's cell phone number, email address(s) and social networking site information.
- (n) Appoint an officer who shall be responsible to communicate with the family/reporting party or their designee and who will be the primary point of contact for the family/reporting party or designee. Provide contact information and the family information packet (if available) to the family/reporting party or designee.
- (o) Provide general information to the family/reporting party or designee about the handling of the missing person case or about intended efforts in the case to the extent that the law enforcement agency determines that disclosure would not adversely affect the ability to locate or protect the missing person or to apprehend or prosecute any person(s) criminally in the disappearance.

316.6 REPORT PROCEDURES AND ROUTING

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

316.6.1 SUPERVISOR RESPONSIBILITIES

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

- (a) Reviewing and approving missing person reports upon receipt.
- (b) Ensuring resources are deployed as appropriate.
- (c) Initiating a command post as needed.

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- (d) Ensuring applicable notifications and public alerts are made and documented.
- (e) Ensuring that records have been entered into the appropriate missing persons networks.
- (f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.

316.6.2 NOTIFICATION RESPONSIBILITIES

Responsibilities of the assigned Investigator in coordination with the Records Unit may include, but are not limited to:

- (a) As soon as reasonable under the circumstances, notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's residence in cases where the missing person is a resident of another jurisdiction.
- (b) Notifying and forwarding a copy of the report to the agency of jurisdiction where the missing person was last seen.
- (c) Notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's intended or possible destination, if known.
- (d) Coordinating with the NCIC Terminal Contractor for Minnesota to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

316.7 INVESTIGATIVE DIVISION FOLLOW-UP

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

- (a) Should ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.
 - 1. The notice shall be in writing and should also include a photograph.
 - 2. The investigator should meet with school officials as appropriate to stress the importance of including the notice in the child's student file, along with the investigator's contact information if the school receives a call requesting the transfer of the missing child's files to another school.
- (b) Should recontact the reporting person and/or other witnesses within 30 days of the initial report and within 30 days thereafter to determine if any additional information has become available.
- (c) Shall review the case file to determine whether any additional information received on the missing person indicates that the person is endangered, and shall update applicable state or federal databases accordingly (Minn. Stat. § 299C.535(b); Minn. Stat. § 299C.535(c)).
- (d) Shall attempt to obtain the following, if not previously obtained, if the person remains missing after 30 days (Minn. Stat. § 299C.535(a)):
 - 1. Biological samples from family members and, if possible, from the missing person

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2. Dental information and X-rays
 3. Additional photographs and video that may aid the investigation or identification
 4. Fingerprints
 5. Any other specific identifying information
- (e) Should consider contacting other agencies involved in the case to determine if any additional information is available.
- (f) Shall verify and update the Minnesota Justice Information Services (MNJIS), the Minnesota Missing and Unidentified Persons Clearinghouse, NCIC and any other applicable missing person networks within 30 days of the original entry into the networks and every 30 days thereafter until the missing person is located (34 USC § 41308).
- (g) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.
- (h) Should consider taking certain actions if a person is missing after a prolonged period, generally exceeding 45 days. Those actions include:
1. Developing a profile of the possible abductor.
 2. Using a truth verification device for parents, spouse and other key individuals.
 3. Reviewing all reports and transcripts of interviews, revisiting the crime scene, reviewing all photographs and videotapes, reinterviewing key individuals and reexamining all physical evidence collected.
 4. Reviewing all potential witness/suspect information obtained in the initial investigation and considering background checks on anyone of interest identified in the investigation.
 5. Periodically checking pertinent sources of information about the missing person for any activity, such as telephone, bank, Internet or credit card activity.
 6. Developing a time line and other visual exhibits.
 7. Critiquing the results of the ongoing investigation with appropriate investigative resources.
 8. Arranging for periodic media coverage.
 9. Considering the use of rewards and crime-stoppers programs.
 10. Maintaining contact with the family and/or the reporting party or designee, as appropriate.
- (i) Shall maintain a close liaison with state and local child welfare systems and the National Center for Missing and Exploited Children (NCMEC) if the missing person is under the age of 21 and shall promptly notify NCMEC when the person is missing from a foster care family home or childcare institution (34 USC § 41308).
- (j) Should make appropriate inquiry with the Medical Examiner.

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- (k) Should obtain and forward medical and dental records, photos, X-rays and biological samples, as applicable.
- (l) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not been obtained previously, forward the photograph to BCA (Minn. Stat. § 299C.54) and enter the photograph into applicable missing person networks (34 USC § 41308).
- (m) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).
- (n) In the case of an endangered missing person or a person who has been missing for an extended time, should consult with a supervisor regarding seeking federal assistance from the FBI and the U.S. Marshals Service (28 USC § 566).

316.8 WHEN A MISSING PERSON IS FOUND

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

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

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

316.8.1 PERSONS FOUND ALIVE

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

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

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316.8.2 UNIDENTIFIED PERSONS

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

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

316.8.3 DECEASED PERSONS

If a deceased person has been identified as a missing person, the Investigative Division shall attempt to locate family members and inform them of the death and the location of the deceased missing person's remains. All efforts to locate and notify family members shall be recorded in appropriate reports and properly retained (Minn. Stat. § 390.25, Subd. 2).

Additional investigation responsibilities include the following:

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

316.9 CASE CLOSURE

The Investigative Division supervisor may authorize the closure of a missing person case after considering the following:

- (a) Closure is appropriate when the missing person is confirmed returned or evidence matches an unidentified person or body.
- (b) If the missing person is a resident of Rochester or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.
- (c) If this department is not the lead agency, the case can be made inactive if all investigative leads have been exhausted, the lead agency has been notified and entries are made in the applicable missing person networks, as appropriate.

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- (d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

316.10 TRAINING

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

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

Public Alerts

317.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for alerting the public to important information and soliciting public aid when appropriate.

317.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

317.3 RESPONSIBILITIES

317.3.1 EMPLOYEE RESPONSIBILITIES

Employees of the Rochester Police Department should notify their supervisor, Shift Commander or Investigative Division Supervisor as soon as practicable upon learning of a situation where public notification, a warning or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person or gathering information.

317.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Chief of Police, the appropriate Captain and the Captain of Investigations when any public alert is generated.

The supervisor in charge of the investigation to which the alert relates is responsible for the following:

- (a) Updating alerts
- (b) Canceling alerts
- (c) Ensuring all appropriate reports are completed
- (d) Preparing an after-action evaluation of the investigation to be forwarded to the Captain

317.4 AMBER ALERTS

America's Missing: Broadcast Emergency Response (AMBER) Alert™ is the recruitment of public assistance to locate an abducted child via a widespread media alert. Utilizing the assistance of local radio, television and press affiliates, the public will be notified of the circumstances of a child's abduction and how it can assist law enforcement in the child's recovery. The goal of the AMBER Alert program is the safe return of an abducted child by establishing an effective partnership between the community, the media and law enforcement through the Minnesota Crime Alert Network (Minn. Stat. § 299A.61 Subd. 1).

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317.4.1 CRITERIA

Any non-familial case in which an individual is abducted and the public can assist will trigger the activation of either the AMBER Alert and/or the Minnesota Crime Alert Network (MCAN) to inform the public and request its assistance in locating the individual.

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

- (a) A child 17 years of age or younger was abducted and there is reason to believe the victim is in imminent danger of serious bodily injury or death.
- (b) There is information available to disseminate to the general public that could assist with the safe recovery of the victim and/or the apprehension of the suspect.

An AMBER Alert should not be requested if there is no information to distribute.

317.4.2 PROCEDURE

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

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

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

BCA will manage press notifications through the EAS.

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

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

317.5 MINNESOTA CRIME ALERT NETWORK

MCAN is a statewide communications network that enables law enforcement agencies to quickly alert the public (Minn. Stat. § 299A.61). In cases where the AMBER Alert criteria are not met, MCAN can be activated to notify the public and request information on the case. Law enforcement agencies, businesses, schools and community members participate in the network.

317.5.1 CRITERIA

MCAN is available for disseminating information regarding the commission of crimes, including information on missing and endangered children or vulnerable adults, or attempts to reduce theft and other crime.

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317.5.2 PROCEDURE

If a supervisor determines that a MCAN alert should be requested, the supervisor should contact the BCA Operations Center and provide the requested information.

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

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

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

317.6 BLUE ALERTS

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

317.6.1 CRITERIA

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

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

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

317.6.2 PROCEDURE

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

Victim and Witness Assistance

318.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources, and that the agency meets all related legal mandates.

318.2 POLICY

The Rochester Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The employees of the Rochester Police Department will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

318.3 CRIME VICTIM LIAISON

Members of the Rochester Police Department should work in liaison with Olmsted County Victim Services to provide support and information regarding crime victim resources. Legal mandates related to crime victims and/or witnesses shall be followed.

318.3.1 SPECIFIC VICTIM LIAISON DUTIES

Department members shall assist the Minnesota Crime Victims Reparations Board in performing its duties and ensure that the Records Unit forwards copies of requested reports to the board or other authorized organizations within 10 days of receipt, in compliance with the Records Maintenance and Release Policy. These reports include those maintained as confidential or not open to inspection under Minn. Stat. § 260B.171 or Minn. Stat. § 260C.171 (Minn. Stat. § 611A.66).

Department members shall (Minn. Stat. § 611A.27):

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

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

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318.4 CRIME VICTIMS

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

Officers should never guarantee a victim's safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Officers should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written department material or available victim resources.

318.5 VICTIM INFORMATION

The Department shall ensure that victim information handouts are available and current. The Rochester Police Department works in collaboration with criminal justice partners to provide resources. These should include as appropriate:

- (a) Shelters and other community resources for victims, including domestic violence and sexual assault victims.
- (b) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109).
- (c) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.
- (d) A clear explanation of relevant court orders and how they can be obtained.
- (e) Information regarding available compensation for qualifying victims of crime.
- (f) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.
- (g) Notice regarding U visa and T visa application processes.
- (h) Resources available for victims of identity theft.
- (i) A place for the officer's name, badge number, and any applicable case or incident number.
- (j) Notices and information regarding the rights of crime victims, domestic abuse victims, and offender release as detailed in the following:
 - 1. [Safe at Home](#) address confidentiality program (Minn. Stat. § 5B.03)
 - 2. Offender release notification (Minn. Stat. § 244.052; Minn. Stat. § 244.053; Minn. Stat. § 611A.06; Minn. Stat. § 629.73)
 - 3. Tenancy issues (Minn. Stat. § 504B.205; Minn. Stat. § 504B.206)
 - 4. Victim and specific domestic violence victim information/Minnesota [CHOICE](#) (Minn. Stat. § 611A.02 et seq.; Minn. Stat. § 629.341; Minn. Stat. § 629.72)
- (k) A notice that a decision to arrest is the officer's and the decision to prosecute lies with the prosecutor, even when a victim requests no arrest or prosecution.

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

318.6 WITNESSES

Officers should never guarantee a witness' safety from future harm or that his/her identity will always remain confidential. Officers may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

Officers should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable.

Hate or Prejudice Crimes

319.1 PURPOSE AND SCOPE

The Rochester Police Department recognizes and places a high priority on the rights of all individuals guaranteed under the constitution and the laws of this state. When such rights are infringed upon by violence, threats or other harassment, this department will utilize all available resources to see that justice is served under the law. This policy has been developed to meet or exceed the provisions of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, and provides members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

319.1.1 FEDERAL JURISDICTION

The federal government also has the power to investigate and prosecute bias-motivated violence by providing the U.S. Department of Justice with jurisdiction over crimes of violence where the perpetrator has selected the victim because of the person's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or disability (18 USC § 245).

319.2 DEFINITIONS

Hate or Prejudice Crime - Conduct that would constitute a crime and was committed because of the victim's or another's actual or perceived race, color, religion, national origin, ethnicity, gender, sexual orientation, gender identity or expression, or disability (see generally Minn. Stat. § 611A.79, Subd. 1).

319.3 PREVENTING AND PREPARING FOR LIKELY HATE OR PREJUDICE CRIMES

The department is committed to taking a proactive approach to preventing and preparing for likely hate or prejudice crimes by:

- (a) Officers should make an affirmative effort to establish contact with persons and groups within the community who are likely targets of hate crimes to form and cooperate with prevention and response networks.
- (b) Providing victim assistance and follow-up as outlined below, including community follow-up.
- (c) Educating community and civic groups relating to hate crime laws.

319.4 PROCEDURE FOR INVESTIGATING HATE OR PREJUDICE CRIMES

Whenever any member of this department receives a report of a suspected hate or prejudice crime or other activity that reasonably appears to involve a potential hate or prejudice crime, the following should occur:

- (a) Officers will be promptly assigned to contact the victim, witness or reporting party to investigate the matter further as circumstances may dictate.

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- (b) A supervisor should be notified of the circumstances as soon as practicable.
- (c) Once “in progress” aspects of any such situation have been stabilized (e.g., treatment of victims or apprehension of present suspects), the assigned officers will take all reasonable steps to preserve available evidence that may tend to establish that a hate or prejudice crime was involved.
- (d) The assigned officers will interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate or prejudice crime. An area canvass for additional witnesses and evidence should be conducted when applicable.
- (e) Depending on the situation, the assigned officers or supervisor may request additional assistance from investigators or other resources to further the investigation.
- (f) The assigned officers will include all available evidence indicating the likelihood of a hate or prejudice crime in the relevant reports. Absent prior approval of a supervisor, reports will be completed and submitted by the assigned officers before the end of the shift.
- (g) The assigned officers and supervisor should take reasonable steps to ensure that any such situation does not escalate further and provide information to the victim regarding legal aid, e.g., a possible Temporary Restraining Order through the courts, prosecuting attorney or City Attorney.

319.5 INVESTIGATIVE DIVISION RESPONSIBILITIES

Cases motivated by hate or bias shall be assigned to the Investigative Division for follow up. The assigned investigator will be responsible for following up on the reported hate or prejudice crime as follows:

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

319.5.1 STATE HATE CRIME REPORTING

This department shall report hate or prejudice crime offenses in the form and manner and at regular intervals as prescribed by rules adopted by the Department of Public Safety. This shall be conducted by the Records Manager or assigned to the Investigative Division (Minn. Stat. § 626.5531, Subd. 2).

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

- (a) The date of the offense.
- (b) The location of the offense.
- (c) Whether the target of the incident was a person, private property or public property.
- (d) The crime committed.

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- (e) The type of bias and information about the offender and the victim that is relevant to that bias.
- (f) Any organized group involved in the incident.
- (g) The disposition of the case.
- (h) Whether the determination that the offense was motivated by bias was based on the officer's reasonable belief or on the victim's allegation.
- (i) Any additional information the superintendent deems necessary for the acquisition of accurate and relevant data.

319.5.2 FEDERAL HATE CRIME REPORTING

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

319.6 TRAINING

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

Standards of Conduct

320.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Rochester Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

320.1.1 STANDARDS OF CONDUCT FOR PEACE OFFICERS

The Rochester Police Department adopts the Professional Conduct of Peace Officers model policy established and published by the Minnesota Board of Peace Officer Standards and Training Board (POST) (Minn. Stat. § 626.8457). This model policy applies to all peace officers of this department.

[See attachment: MN POST Professional Conduct of Peace Officers Model Policy.pdf](#)

The provisions of this policy are in addition to collective bargaining agreements or any other applicable law (see generally Minn. R. 6700.1500).

The Department shall report to POST any data regarding the investigation and disposition of cases involving alleged misconduct of officers (Minn. Stat. § 626.8457, Subd. 3).

320.2 POLICY

The continued employment or appointment of every member of the Rochester Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

320.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

320.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or

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shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

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

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

320.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.
- (d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

320.4 GENERAL STANDARDS

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

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

320.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action

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for violation of other rules, standards, ethics, and specific action or inaction that is detrimental to efficient department service.

320.5.1 LAWS, RULES AND ORDERS

- (a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.
- (b) Disobedience of any legal directive or order issued by any department member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

320.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Rochester Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

320.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

320.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

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- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

320.5.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without reasonable excuse.

320.5.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms, or reports obtained as a result of the member's position with this department.
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any department property for personal use, personal gain, or any other improper or unauthorized use or purpose.
- (e) Using department resources in association with any portion of an independent civil action. These resources include but are not limited to personnel, vehicles, equipment, and non-subpoenaed records.

320.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.

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- (c) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Department within 24 hours of any change in residence address or contact numbers.
- (f) Failure to notify the Department of Human Resources of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

320.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department--related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - 1. While on department premises.
 - 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
 - 3. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
 - 1. Unauthorized attendance while on-duty at official legislative or political sessions.
 - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or on department property except

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as expressly authorized by City policy, the collective bargaining agreement, or the Chief of Police.

- (h) Engaging in political activities during assigned working hours except as expressly authorized by City policy, the collective bargaining agreement, or the Chief of Police.
- (i) Any act on- or off-duty that brings discredit to this department.

320.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.
- (g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any collective bargaining agreement or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.
- (m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

320.5.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.

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- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver's license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties as defined by job requirements found within the employee's job description.
- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off-duty.
- (e) Carrying, while on-duty, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

320.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

Information Technology Use

321.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of department information technology resources, including computers, electronic devices, hardware, software and systems.

321.1.1 DEFINITIONS

Definitions related to this policy include:

Computer system - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented or licensed by the Rochester Police Department that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Department or department funding.

Hardware - Includes, but is not limited to, computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, modems or any other tangible computer device generally understood to comprise hardware.

Software - Includes, but is not limited to, all computer programs, systems and applications, including shareware. This does not include files created by the individual user.

Temporary file, permanent file or file - Any electronic document, information or data residing or located, in whole or in part, on the system including, but not limited to, spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs or videos.

321.2 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts or anything published, shared, transmitted or maintained through file-sharing software or any Internet site that is accessed, transmitted, received or reviewed on any department computer system.

The Department reserves the right to access, audit and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department, including the department email system, computer network and/or any information placed into storage on any department system or device. This includes records of all keystrokes or Web-browsing history made at any department computer or over any department network. The fact that access to a database, service or website requires a username or password will not create an expectation of privacy if it is accessed through department computers, electronic devices or networks.

321.2 POLICY

It is the policy of the Rochester Police Department that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the Department in a professional manner and in accordance with this policy.

Information Technology Use

321.2 INSPECTION OR REVIEW

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Department involving one of its members or a member's duties, an alleged or suspected violation of any department policy, a request for disclosure of data, or a need to perform or provide a service.

The IT staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the department computer system when requested by a supervisor or during the course of regular duties that require such information.

321.2 RESTRICTED USE

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisor.

Members shall not use another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor.

321.2.1 SOFTWARE

Members shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company's copyright and license agreement.

To reduce the risk of a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any department computer. Members shall not install personal copies of any software onto any department computer.

No member shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the Department while on department premises, computer systems or electronic devices. Such unauthorized use of software exposes the Department and involved members to severe civil and criminal penalties.

Introduction of software by members should only occur as part of the automated maintenance or update process of department- or City-approved or installed programs by the original manufacturer, producer or developer of the software.

Any other introduction of software requires prior authorization from IT staff and a full scan for malicious attachments.

Information Technology Use

321.2.2 HARDWARE

Access to technology resources provided by or through the Department shall be strictly limited to department-related activities. Data stored on or available through department computer systems shall only be accessed by authorized members who are engaged in an active investigation or assisting in an active investigation, or who otherwise have a legitimate law enforcement or department-related purpose to access such data.

321.2.3 INTERNET USE

Internet access provided by or through the City of Rochester should be limited to department-related activities. Internet sites containing information that is not appropriate or applicable to department use and which shall not be intentionally accessed include, but are not limited to, adult forums, pornography, gambling, chat rooms and similar or related Internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

Downloaded information shall be limited to messages, mail and data files.

321.2.4 OFF-DUTY USE

Members shall only use technology resources provided by the Department while on-duty or in conjunction with specific on-call assignments unless specifically authorized by a supervisor.

321.2 PROTECTION OF AGENCY SYSTEMS AND FILES

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care and maintenance of the computer system.

Members shall ensure department computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present. Access passwords, logon information and other individual security data, protocols and procedures are confidential information and are not to be shared. Password length, format, structure and content shall meet the prescribed standards required by the computer system or as directed by a supervisor and shall be changed at intervals as directed by IT staff or a supervisor.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the Internet) to a supervisor.

Report Preparation

322.1 PURPOSE AND SCOPE

Report preparation is a major part of each employee's job. The purpose of reports is to document sufficient information to refresh the employee's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized and on-the-job training.

322.1.1 REPORT PREPARATION

Employees should ensure that their reports are sufficient for their purpose and reasonably free of errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty, unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

322.2 REQUIRED REPORTING

Written reports are required in accordance with standards outlined in the department Report Guidelines.

[See attachment: Report Guidelines_10-05-2021_revised.pdf](#)

Please check RPD Forms for the most up-to-date document.

322.3 GENERAL POLICY OF EXPEDITIOUS REPORTING

In general, all employees and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

322.4 REPORT CORRECTIONS

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should reject the report and return to the employee for correction. It shall be the responsibility of the originating employee to ensure that any report returned for correction is processed in a timely manner.

Report Preparation

322.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Records Unit for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records Unit may be corrected or modified by the authoring employee only with the knowledge and authorization of the reviewing supervisor.

322.6 FIREARM INJURY REPORTING FROM HEALTH PROFESSIONALS

Members receiving a report from a health professional of a bullet or gunshot wound, powder burns or any other injury arising from, or caused by, the discharge of any gun, pistol or any other firearm shall thoroughly investigate the facts surrounding the incident (Minn. Stat. § 626.52, Subd. 2; Minn. Stat. § 626.553, Subd. 1).

The Records Unit shall ensure that the report received from the health professional is forwarded to the commissioner of the Department of Health (Minn. Stat. § 626.53, Subd. 2). If the injury resulted from a hunting incident, the Records Unit shall ensure that the findings of the investigation are forwarded to the commissioner of the Department of Natural Resources using the form provided by the commissioner (Minn. Stat. § 626.553, Subd. 1).

Media Relations

323.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

323.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police. However, in situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, supervisors may prepare and release information to the media in accordance with this policy and the applicable law.

323.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the designated Department media representative, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, employees shall consider the following:

- (a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor or the designated Department media representative.
- (b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.
- (c) Under no circumstance should any member of this department make any comment(s) to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police.

323.3 MEDIA ACCESS

Authorized members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions:

- (a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
 - 1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the department Captain of Investigations or other designated spokesperson.

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- (c) Media interviews with individuals who are in custody shall not be permitted unless in compliance with a jail facility policy. Exceptions are only permitted with the approval of the Chief of Police and the express written consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Captain of Investigations.

323.3.1 TEMPORARY FLIGHT RESTRICTIONS

Whenever the presence of media or other aircraft poses a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Incident Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR 91.137).

323.3.2 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception, the Chief of Police will consider, at minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person or is otherwise prohibited by law.

323.4 SCOPE OF INFORMATION SUBJECT TO RELEASE

The Department will maintain a daily information briefing of significant law enforcement activities that shall be made available, upon request, to media representatives through the Captain of Investigations or authorized designee. This briefing will consist of data classified as public and should generally contain the following information (Minn. Stat. § 13.82):

- (a) The date, time, location, case number, type of crime, extent of injury or loss and names of individuals (except confidential informants) involved in crimes occurring within this jurisdiction, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.
- (b) The date, time, location, case number, name, birth date and charges for each person arrested by this department, unless the release of such information would endanger

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the safety of any individual or jeopardize the successful completion of any ongoing investigation.

- (c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law.

Any requests for copies of related reports or additional information not contained in this briefing shall be referred to the designated media representative or Records Manager. Such requests will generally be processed in accordance with the provisions of the Minnesota Government Data Practices Act (Minn. Stat. § 13.03).

323.4.1 STATE RESTRICTED INFORMATION

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department (see the Records Maintenance and Release Policy and the Personnel Records Policy). When in doubt, authorized and available legal counsel should be obtained.

Court Appearance and Subpoenas

324.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Rochester Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

324.2 POLICY

Rochester Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

324.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department or any of its members may do so (Minn. R. Civ. P.45.02; Minn. R. Crim. P. 22.03).

A court notice from a prosecutor or other government attorney may be served by delivery to the member's mail box or email. Members shall check for delivery of such documents during each shift worked.

Subpoenas shall not be accepted in a civil action in which the member or Department is not a party without properly tendered fees pursuant to applicable law (Minn. Stat. § 357.23; Minn. R. Civ. P. 45.03).

324.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the City Attorney or the prosecutor shall notify his/her immediate supervisor without delay regarding:

- (a) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.
- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Rochester Police Department.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Rochester Police Department.

The supervisor will then notify the Chief of Police and the appropriate prosecuting attorney as may be indicated by the case. The Chief of Police should determine if additional legal support is necessary.

No member shall be retaliated against for testifying in any matter.

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324.3.2 CIVIL SUBPOENA

The Department will compensate members who appear in their official capacities on civil matters arising out of their official duties, in accordance with any collective bargaining agreement.

The Department should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

324.3.3 OFF-DUTY RELATED SUBPOENAS

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

324.4 FAILURE TO APPEAR

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

324.5 STANDBY

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

If a member on standby changes his/her location during the day, the member shall notify the designated department member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

324.6 COURTROOM PROTOCOL

When appearing in court, members shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in the department uniform or business attire.
- (c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

324.6.1 TESTIMONY

Before the date of testifying, the subpoenaed member should review a copy of relevant reports and become familiar with the content in order to be prepared for court.

324.7 OVERTIME APPEARANCES

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with any current collective bargaining agreement .

Outside Agency Assistance

325.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

325.2 POLICY

It is the policy of the Rochester Police Department to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

325.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to a supervisor for approval. Any such response to assist an outside agency may be considered for authorization regardless of whether an agreement for reciprocal aid under Minn. Stat. § 626.76, Subd. 1 exists. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this department, a supervisor may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

Officers may respond to a request for emergency assistance; however, they shall notify a supervisor of their activity as soon as practicable.

Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by this department will not ordinarily be booked at this department. Only in exceptional circumstances, and subject to supervisor approval, will this department provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, a report shall be prepared and submitted by the handling member unless otherwise directed by a supervisor.

325.3.1 AGREEMENTS

The Department may, at the discretion of the Chief of Police, establish an agreement with another law enforcement agency to (Minn. Stat. § 626.76, Subd.1):

- (a) Assist other peace officers in the line of their duty and within the course of their employment.
- (b) Exchange department peace officers with peace officers of another agency on a temporary basis.

Outside Agency Assistance

325.3.2 INITIATED ACTIVITY

Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Rochester Police Department shall notify an on-duty supervisor as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

325.4 REQUESTING OUTSIDE ASSISTANCE

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

325.5 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities that are not documented in a crime report shall be documented as appropriate.

325.6 MANDATORY SHARING

Equipment and supplies purchased with federal funds or grants that require such equipment and supplies be shared with other agencies should be documented and updated as necessary by the Police Administration or the authorized designee.

The documentation should include:

- (a) The conditions relative to sharing.
- (b) The training requirements for:
 - 1. The use of the supplies and equipment.
 - 2. The members trained in the use of the supplies and equipment.
- (c) Any other requirements for use of the equipment and supplies.

The Training Unit should maintain documentation that the appropriate members have received the required training.

Registered Predatory Offender

326.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Rochester Police Department will address issues associated with certain offenders who are residing in the jurisdiction and how the Department will disseminate information and respond to public inquiries for information about registered offenders.

326.2 POLICY

It is the policy of the Rochester Police Department to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

326.3 REGISTRATION

The Investigative Division shall establish a process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome or difficult for compliance. If it is reasonable to do so, an investigator assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Those assigned to register offenders should receive appropriate training regarding the registration process.

Upon conclusion of the registration process, the investigator shall ensure that the registration information is provided to the Bureau of Criminal Apprehension (BCA) in accordance with Minn. Stat. § 243.166 within three days of the registration. Registration and updated information from a person who lacks a primary residence shall be forwarded within two business days. Updated primary address information from any registered predatory offender shall also be forwarded within two business days (Minn. Stat. § 243.166).

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to register.

326.3.1 REGISTRATION PROCESS

When an offender arrives to register with this department, designated staff should:

- (a) Determine in what state the offense was committed.
- (b) Confirm the individual is required to register by reviewing the list of Minnesota offenses on the BCA's Predatory Offender Registration website or in the BCA Predatory Offender Registration (POR) Manual that is available on the BCA's secure website.
- (c) If a person is required to register, search the BCA's secure website to verify whether the offender is already registered and a DNA sample has been submitted.
- (d) If the offender is already registered, complete a Change of Information Form (available on the BCA's secure website).
- (e) If the offender is not registered, complete a POR Form (available at BCA's secure website).

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- (f) If the offender is from another state, contact the state (information for each state is listed on the BCA's website) and request a copy of the offender's original registration form, criminal complaint and sentencing documents.
 - 1. Documents obtained should be submitted to the BCA with a registration form.
 - 2. The BCA will determine if registration is required and inform the department and the offender.

Additional information regarding offender registration is available in the POR Manual or by contacting the Predatory Offender Unit by phone or through the BCA secure website.

326.3.2 GUIDELINES AND FORMS

The registration process shall be in accordance with Minn. Stat. § 243.166 and follow the guidelines implemented by the BCA. Forms used in the registration process are available from the secure website operated by the BCA.

326.3.3 NOTIFICATION TO REGISTRANTS

The registration process established by the Investigative Division supervisor should include procedures for determining whether an individual requires notification of his/her requirement to register because the individual was not otherwise notified of the requirement by the sentencing court or assigned a corrections agent (Minn. Stat. § 243.166).

326.4 MONITORING OF REGISTERED OFFENDERS

The Investigative Division should establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:

- (a) Efforts to confirm residence.
- (b) Review of information on the BCA secure website or the Department of Corrections Offender Information (DOC) website.
- (c) Contact with a registrant's parole or probation officer, if any.

Any discrepancies should be reported to BCA in writing.

The Investigative Division should also establish a procedure to routinely disseminate information regarding registered offenders to Rochester Police Department personnel who have a need to know, including timely updates regarding new or relocated registrants.

326.5 DISSEMINATION OF PUBLIC INFORMATION

The Investigations Division is responsible for public notification of a registrant's presence within the community. Notification shall be made in accordance with the law. Members who believe notification is appropriate should promptly advise their supervisor and direct their inquiry to Investigations.

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The Records Manager shall release local registered offender information to residents in accordance with state law (Minn. Stat. § 244.052; Minn. Stat. § 243.166, Subd. 7; Minn. Stat. § 13.01 et seq.) and in compliance with a Minnesota Government Data Practices Act request.

326.5.1 MANDATORY DISSEMINATION

The Department shall provide and release predatory offender data, or updated data, obtained from the DOC based upon the offender's status of a Level 1, 2, or 3.

The Department shall continue to disclose data on an offender as required by law for as long as the offender is required to register under Minn. Stat. § 243.166.

Disclosure to the health care facility, home care provider, or hospice provider of the status of any registered predatory offender under Minn. Stat. § 243.166 who is receiving care shall be made by this department (Minn. Stat. § 244.052, Subd. 4c).

The Department shall provide an offender's change of status to the entities and individuals who were initially notified if the Department becomes aware that the area where notification was made is no longer where the offender resides, is employed, or is regularly found (Minn. Stat. § 244.052, Subd. 4).

326.5.1 LEVEL 1 DISCLOSURE

Data maintained by law enforcement may be subject to limited disclosure (Minn. Stat. § 244.052, Subd. 4) (refer to the DOC document "Confidential Fact Sheet - For Law Enforcement Agency Use Only" or other DOC guidance):

- (a) Mandatory disclosure:
 - 1. Victims who have requested disclosure
 - 2. Adult members of the offender's immediate household
- (b) Discretionary disclosure:
 - 1. Other witnesses or victims
 - 2. Other law enforcement agencies

326.5.2 LEVEL 2 DISCLOSURE

Data is subject to limited disclosure for the purpose of securing institutions and protecting individuals in their care while they are on or near the premises of the institution (Minn. Stat. § 244.052, Subd. 4) (refer to DOC document "Law Enforcement Agency Fact Sheet - Notification of Release in Minnesota - Risk Level 2" or other DOC guidance):

- (a) In addition to Level 1 disclosure, the Department may disclose data to:
 - 1. Staff members of public and private educational institutions, day care establishments and establishments that primarily serve individuals likely to be victimized by the offender.
 - 2. Individuals likely to be victimized by the offender.

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- (b) Discretionary notification must be based on the offender's pattern of offending or victim preference as documented by the DOC or the Minnesota Department of Human Services (DHS).

326.5.3 LEVEL 3 DISCLOSURE

Data is subject to disclosure not only to safeguard facilities and protect the individuals they serve but also to protect the community as a whole (Minn. Stat. § 244.052, Subd. 4) (refer to the DOC document "Law Enforcement Agency Fact Sheet - Notification of Release in Minnesota" or other DOC guidance):

- (a) The Department shall disclose information to the persons and entities provided for Level 1 and 2 disclosures.
- (b) The Department shall disclose data to other members of the community that the offender is likely to encounter unless public safety would be compromised by the disclosure or a more limited disclosure is necessary to protect the identity of the victim.
- (c) A good faith effort must be made to complete the disclosure within 14 days of receiving a confirmed address from the DOC.
- (d) The process of notification is determined by this department. The DOC has recommended that the community be invited to a public meeting and disclose the necessary data. Assistance is available from the DOC Risk Assessment/Community Notification (RA/CN) Unit.

Data disclosed to the public of a Level 3 predatory offender shall be forwarded to the DOC within two days of the department's determination to disclose (Minn. Stat. § 244.052, Subd. 4(g)).

326.5.4 HEALTH CARE FACILITY NOTIFICATION

Upon notice that a registered predatory offender is planning to be in this jurisdiction or has been admitted to a health care facility, home care provider, or hospice provider in this jurisdiction, this department shall provide a fact sheet to the facility administrator with the following data (Minn. Stat. § 243.166, Subd. 4b) (refer to the DOC documents, "Law Enforcement Agency Fact Sheet Health Care Facility Notification Data on a Registered Offender Not For Distribution to Facility Residents" and "Law Enforcement Agency Fact Sheet Health Care Facility Notification Data on a Registered Offender For Distribution to Facility Residents" or other DOC guidance):

- (a) Name and physical description of the offender
- (b) Offender's conviction history, including the dates of conviction
- (c) Risk level assigned to the offender, if any
- (d) Profile of likely victims

326.5.5 SPECIALIZED NOTIFICATION

Offenders from other states and offenders released from federal facilities are also subject to notification (Minn. Stat. § 244.052, Subd. 3a):

- (a) If this department learns that a person under its jurisdiction is subject to registration and desires consultation on whether the person is eligible for notification, the Department

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must contact the DOC. The DOC will review the governing law of the other state and, if comparable to Minnesota requirements, inform this department whether to proceed with community notification in accordance with the level assigned by the other state.

- (b) If the DOC determines that the governing law in the other state is not comparable, community notification by this department may be made consistent with that authorized for risk Level 2.
- (c) If this department believes that a risk level assessment is needed, the Department may request an end-of-confinement review. The Department shall provide to the DOC the necessary documents required to assess a person for a risk level.

326.5.6 VICTIM NOTIFICATION

If a predatory offender resides, expects to reside, is employed or is regularly found in this jurisdiction, the Department shall provide victims who have requested notification with data that is relevant and necessary to protect the victim. Information disclosed should be obtained from the risk assessment report provided by DOC (Minn. § Stat. 244.052, Subd. 3).

The DOC will provide victim contact data to this department when there is a victim who has requested notification (refer to the DOC document "Victim Data Confidential for Law Enforcement Agency Use Only").

It may be appropriate for members of the Department to directly contact the victim. Community victim advocacy or prosecutor resources may also be available to assist with locating and notifying a victim. Assistance is also available from the DOC victim services staff.

Members of the Department may contact other victims, witnesses and other individuals who are likely to be victimized by the offender.

326.5.7 HOMELESS NOTIFICATION PROCESS

If public notice (Level 2 or 3) is required on a registered homeless offender, that notice should be as specific as possible. These offenders are required to check in weekly with local law enforcement, unless an alternative reporting procedure is approved by the Investigative Division supervisor (Minn. Stat. § 243.166, Subd. 3a).

326.5.8 LIMITATIONS OF RELEASE OF DATA

Disclosures permitted or required for Level 2 or 3 offenders shall not be made if the offender is placed or resides in a DOC-licensed residential facility. Upon notification that the offender is released to a permanent address, the disclosures permitted or required by law shall be made (Minn. Stat. § 244.052, Subd. 4). Data regarding the victim or witnesses shall not be disclosed (Minn. Stat. § 244.052, Subd. 4(e)).

The broadest disclosures authorized under Minn. Stat. § 244.052, Subd. 4 may still be made for certain offenders (sexually dangerous persons or persons with a sexual psychopathic personality) even though still residing in a residential facility (Minn. Stat. § 253D.32, Subd. 1).

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326.6 DISCLOSURE TO LOCAL WELFARE AGENCY

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

Major Incident Notification

327.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this department in determining when, how and to whom notification of major incidents should be made.

327.2 POLICY

The Rochester Police Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

327.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police and Command Staff. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides.
- Traffic collisions with fatalities.
- Officer-involved shooting, whether on- or off-duty (See Officer-Involved Shootings and Deaths Policy for special notifications).
- Significant injury or death to an employee, whether on- or off-duty.
- Death of a prominent Rochester official.
- Arrest of Department employee or prominent Rochester official.
- Aircraft crash with major damage and/or injury or death.
- In-custody deaths.
- Any other incident, which has or is likely to attract significant media attention.

327.4 SUPERVISOR RESPONSIBILITIES

Supervisors are responsible for making appropriate notifications through the chain of command. Reasonable attempts to obtain as much information on the incident as possible should be made before notification. Notification should be made through the immediate chain of command. A sit rep may be issued to provide broader notification to department Command Staff with notification via email.

327.4.1 STAFF NOTIFICATION

In the event an incident occurs as identified in the Minimum Criteria for Notification, the Chief of Police shall be notified through the chain of command.

Death Investigation

328.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers initially respond to and investigate the circumstances of a deceased person.

Some causes of death may not be readily apparent and some cases differ substantially from what they appeared to be initially. The thoroughness of death investigations and the use of appropriate resources and evidence gathering techniques is critical.

328.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Emergency Medical Services shall be called in all suspected death cases unless the death is obvious (e.g., decapitated or decomposed). A supervisor shall be notified in all death investigations.

328.2.1 MEDICAL EXAMINER REQUEST

The Medical Examiner shall be called in all sudden or unexpected deaths or deaths due to other than natural causes.

The investigating officer at the scene of a routine or non-suspicious death shall notify the Southern Minnesota Regional Medical Examiner's Office and request that a Death Investigator respond. In cases where an officer calls the Investigative Division to respond to the scene, such as a suspicious death, suicide, or homicide, the lead Investigator or their designee will contact the coroner's office once the scene has been assessed.

328.2.2 SEARCHING DEAD BODIES

The Medical Examiner or his/her assistants and authorized investigators are generally the only persons permitted to move, handle or search a dead body (Minn. Stat. § 390.221).

An officer shall make a reasonable search of an individual who it is reasonable to believe is dead, or near death, for information identifying the individual as an organ donor or as an individual who made a refusal. If a donor document is located, the Medical Examiner shall be promptly notified (Minn. Stat. § 525A.12).

Should exigent circumstances indicate to an officer that any other search of a known dead body is warranted prior to the arrival of the Medical Examiner, the investigating officer should limit the search to the identified exigency and advise the Medical Examiner upon arrival.

The Medical Examiner is required to release property or articles to law enforcement that are necessary for conducting an investigation unless reasonable basis exists pursuant to Minn. Stat. § 390.225 Subd. 2 to not release the property or articles (Minn. Stat. § 390.221).

Whenever reasonably possible, a witness, preferably a relative of the deceased or a member of the household, should be requested to remain nearby the scene and available to the officer, pending the arrival of the Medical Examiner.

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Death Investigation

The name and address of this person shall be included in the narrative of the death report.

328.2.3 DEATH NOTIFICATION

When practicable, and if not handled by the Medical Examiner, notification to the next-of-kin of the deceased person shall be made, in person. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification. If the relatives live outside this county, the Medical Examiner may be requested to make the notification. The Medical Examiner needs to know if notification has been made. Assigned investigators may need to talk to the next-of-kin.

If a deceased person has been identified as a missing person, this department shall attempt to locate family members and inform them of the death and the location of the deceased missing person's remains. All efforts to locate and notify family members shall be recorded in appropriate reports and properly retained (Minn. Stat. § 390.25 Subd. 2 (b)).

328.2.4 UNIDENTIFIED BODIES DATA ENTRY

As soon as reasonably possible, but no later than 30 working days after the date a death is reported to the Department, any information or items pertaining to identifying features of the unidentified body, dental records, fingerprints, any unusual physical characteristics, description of clothing or personal belongings found on or with the body, that are in the possession of RPD shall be forwarded to the Medical Examiner for transmission to the BCA for eventual entry into systems designed to assist in the identification process, such as the Missing Children and Missing Persons Information Clearinghouse and the National Crime Information Center (NCIC) files (Minn. Stat. § 390.25 Subd. 2 (a)).

328.2.5 DEATH INVESTIGATION REPORTING

All incidents involving a death shall be documented on the appropriate form.

328.2.6 SUSPECTED HOMICIDE

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the officer shall take steps to protect the scene and notify a supervisor.

If the on-scene supervisor, through consultation with the Investigative Division, is unable to determine the manner of death, the investigation shall proceed as though it is a homicide.

The investigator of a homicide or suspicious-circumstances death may, with the approval of his/her supervisor, request the Medical Examiner to conduct physical examinations and tests and provide a report with the costs borne by the Department (Minn. Stat. § 390.251).

328.2.7 EMPLOYMENT RELATED DEATHS OR INJURIES

Any member of this agency who responds to and determines that a death, serious illness or serious injury has occurred as a result of an accident at or in connection with the victim's employment, should ensure that the nearest office of the Minnesota Department of Labor and Industry is notified with all pertinent information. Officers shall notify a supervisor in all cases resulting in death.

Identity Theft

329.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

329.2 REPORTING

- (a) A report shall be taken any time a person living or temporarily residing within the jurisdiction of the Rochester Police Department reports that he/she has been a victim of identity theft (Minn. Stat. § 609.527, Subd. 5). This includes:
 - 1. Taking a report even if the location of the crime is outside the jurisdiction of this department or has not been determined.
 - 2. Providing the victim with department information, as set forth in the Victim and Witness Assistance Policy. Officers should encourage the individual to review the material, and assist with any questions.
- (b) A report should also be investigated if a person living outside the department jurisdiction reports to law enforcement an identity theft that may have been committed or facilitated within this jurisdiction (e.g., use of a post office box in Rochester to facilitate the crime).
- (c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application).
- (d) Officers should document all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and the Department of Public Safety's Driver and Vehicle Services Division) with all known report numbers.
- (e) Following supervisory review and Department processing, the initial report should be forwarded to the Investigations Division.

329.3 PREVENTATIVE MEASURES

The victim should be advised to place a security freeze on his/her consumer report as allowed by law (Minn. Stat. § 13C.016 Subd. 2). A victim may also access the Minnesota Attorney General's office for additional detailed information.

329.4 VICTIM DATA

Officers may direct victims to the BCA website where additional information is available regarding identity theft.

329.5 INFORMATION

Officers should provide victims with department identity theft and internet related theft packets when applicable.

Private Persons Arrests

330.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Minn. Stat. § 629.30 Subd. 2 (4).

330.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

In all situations, officers should use sound discretion in determining whether to advise an individual of the arrest process.

- (a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest, as listed below.
- (b) Private individuals should be discouraged from using force to effect a private person's arrest. Absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.
- (c) Private individuals shall be informed of the requirement to take the arrested person before a judge or to a peace officer without unnecessary delay (Minn. Stat. § 629.39).

330.3 ARRESTS BY PRIVATE PERSONS

A private person may arrest another under the following circumstances (Minn. Stat. § 629.37):

- (a) For a public offense committed or attempted in his/her presence.
- (b) When the person arrested has committed a felony, although not in his/her presence.
- (c) When a felony has been committed and he/she has reasonable cause for believing the person to be arrested committed the felony.
- (d) When directed by a judge or a peace officer to arrest another person (Minn. Stat. § 629.403).

330.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person wishing to make an arrest must determine whether there is reasonable cause to believe that such an arrest would be lawful.

- (a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.

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Private Persons Arrests

1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual. The officer must include the basis of such a determination in a related report.
 2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.
- (b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:
1. Take the individual into physical custody for booking.
 2. Release the individual upon a misdemeanor citation or pending formal charges.

330.5 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a Department Private Person's Arrest Form. If the person fails or refuses to do so the arrest subject shall be released unless the officer has an independent reason to take the person into custody.

In addition to the Private Person's Arrest Form (and any other related documents, such as citations and booking forms), officers shall complete a narrative report regarding the circumstances and disposition of the incident.

Limited English Proficiency Services

331.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

331.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized interpreter - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

Interpret or interpretation - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

Limited English proficient (LEP) - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations. This includes individuals who, because of difficulty in speaking or comprehending the English language, cannot fully understand any charges made against them, the seizure of their property, or they are incapable of presenting or assisting in the presentation of a defense (Minn. Stat. § 611.31).

Qualified bilingual member - A member of the Rochester Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

Translate or translation - The replacement of written text from one language (source language) into an equivalent written text (target language).

331.2 POLICY

It is the policy of the Rochester Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

331.3 LEP COORDINATOR

The Chief of Police shall delegate certain responsibilities to an LEP Coordinator.

The responsibilities of the LEP Coordinator include, but are not limited to:

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- (a) Coordinating and implementing all aspects of the Rochester Police Department's LEP services to LEP individuals.
- (b) Developing procedures that will enable members to access LEP services, including telephonic interpreters, and ensuring the procedures are available to all members.
- (c) Ensuring that a list of all qualified bilingual members and authorized interpreters is maintained and available to each Shift Commander and Communications Manager. The list should include information regarding the following:
 - 1. Languages spoken
 - 2. Contact information
 - 3. Availability
- (d) Ensuring signage stating that interpreters are available free of charge to LEP individuals is posted in appropriate areas and in the most commonly spoken languages.
- (e) Reviewing existing and newly developed documents to determine which are vital documents and should be translated, and into which languages the documents should be translated.
- (f) Annually assessing demographic data and other resources, including contracted language services utilization data and community-based organizations, to determine if there are additional documents or languages that are appropriate for translation.
- (g) Identifying standards and assessments to be used by the Department to qualify individuals as qualified bilingual members or authorized interpreters.
- (h) Periodically reviewing efforts of the Department in providing meaningful access to LEP individuals, and, as appropriate, developing reports, new procedures or recommending modifications to this policy.
- (i) Receiving and responding to complaints regarding department LEP services.
- (j) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

331.4 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

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- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

331.5 TYPES OF LEP ASSISTANCE AVAILABLE

Rochester Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

331.6 WRITTEN FORMS AND GUIDELINES

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP Coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

331.7 AUDIO RECORDINGS

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

331.8 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

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When a qualified bilingual member from this department is not available, personnel from other City departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

331.9 AUTHORIZED INTERPRETERS

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the LEP Coordinator which demonstrates that their skills and abilities include:

- (a) The competence and ability to communicate information accurately in both English and in the target language.
- (b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.
- (c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (d) Knowledge of the ethical issues involved when acting as a language conduit.

331.9.1 SOURCES OF AUTHORIZED INTERPRETERS

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

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331.9.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

331.10 CONTACT AND REPORTING

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

331.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Rochester Police Department will take reasonable steps and will work with the Department of Human Resources to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

331.11.1 EMERGENCY CALLS TO 9-1-1

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in Dispatch, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

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Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

331.12 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

331.13 INVESTIGATIVE FIELD INTERVIEWS

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

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331.14 CUSTODIAL INTERROGATIONS

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

331.14.1 OTHER TIMING AND NOTIFICATION MANDATES

The investigating or arresting officer shall immediately make necessary contacts to get an authorized interpreter for an in-custody LEP person at the earliest possible time in order to assist the person throughout the interrogation or taking of a statement. This applies even when the interrogation will be conducted by a bilingual member (Minn. Stat. § 611.32).

The following shall be explained to the LEP person with the assistance of the authorized interpreter (Minn. Stat. § 611.32):

- (a) All charges filed against the person
- (b) All procedures relating to the person's detainment and release
- (c) In the case of any seizure under the provisions of the Asset Forfeiture Policy:
 - 1. The possible consequences of the seizure
 - 2. The person's right to judicial review

331.15 BOOKINGS

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

331.16 COMPLAINTS

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the LEP Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

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Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

331.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

331.18 TRAINING

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

The Training Unit shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Training Unit shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

331.18.1 TRAINING FOR AUTHORIZED INTERPRETERS

All members on the authorized interpreter list must successfully complete prescribed interpreter training. To complete interpreter training successfully, an interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language, demonstrate knowledge in both languages of any specialized terms or phraseology, and understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

Members on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Training Unit shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.

Communications with Persons with Disabilities

332.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

332.1.1 DEFINITIONS

Definitions related to this policy include:

Auxiliary aids - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

Disability or impairment - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102). This includes those who, because of a hearing, speech or other communication disorder, cannot fully understand any charges made against them, the seizure of their property or they are incapable of presenting or assisting in the presentation of a defense (Minn. Stat. § 611.31).

Qualified Interpreter - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, transliterators, sign language interpreters and intermediary interpreters.

332.2 POLICY

It is the policy of the Rochester Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

332.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be appointed by and directly responsible to the Patrol Captain or the authorized designee.

The responsibilities of the ADA Coordinator shall include, but not be limited to:

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- (a) Working with the City ADA coordinator regarding the Rochester Police Department's efforts to ensure equal access to services, programs and activities.
- (b) Developing reports, new procedures, or recommending modifications to this policy.
- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.
- (d) Ensuring that a list of qualified interpreter services is maintained and available to each Shift Commander and Communications Manager. The list should include information regarding the following:
 - 1. Contact information
 - 2. Availability
 - 3. Type of services provided
- (e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- (f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.
- (g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

332.4 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

- (a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.
- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).

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- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However in an emergency availability may factor into the type of aid used.

332.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

Members should exercise special care in the use of all gestures and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation when a member knows or suspects an individual requires assistance to effectively communicate the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include for example exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Rochester Police Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

332.6 TYPES OF ASSISTANCE AVAILABLE

Rochester Police Department members shall never refuse to assist an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

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A person who is disabled may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

332.7 AUDIO RECORDINGS AND ENLARGED PRINT

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

332.8 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or the investigation. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available by some means, even remotely, within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

332.9 TTY AND RELAY SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time as needed for effective communication due to the slower nature of TTY and TDD communications.

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The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

332.10 COMMUNITY VOLUNTEERS

Interpreter services may be available from community volunteers who have demonstrated competence in communication services such as ASL or SE, and have been approved by the Department to provide interpreter services.

Where qualified interpreters are unavailable to assist approved community volunteers who have demonstrated competence may be called upon when appropriate. However department members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

332.11 FAMILY AND FRIENDS

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

332.12 REPORTING

Whenever any member of this department is required to complete a report or other documentation and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

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332.13 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Department recognizes it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

332.13.1 FIELD RESOURCES

Examples of methods that may be sufficient for transactions such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress may, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.
- (d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.
- (e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

332.14 CUSTODIAL INTERROGATIONS

In an effort to ensure the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist. The use of a video

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remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

To ensure that communications during custodial investigations are accurately documented and are admissible as evidence, as with all custodial interviews, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

332.14.1 OTHER TIMING AND NOTIFICATION MANDATES

The investigating or arresting officer shall immediately make necessary contacts to get a qualified interpreter for a person in custody at the earliest possible time (Minn. Stat. § 611.32).

The following shall be explained with the assistance of the qualified interpreter (Minn. Stat. § 611.32):

- (a) All charges filed against the person
- (b) All procedures relating to the person's detainment and release
- (c) In the case of any seizure under the Asset Forfeiture Policy:
 - 1. The possible consequences of the seizure
 - 2. The person's right to judicial review

332.15 ARRESTS AND BOOKINGS

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

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332.16 COMPLAINTS

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the department ADA Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department.

332.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

332.18 TRAINING

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

- (a) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (b) Procedures for accessing qualified interpreters and other available resources.
- (c) Working with in-person and telephone interpreters and related equipment.

The Training Unit shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Training Unit shall maintain records of all training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

332.18.1 CALL-TAKER TRAINING

Emergency call-takers shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, hard of hearing or who have speech impairments. Such training and information should include:

- (a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.
- (b) ASL syntax and accepted abbreviations.

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- (c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls, using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.
- (d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Training should be mandatory for all Dispatch members who may have contact with individuals from the public who are deaf, hard of hearing or have impaired speech. Refresher training should occur every six months.

Pupil Arrest Reporting

333.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the procedures to follow when a pupil is arrested on school grounds and during school hours.

333.2 PUPIL ARREST REPORTING

In the event a school pupil is arrested, the arresting officer shall include the necessary information in the report to ensure that the Records Unit notifies the chief administrative officer of the school, or an appropriate designee, of the pupil's arrest.

If there is probable cause to believe an incident involved alcohol or a controlled substance, the arresting officer shall complete the appropriate report and submit the report to the Records Unit. The Records Unit shall ensure the form is distributed to the chemical abuse pre-assessment team of the school within two weeks of the occurrence (Minn. Stat. § 121A.28).

333.2.1 PUPIL ARREST AFTER NOTIFICATION

Officers should notify the school prior to making an arrest. Prior notification and assistance from the school, may reduce disruption to school operations and other students.

333.2.2 PUPIL ARREST BEFORE NOTIFICATION

Based upon the circumstances of the investigation, it may be appropriate to arrest the pupil before notifying the school. This may be appropriate if the pupil is a flight risk, if prior notification will impede the investigation or if notification creates additional risks to students, faculty, the officer or the public.

Proper notification to the school after the pupil's arrest should then be made when circumstances reasonably allow.

333.2.3 PARENTAL NOTIFICATION

Upon arrest, it is the arresting officer's responsibility to ensure the parents of the arrested pupil are properly notified. Notification shall be made by the officer, regardless of subsequent notifications by the juvenile detention facility. Notifications should be documented and include the charges against the pupil and where the pupil will be taken.

Biological Samples

334.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples collected from those required to register, for example, as sex offenders.

334.2 POLICY

The Rochester Police Department will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

334.3 PERSONS SUBJECT TO BIOLOGICAL SAMPLE COLLECTION

The following persons must submit a biological sample:

- (a) Adults who are subject to a court order requiring a biological sample after sentencing (Minn. Stat. § 609.117).
- (b) Juveniles who are subject to a court order requiring a biological sample after being adjudicated delinquent (Minn. Stat. § 609.117).

334.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall attempt to obtain the sample in accordance with this policy.

334.4.1 COLLECTION

The following steps should be taken to collect a sample:

- (a) Verify that the individual is required to provide a sample pursuant to Minn. Stat. § 609.117.
- (b) Verify that a biological sample has not been previously collected from the offender by querying the person's criminal history. There is no need to obtain a biological sample if one has been previously obtained.
- (c) Use the designated collection kit provided by the Minnesota Bureau of Criminal Apprehension to perform the collection and take steps to avoid cross contamination.

334.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order or approval

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of legal counsel and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

- (a) The person's parole or probation officer when applicable.
- (b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.
- (c) The judge at the person's next court appearance.
- (d) The person's attorney.
- (e) A chaplain.
- (f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.
- (g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

334.5.1 VIDEO RECORDING

A video recording should be made any time force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department's records retention schedule.

Public Safety Video Surveillance System

335.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of department public safety video surveillance, as well as the storage and release of the captured images.

This policy only applies to overt, marked public safety video surveillance systems operated by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image capturing devices used by the Department or City of Rochester.

335.2 POLICY

The Rochester Police Department, in conjunction with the City of Rochester, operates a public safety video surveillance system to complement its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public areas. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist City officials in providing services to the community.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

335.3 RELEASE OF VIDEO IMAGES

All recorded video images gathered by the public safety video surveillance equipment are for the official use of the Rochester Police Department and are classified as law enforcement data under Minn. Stat. § 13.82.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records under the Minnesota Government Data Practices Act. Except as required by a statute, court order or other lawful process consistent with the provisions of Minn. Stat. § 13.82, video images requested under the Minnesota Government Data Practices Act will generally not be disclosed to the public when such video images are evidence in an ongoing criminal investigation in which a disposition has not been reached.

Requests for recorded images from other law enforcement agencies shall be referred to the Records Manager for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

335.4 STORAGE AND RETENTION OF MEDIA

All downloaded media shall be stored in a secure area with access restricted to authorized persons. A recording needed as evidence shall be copied to a suitable medium and booked into

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evidence in accordance with established evidence procedures. All actions taken with respect to retention of media shall be appropriately documented.

The type of video surveillance technology employed and the manner in which recordings are used and stored will affect retention periods. The recordings should be stored and retained in accordance with the established records retention schedule.

335.4.1 EVIDENTIARY INTEGRITY

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

335.5 VIDEO SUPERVISION

Supervisors should monitor video surveillance access and usage to ensure members are within department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

335.5.1 VIDEO ACCESS

Department Administrators maintain video surveillance access in coordination with City IT. An electronic record and audit features document user access within the system.

335.5.2 PROHIBITED ACTIVITY

Public safety video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Public safety video surveillance equipment shall not be used in an unequal or discriminatory manner and shall not target individuals or groups based solely on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.

Video surveillance equipment shall not be used to harass, intimidate, or discriminate against any individual or group.

335.6 OPERATIONAL GUIDELINES

Only department or City of Rochester approved video surveillance equipment shall be utilized. Members authorized to monitor video surveillance equipment should only monitor public areas and public activities where no reasonable expectation of privacy exists.

335.6.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City

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divisions and designated community groups when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high-value or high-threat areas. The public safety video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To target identified areas of gang and narcotics complaints or activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.
- (e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- (f) To augment resources in a cost-effective manner.
- (g) To monitor pedestrian and vehicle traffic activity.

Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera. When activity warranting further investigation is reported or detected at any camera location, the available information should be provided to responding officers in a timely manner. Trained personnel are authorized to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

Video feeds from the public safety video surveillance system may be forwarded to a specified location for monitoring by other than police personnel, such as allied government agencies, road or traffic crews, or fire or emergency operations personnel.

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.

335.6.2 INTEGRATION WITH OTHER TECHNOLOGY

The Department may elect to integrate its public safety video surveillance system with other technology to enhance available information. Systems such as gunshot detection, incident mapping, crime analysis, license plate recognition, and other video-based analytical systems may be considered based upon availability and the nature of department strategy.

The Department should evaluate the availability and propriety of networking or otherwise collaborating with appropriate private sector entities and should evaluate whether the use of certain camera systems, such as pan-tilt-zoom systems and video enhancement or other analytical technology, requires additional safeguards.

335.7 TRAINING

All department members authorized to operate or access public video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, interaction

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with dispatch and patrol operations and a review regarding relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

Child and Dependent Adult Safety

336.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department.

This policy does not address the actions to be taken during the course of a child abuse or vulnerable adult investigation. These are covered in the Child Abuse and Adult Abuse.

336.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when a parent or caregiver is arrested. The Rochester Police Department will endeavor to create a strong cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

336.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken:

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be nonproductive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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336.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
 - 1. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.
- (b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
 - 1. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify the county social services agency, if appropriate.
- (e) Notify a supervisor of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

336.3.2 DURING THE BOOKING PROCESS

During the booking process, the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law.

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

Child and Dependent Adult Safety

336.3.3 REPORTING

- (a) For all arrests where children are present or living in the household, the reporting employee will document the following information:
1. Name
 2. Sex
 3. Age
 4. Special needs (e.g., medical, mental health)
 5. How, where and with whom or which agency the child was placed
 6. Identities and contact information for other potential caregivers
 7. Notifications made to other adults (e.g., schools, relatives)
- (b) For all arrests where dependent adults are present or living in the household, the reporting employee should document the following information about the dependent adult:
1. Name
 2. Sex
 3. Age
 4. Whether he/she reasonably appears able to care for him/herself
 5. Disposition or placement information if he/she is unable to care for him/herself

336.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

336.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service entity to determine whether protective custody is appropriate (Minn. Stat. § 260C.007; Minn. Stat. § 260C.175).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car or taken into formal protective custody.

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

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Child and Dependent Adult Safety

336.5 TRAINING

The Training Unit is responsible to ensure that all personnel of this department who may be involved in arrests affecting children or dependent adults receive approved training on effective safety measures when a parent, guardian or caregiver is arrested.

Service Animals

337.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Rochester Police Department recognizes this need and is committed to making reasonable modifications to its policies, practices and procedures in accordance with Title II of the Americans with Disabilities Act (ADA) to permit the use of service animals that are individually trained to assist a person with a disability.

337.1.1 DEFINITIONS

Definitions related to this policy include:

Service animal - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

337.2 POLICY

It is the policy of the Rochester Police Department to provide services and access to persons with service animals in the same manner as those without service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

337.3 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the Rochester Police Department affords to all members of the public (see generally Minn. Stat. § 256C.02; Minn. Stat. § 363A.19).

337.3.1 REMOVAL

If an animal exhibits vicious behavior, poses a direct threat to the health of others or unreasonably disrupts or interferes with normal business operations, an officer may direct the owner to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the animal. Each incident must be considered individually. Past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services as are reasonably available to an individual with the disability.

Service Animals

337.3.2 INQUIRY

If it is apparent or if an officer is aware the animal is a service animal, the owner should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the officer should ask the individual only the following questions:

- Is the animal required because of a disability?
- What task or service has the animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal, and no further question as to the animal's status should be asked. The person should not be questioned about his/her disabilities nor should the person be asked to provide any license, certification or identification card for the service animal.

337.3.3 CONTACT

Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

337.3.4 COMPLAINTS

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their owner into all areas that other customers or members of the public are allowed.

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice or the Minnesota Department of Human Rights.

337.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar. Service animals are not pets and may be trained by an individual or organization to assist people with disabilities.

Examples of the ways service animals may be used to provide assistance include:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.

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- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

Volunteer Program

338.1 PURPOSE AND SCOPE

It is the policy of this department to use qualified volunteers for specified tasks and duties in order to create efficiencies for the Department and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, licensed officers and civilian personnel. Volunteers can be an important part of any organization and have proven to be a valuable asset to law enforcement agencies. Volunteers help to increase department responsiveness, delivery of services and information input, and provide new program opportunities. In addition, volunteers bring new skills and expertise to the Department and prompt new enthusiasm.

338.1.1 DEFINITION OF VOLUNTEER

An individual who performs a service for the Department without promise, expectation or receipt of compensation for services rendered. This may include unpaid chaplains, unpaid officers, interns, persons providing administrative support and youth involved in a law enforcement Explorer Post, among others.

338.1.2 VOLUNTEER ELIGIBILITY

Requirements for participation as an Rochester Police Department volunteer include:

- (a) At least 18 years of age for all positions other than Explorer.
- (b) A valid driver's license if the position requires vehicle operation.
- (c) Liability insurance for any personally owned equipment or vehicles utilized during volunteer work.
- (d) No conviction of a felony, any crime of a sexual nature, any crime related to assault, any crime related to dishonesty, or any crime related to impersonating a law enforcement officer.
- (e) No conviction of a misdemeanor or gross misdemeanor crime within the past 10 years, excluding petty misdemeanor traffic offenses.
- (f) The applicant must not have any mental illness or chemical dependency condition that may adversely affects the person's ability to serve in the position.
- (g) Physical requirements reasonably appropriate to the assignment.
- (h) A personal background history and character suitable for a person representing the Department, as validated by a background investigation.

The Chief of Police may apply exceptions for eligibility based on organizational needs and the qualification of the individual.

338.2 VOLUNTEER MANAGEMENT

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338.2.1 VOLUNTEER COORDINATOR

The function of the Volunteer Coordinator is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist staff and volunteer efforts to jointly provide more productive services. The Volunteer Coordinator or designee shall be responsible for the following:

- (a) Recruiting, selecting and training qualified volunteers for various positions.
- (b) Maintaining records for each volunteer.
- (c) Tracking and evaluating the contribution of volunteers.
- (d) Outlining expectations, procedures and responsibilities for all volunteers.
- (e) Maintaining a record of volunteer schedules and work hours.
- (f) Completion and dissemination as appropriate of all necessary paperwork and information.
- (g) Planning periodic recognition events.
- (h) Maintaining liaison with other volunteer-utilizing programs in the community and assisting in community-wide efforts to recognize and promote volunteering.

338.2.2 RECRUITMENT

Volunteers should be recruited on a continuous and ongoing basis in accordance with department policy on equal opportunity nondiscriminatory employment. A primary qualification for participation in the application process should be an interest in, and an ability to assist the Department in serving the public.

338.2.3 SCREENING

All prospective volunteers should complete an application packet. The Volunteer Coordinator or designee should conduct a face-to-face interview with the applicant.

A documented background investigation shall be completed on each volunteer applicant and shall include, but not necessarily be limited to, the following:

- (a) Traffic and criminal background check
- (b) Employment
- (c) References

A volunteer whose assignment requires the use of, access to or places him/her in the vicinity of criminal histories, investigative files or information portals, shall require submission of prints and clearance through the Bureau of Criminal Apprehension (BCA).

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338.2.4 SELECTION AND PLACEMENT

Service as a volunteer shall begin with an official notice of acceptance or appointment to a volunteer position.

Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department.

338.2.5 TRAINING

Volunteers will be provided with an orientation program to acquaint them with the department, personnel, policies and procedures that have a direct impact on their work assignment.

Volunteers should receive position-specific training to ensure they have adequate knowledge and skills to complete tasks required by the position and should receive periodic ongoing training as deemed appropriate by their supervisor or the Volunteer Coordinator.

Training should reinforce to volunteers that they should not intentionally represent themselves as, or by omission infer that they are licensed officers or other full-time members of the Department. They shall always represent themselves as volunteers.

All volunteers shall comply with the rules of conduct and with all orders and directives, either oral or written, issued by the Department. Whenever a rule, regulation or guideline in this manual refers to a licensed officer, it shall also apply to a volunteer unless by its nature it is inapplicable.

338.2.6 FITNESS FOR DUTY

No volunteer shall report to work or be on-duty when his/her judgment or physical condition has been impaired by alcohol, medication, other substances, illness or injury.

Volunteers shall report to their supervisor any changes in status that may affect their ability to fulfill their duties. This includes, but is not limited to, the following:

- (a) Driver's license
- (b) Medical condition
- (c) Arrests
- (d) Criminal investigations
- (e) All law enforcement contacts

All volunteers shall adhere to the guidelines set forth by this department regarding drug and alcohol use.

338.2.7 DRESS CODE

As representatives of the Department, volunteers are responsible for presenting a professional image to the community. Volunteers shall dress appropriately for the conditions and performance of their duties.

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Volunteers shall conform to approved dress consistent with their duty assignment. Uniforms authorized for volunteers should be readily distinguishable from those worn by licensed officers. No volunteer shall wear his/her uniform or identifiable parts of that uniform while off-duty.

Volunteers shall be required to return any issued uniform or department property at the termination of service.

338.3 SUPERVISION OF VOLUNTEERS

Each volunteer who is accepted to a position with the Department must have a clearly identified supervisor who is responsible for direct management of that volunteer. This supervisor will be responsible for day-to-day management and guidance of the work of the volunteer and should be available to the volunteer for consultation and assistance.

A volunteer may be assigned as, and act as a supervisor of other volunteers provided that the supervising volunteer is under the direct supervision of a paid staff member.

Functional supervision of volunteers is the responsibility of the supervisor in charge of the unit where the volunteer is assigned. Following are some considerations to keep in mind while supervising volunteers:

- (a) Take the time to introduce volunteers to employees on all levels.
- (b) Ensure volunteers have work space and necessary office supplies.
- (c) Make sure the work is challenging. Do not hesitate to give them an assignment or task that will tap these valuable resources.

338.4 DATA PRACTICES

With appropriate security clearance, volunteers may have access to private and confidential information, such as criminal histories or investigative files. Unless otherwise directed by a supervisor, the duties of the position or department policy, all information shall be considered confidential. Only that information specifically identified and approved by authorized personnel shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by department policy and supervisory personnel.

Each volunteer will receive training in data practices and may be required to sign a nondisclosure agreement before being given an assignment with the Department. Subsequent unauthorized disclosure of any private or confidential information, verbally, in writing or by any other means, by the volunteer is grounds for immediate dismissal and possible criminal prosecution.

Volunteers shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to a newspaper or other periodical, release or divulge any information concerning the activities of the Department, or maintain that they represent the Department in such matters without permission from the proper department personnel.

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338.5 PROPERTY AND EQUIPMENT

Volunteers will be issued an identification card that must be worn at all times while on-duty. Any fixed and portable equipment issued by the Department shall be for official and authorized use only. Any property or equipment issued to a volunteer shall remain the property of the Department and shall be returned at the termination of service.

338.5.1 VEHICLE USE

Volunteers assigned to duties such as vacation house checks or other assignments that require the use of a vehicle must first complete the following:

- (a) A driving safety briefing.
- (b) Verification that the volunteer possesses a valid driver's license.
- (c) Verification that the volunteer carries current vehicle insurance.

The Volunteer Coordinator should ensure that all volunteers receive safety briefing updates and license and insurance verification at least once a year.

When operating a Department vehicle, volunteers shall obey all rules of the road, including seat belt requirements. Volunteers shall not operate a marked patrol car.

338.5.2 RADIO AND MCT USAGE

Volunteers shall successfully complete state and federal database access training and radio procedures training prior to using the law enforcement radio or MDT and shall comply with all related provisions. The Volunteer Coordinator should ensure that radio and database access training is provided for volunteers whenever necessary.

338.6 DISCIPLINARY PROCEDURES/TERMINATION

A volunteer may be removed from the volunteer program at the discretion of the Chief of Police or the Volunteer Coordinator. Volunteers shall have no property interests in their continued appointment.

Volunteers may resign from volunteer service with this department at any time. It is requested that volunteers who intend to resign provide advance notice of their departure and a reason for their decision.

338.6.1 EXIT INTERVIEWS

Exit interviews, where possible, should be conducted with volunteers who are leaving their positions. The interview should ascertain why the volunteer is leaving the position and solicit the volunteer's suggestions on improving the position. When appropriate, the interview should also include a discussion on the possibility of involvement in some other capacity with the Department.

338.7 EVALUATION

An evaluation of the overall volunteer program will be conducted on an annual basis by the Volunteer Coordinator. Regular evaluations should be conducted with volunteers to ensure the

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best use of human resources available, to ensure personnel problems can be identified and dealt with promptly and fairly and to ensure optimum job satisfaction on the part of volunteers.

Native American Graves Protection and Repatriation

339.1 PURPOSE AND SCOPE

This policy is intended ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

339.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

Funerary objects and associated funerary objects - Objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains, or that were made exclusively for burial purposes or to contain human remains.

Native American human remains - The physical remains of the body of a person of Native American ancestry.

Objects of cultural patrimony - Objects having ongoing historical, traditional or cultural importance that is central to the Native American group or culture itself and therefore cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

Sacred objects - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

339.2 POLICY

It is the policy of the Rochester Police Department that the protection of Native American human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption or complicated custody transfer processes.

339.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene, other than scene preservation activity, must cease (43 CFR 10.4).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

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Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.4):

- Federal land - Appropriate agency at the U.S. Department of the Interior.
- State land - State archaeologist (Minn. Stat. § 307.08, Subd. 7)
- Tribal land - Responsible Indian tribal official.

339.4 EVIDENCE AND PROPERTY

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.6).

339.5 BURIAL GROUNDS

All human burials, human remains and human burial grounds shall be afforded equal treatment and respect for human dignity, regardless of ethnic origins, cultural backgrounds or religious affiliations (Minn. Stat. § 307.08, Subd. 1).

This department shall cooperate with other government agencies, the Minnesota Office of the State Archaeologist and the Minnesota Indian Affairs Council to carry out any provisions of state law (Minn. Stat. § 307.08, Subd. 9).

Off-Duty Law Enforcement Actions

340.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place an officer as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for officers of the Rochester Police Department with respect taking law enforcement action while off-duty.

340.2 POLICY

Officers generally should not initiate law enforcement action while off-duty. Officers should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

When the safety of the public or the prevention of major property damage requires immediate action, officers should first consider reporting and monitoring the activity and only take direct action as a last resort.

Officers are not expected to place themselves in unreasonable peril. However, any licensed member of this department who becomes aware of an incident or circumstance that the member reasonably believes would justify the use of deadly force or result in significant property damage may take reasonable action to minimize or eliminate the threat. See the Use of Force Policy for additional guidance.

340.3 FIREARMS

Officers of this department may carry firearms while off-duty in accordance with federal regulations, state law and department policy. All firearms and ammunition must meet guidelines as described in the Firearms Policy. When carrying firearms while off-duty, officers shall carry a form of department-issued identification.

Officers should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the officer's senses or judgment.

340.4 DECISION TO INTERVENE

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable and should take into consideration:

- (a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.
- (b) The inability to communicate with responding units.

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- (c) The lack of equipment, such as handcuffs, Oleoresin Capsicum (OC) spray or a baton.
- (d) The lack of cover.
- (e) The potential for increased risk to bystanders if the off-duty officer were to intervene.
- (f) Unfamiliarity with the surroundings.
- (g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive and gather as much accurate intelligence as possible instead of immediately intervening.

340.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary, the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The operator should be informed that an off-duty officer is on-scene and should be provided a description of the officer if reasonably possible.

Whenever reasonably practicable, the officer should loudly and repeatedly identify him/herself as an Rochester Police Department officer until acknowledged. Official identification should also be displayed.

340.4.2 INCIDENTS OF PERSONAL INTEREST

Officers should refrain from handling incidents of personal interest (e.g., family or neighbor disputes) and should remain neutral. In such circumstances, officers should call the responsible agency to handle the matter.

340.4.3 NON-SWORN RESPONSIBILITIES

Non-sworn personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and reasonably practicable.

340.4.4 OTHER CONSIDERATIONS

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she needs to maintain an undercover capability.

340.5 REPORTING

Any officer shall notify a Rochester Police Department supervisor (or other applicable enforcement authority if acting outside the jurisdiction of the Rochester Police Department). The Shift Commander shall determine whether a report should be filed by the employee.

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

Department Use of Social Media

341.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Department is consistent with the department mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by department members (see the Employee Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this department (see the Investigation and Prosecution Policy).

341.1.1 DEFINITIONS

Definitions related to this policy include:

Social media - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the department website or social networking services.

341.2 POLICY

The Rochester Police Department may use social media as a method of effectively informing the public about department services, issues, investigations and other relevant events.

Department members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

341.3 AUTHORIZED USERS

Only members authorized by the Chief of Police or the authorized designee may utilize social media on behalf of the Department. Authorized members shall use only department-approved equipment during the normal course of duties to post and monitor department-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief of Police may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a supervisor prior to posting.

Requests to post information over department social media by members who are not authorized to post should be made through the member's chain of command.

341.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the department mission and conforms to all department policies regarding the release of information may be posted.

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Examples of appropriate content include:

- (a) Announcements.
- (b) Tips and information related to crime prevention.
- (c) Investigative requests for information.
- (d) Requests that ask the community to engage in projects that are relevant to the department mission.
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.
- (f) Traffic information.
- (g) Press releases.
- (h) Recruitment of personnel.

341.4.1 INCIDENT-SPECIFIC USE

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Captain of Investigations or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Commander.

341.5 PROHIBITED CONTENT

Content that is prohibited from posting includes, but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
- (c) Any information that could compromise an ongoing investigation.
- (d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Rochester Police Department or its members.
- (e) Any information that could compromise the safety and security of department operations, members of the Department, victims, suspects or the public.
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy or a supervisor.

Any member who becomes aware of content on this Department's social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

341.6 MONITORING CONTENT

The Chief of Police will appoint a supervisor to review, at least annually, the use of department social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

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341.7 RETENTION OF RECORDS

The Department should work with the City Clerk's Office to establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules.

341.8 TRAINING

Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on department sites.

Chaplains

342.1 PURPOSE AND SCOPE

This policy establishes the guidelines for Rochester Police Department chaplains to provide counseling or emotional support to members of the Department, their families and members of the public.

342.2 POLICY

The Rochester Police Department shall ensure that department chaplains are properly appointed, trained, and supervised to carry out their responsibilities.

342.3 ELIGIBILITY

Requirements for participation as a chaplain for the Department may include, but are not limited to:

- (a) Being above reproach, temperate, prudent, respectable, hospitable, able to teach, be free from addiction to alcohol or other drugs, and excessive debt.
- (b) Managing their households, families, and personal affairs well.
- (c) Having a good reputation in the community.
- (d) Successful completion of an appropriate-level background investigation.
- (e) A minimum of five years of successful counseling experience.
- (f) Possession of a valid driver's license.

The Chief of Police may apply exceptions for eligibility based on organizational needs and the qualifications of the individual

342.4 RECRUITMENT, SELECTION AND APPOINTMENT

The Rochester Police Department shall endeavor to recruit and appoint only those applicants who meet the high ethical, moral, and professional standards set forth by this department.

All applicants shall be required to meet and pass the same pre-employment procedures as department personnel before an appointment.

Chaplains should be recruited on a continuous and ongoing basis. A primary qualification for participation in the application process should be an interest in and an ability to assist the department in serving the public. Chaplain candidates are encouraged to participate in ride-alongs with department members before and during the selection process

Chaplain candidates shall successfully complete the following process prior to appointment as a chaplain:

- (a) Submit the appropriate written application.
- (b) Include a recommendation from employers or volunteer programs.
- (c) Interview with the Chief of Police or designee.

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- (d) Successfully complete an appropriate-level background investigation.

Chaplains will complete an appropriate probationary period as designated by the Chief of Police.

Chaplains are not employees of the city of Rochester and serve at the discretion of the Chief of Police.

Chaplains shall have no property interest in continued appointment. However, if a chaplain is removed for alleged misconduct, the chaplain will be afforded an opportunity solely to clear their name through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

342.5 IDENTIFICATION AND UNIFORMS

As representatives of the Department, chaplains are responsible for presenting a professional image to the community. Chaplains shall dress appropriately for the conditions and performance of their duties. Uniforms and necessary safety equipment will be provided for each chaplain. Identification symbols worn by chaplains shall be different and distinct from those worn by officers through the inclusion of "Chaplain" on the uniform and not reflect any religious affiliation.

Chaplains will be issued Rochester Police Department identification cards, which must be carried at all times while on-duty. The identification cards will be the standard Rochester Police Department identification cards, with the exception that "Chaplain" or other appropriate designation will be indicated on the cards.

Chaplains shall be required to return any issued uniforms or Department property at the termination of service.

Chaplains shall conform to all uniform regulations and appearance standards of this Department.

342.6 CHAPLAIN COORDINATOR

The Chief of Police shall delegate certain responsibilities to a chaplain coordinator. The coordinator shall be appointed by and directly responsible to the Administration or the authorized designee. The chaplain coordinator shall serve as the liaison between the chaplains and the Chief of Police. The function of the coordinator is to provide a central coordinating point for effective chaplain management within the Department and to direct and assist efforts to jointly provide more productive chaplain services. Under the general direction of the Chief of Police or the authorized designee, chaplains shall report to the chaplain coordinator and/or Patrol Lieutenant.

The chaplain coordinator may appoint a senior chaplain or other designees to assist in the coordination of chaplains and their activities. The responsibilities of the coordinator or the authorized designee include, but are not limited to:

- (a) Recruiting, selecting, and training qualified chaplains.
- (b) Conducting chaplain meetings.
- (c) Establishing and maintaining a chaplain callout roster.
- (d) Maintaining records for each chaplain.

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- (e) Tracking and evaluating the contribution of chaplains.
- (f) Maintaining a record of chaplain schedules and work hours.
- (g) Completing and disseminating, as appropriate, all necessary paperwork and information.
- (h) Planning periodic recognition events.
- (i) Maintaining liaison with other agency chaplain coordinators.

An evaluation of the overall use of chaplains will be conducted on an annual basis by the coordinator.

342.7 DUTIES AND RESPONSIBILITIES

Chaplains assist the Department, its members, and the community as needed. Chaplains may be assigned to areas within the Department as needed. Chaplains should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities, and the needs of the Department.

All chaplains will be assigned to duties by the chaplain coordinator or the authorized designee. Chaplains may not proselytize or attempt to recruit members of the Department or the public into a religious affiliation or place of worship while representing themselves as chaplains with the Department. If there is any question as to the receiving person's intent, chaplains should verify that the person is desirous of spiritual counseling or guidance before engaging in such discussion.

Chaplains may not accept gratuities for any service or any subsequent actions or follow-up contacts that were provided while functioning as a chaplain for the Rochester Police Department.

342.7.1 COMPLIANCE

Chaplains are not employees of the Department, and except as otherwise specified within this policy, are required to comply with the Volunteer Program Policy.

342.7.2 OPERATIONAL GUIDELINES

- (a) Generally, each chaplain will serve with Rochester Police Department personnel for a minimum of eight hours per month.
- (b) Chaplains shall be permitted to ride with officers during any shift and observe Rochester Police Department operations, provided the Patrol Lieutenant has been notified and has approved the activity.
- (c) Chaplains shall not be evaluators of members of the Department.
- (d) In responding to incidents, a chaplain shall never function as an officer.
- (e) When responding to in-progress calls for service chaplains may be required to stand by in a secure area until the situation has been deemed safe.
- (f) Chaplains shall serve only within the jurisdiction of the Rochester Police Department unless otherwise authorized by the Chief of Police or the authorized designee.

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- (g) Each chaplain shall have access to current department member rosters, addresses, telephone numbers, duty assignments, and other information that may assist in their duties. Such information will be considered private personnel data and each chaplain will exercise appropriate security measures to prevent the distribution of the data.

342.7.3 ASSISTING DEPARTMENT MEMBERS

The responsibilities of a chaplain related to department members include, but are not limited to:

- (a) Assisting in making notification to families of members who have been seriously injured or killed and after notification responding to the hospital or home of the member.
- (b) Visiting sick or injured members in the hospital or at home.
- (c) Attending and participating, when requested, in funerals of active or retired members.
- (d) Serving as a resource for members when dealing with the public in incidents, such as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse and other such situations that may arise.
- (e) Providing counseling and support for members and their families.
- (f) Being alert to the needs of members and their families.

342.7.4 ASSISTING THE DEPARTMENT

The responsibilities of a chaplain related to this department include, but are not limited to:

- (a) Assisting members in the diffusion of a conflict or incident when requested.
- (b) Responding to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Patrol Lieutenant or supervisor aids in accomplishing the mission of the Department.
- (c) Responding to all major disasters, such as natural disasters, bombings and similar critical incidents.

Community Relations

343.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for community relationship-building.

Additional guidance on community relations and outreach is provided in other policies, including the:

- Hate or Prejudice Crimes Policy.
- Limited English Proficiency Services Policy.
- Communications with Persons with Disabilities Policy.
- Patrol Function Policy.
- Suspicious Activity Reporting Policy.

343.2 POLICY

It is the policy of the Rochester Police Department to promote positive relationships between department members and the community by treating community members with dignity and respect and engaging them in public safety strategy development and relationship-building activities, and by making relevant policy and operations information available to the community in a transparent manner.

343.3 MEMBER RESPONSIBILITIES

Officers should, as time and circumstances reasonably permit:

- (a) Make casual and consensual contacts with community members to promote positive community relationships.
- (b) Become reasonably familiar with the schools, businesses and community groups in their assigned jurisdictional areas.
- (c) Work with community members and the Community Services Division to identify issues and solve problems related to community relations and public safety.
- (d) Conduct periodic foot patrols of their assigned areas to facilitate interaction with community members. Officers carrying out foot patrols should notify Dispatch of their status (i.e., on foot patrol) and location before beginning and upon completion of the foot patrol.

343.4 COMMUNITY SERVICES DIVISION

The Chief of Police or the authorized designee should designate a member of the Department to serve as Captain of the Community Services Division. He/she should report directly to the Chief of Police. The Community Services Division is tasked with maintaining community engagement and is responsible for:

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- (a) Responding to requests from department members and the community for assistance in identifying issues and solving problems related to community relations and public safety.
- (b) Organizing surveys to measure the condition of the department's relationship with the community.
- (c) Working with community groups, department members and other community resources to:
 - 1. Identify and solve public safety problems within the community.
 - 2. Organize programs and activities that help build positive relationships between department members and the community and provide community members with an improved understanding of department operations.
- (d) Working with the Patrol Captain to develop patrol deployment plans that allow officers the time to participate in community engagement and problem-solving activities.
- (e) Recognizing department and community members for exceptional work or performance in community relations efforts.
- (f) Assisting with the department's response to events that may affect community relations, such as an incident where the conduct of a department member is called into public question.
- (g) Informing the Chief of Police and others of developments and needs related to the furtherance of the department's community relations goals, as appropriate.

343.5 COMMUNITY AND YOUTH ACTIVITIES AND PROGRAMS

The Community Services Division should organize or assist with programs and activities that create opportunities for department members and community members, especially youth, to interact in a positive setting. Examples of such programs and events include:

- (a) Department-sponsored athletic programs (e.g., baseball, basketball, soccer, bowling).
- (b) Police-community get-togethers (e.g., cookouts, meals, charity events).
- (c) Youth leadership and life skills mentoring.
- (d) School resource officer programs.
- (e) Neighborhood Watch and crime prevention programs.

343.6 INFORMATION SHARING

The Community Services Division should work with the Command Staff to develop methods and procedures for the convenient sharing of information (e.g., major incident notifications, significant changes in department operations, comments, feedback, positive events) between the Department and community members. Examples of information-sharing methods include:

- (a) Community meetings.
- (b) Social media (see the Department Use of Social Media Policy).

Community Relations

- (c) Department website postings.

Information should be regularly refreshed, to inform and engage community members continuously.

343.7 LAW ENFORCEMENT OPERATIONS EDUCATION

The Community Services Division should develop methods to educate community members on general law enforcement operations so they may understand the work that officers do to keep the community safe. Examples of educational methods include:

- (a) Development and distribution of informational cards/flyers.
- (b) Department website and social media postings.
- (c) Instruction in schools.
- (d) Department ride-alongs (see the Ride-Along Policy).
- (e) Scenario/Simulation exercises with community member participation.
- (f) Youth internships at the Department.
- (g) Citizen academies.

343.8 SAFETY AND OTHER CONSIDERATIONS

Department members responsible for community engagement activities should consider the safety of the community participants and, as much as reasonably practicable, not allow them to be present in any location or situation that would jeopardize their safety.

Department members in charge of community engagement events should ensure that participating community members have completed waiver forms before participation, if appropriate.

Community members are subject to a criminal history check before approval for participation in certain activities, such as citizen academies.

343.9 TRANSPARENCY

The Department should periodically publish statistical data and analysis regarding the department's operations. The reports should not contain the names of officers, suspects or case numbers.

343.10 TRAINING

Subject to available resources, members should receive training related to this policy, including training on topics such as:

- (a) Effective social interaction and communication skills.
- (b) Cultural, racial and ethnic diversity and relations.
- (c) Building community partnerships.

Community Relations

- (d) Community policing and problem-solving principles.
- (e) Enforcement actions and their effects on community relations.

Where practicable and appropriate, community members, especially those with relevant expertise, should be involved in the training to provide input from a community perspective.

343.10.1 STATE-MANDATED TRAINING

The Training Unit is responsible for ensuring that members receive community policing as required by Minn. Stat. § 626.8455.

Chapter 4 - Patrol Operations

Patrol Function

400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the functions of the patrol unit of the Department to ensure intra-organization cooperation and information sharing.

400.1.1 FUNCTION

Officers will generally patrol in clearly marked vehicles, patrol assigned jurisdictional areas of Rochester, respond to calls for assistance, act as a deterrent to crime, enforce state, local and, when authorized or empowered by agreement or statute, federal laws and respond to emergencies 24 hours per day, seven days per week.

Patrol will generally provide the following services within the limits of available resources:

- (a) Patrol that is directed at the prevention of criminal acts, traffic violations and collisions, the maintenance of public order and the discovery of hazardous situations or conditions.
- (b) Crime prevention activities, such as residential inspections, business inspections and community presentations.
- (c) Calls for service, both routine and emergency.
- (d) Investigation of both criminal and non-criminal acts.
- (e) The apprehension of criminal offenders.
- (f) Community Oriented Policing and problem-solving activities, such as citizen assists and individual citizen contacts of a positive nature.
- (g) The sharing of information between the Patrol and other division within the Department, as well as other government agencies.
- (h) The application of resources to specific problems or situations within the community that may be improved or resolved by Community Oriented Policing and problem-solving strategies.
- (i) Traffic direction and control.

400.1.2 TERRORISM

It is the goal of the Rochester Police Department to make every reasonable effort to accurately and appropriately gather and report any information that may relate to either foreign or domestic terrorism. Officers should advise a supervisor as soon as practicable of any activity believed to be terrorism related and should document such incidents with a written report. The supervisor should ensure that all terrorism-related reports are forwarded to the Investigative Division Supervisor in a timely fashion.

Patrol Function

400.2 PATROL INFORMATION SHARING PROCEDURES

The following guidelines are intended to develop and maintain intra-organization cooperation and information flow between the various divisions of the Rochester Police Department.

400.2.1 INTEL UNIT

The Intel Unit will be the central unit for information exchange. Criminal information and reports can be submitted to the Records Unit for distribution by the Intel Unit to all divisions within the Department through daily and special bulletins.

400.2.2 CRIME REPORTS

A crime report may be completed by any patrol officer who receives criminal information. The report will be processed and forwarded to the appropriate division for retention or follow-up investigation.

400.2.3 PATROL BRIEFINGS

Patrol supervisors, investigative sergeants and special unit sergeants are encouraged to share information as much as reasonably possible. All supervisors and/or officers will be provided an opportunity to share information through daily patrol briefings, as time permits.

400.3 CROWDS, EVENTS AND GATHERINGS

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action. Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

Racial Profiling

401.1 PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the Rochester Police Department's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the department's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

401.1.1 DEFINITIONS

Definitions related to this policy include:

Racial Profiling - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement.

This includes use of racial or ethnic stereotypes as factors in selecting whom to stop and search. It does not include law enforcement's use of race or ethnicity to determine whether a person matches a specific description of a particular subject (Minn. Stat. § 626.8471).

401.2 POLICY

The Rochester Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group (Minn. Stat. § 626.8471, Subd. 3).

401.3 RACIAL PROFILING PROHIBITED

Racial Profiling is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

401.4 MEMBER RESPONSIBILITIES

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

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Policy Manual

Racial Profiling

401.4.1 REASON FOR CONTACT

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

401.4.2 INFORMATION TO BE PROVIDED

Officers shall (Minn. Stat. § 626.8471, Subd. 3):

- (a) Introduce or identify themselves and state the reason for a contact as soon as practicable unless providing the information could compromise officer or public safety.
- (b) Attempt to answer questions the person may have regarding the contact, including relevant referrals to other agencies when appropriate.
- (c) Explain the reason for the contact if it is determined the reasonable suspicion was unfounded.
- (d) When requested, provide their name and badge number and identify this department during routine stops.
- (e) When requested, officers should inform a member of the public of the process to file a misconduct complaint for bias-based policing against a member of the Department, and that bias-based policing complaints may be made by calling the Attorney General's office (Minn. Stat. § 626.9514).

401.5 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

- (a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.
 - 1. Supervisors should document these discussions, in the prescribed manner.
- (b) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (c) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this department who discloses information concerning bias-based policing.

401.6 TRAINING

Training on fair and objective policing and review of this policy should be conducted as directed by the Training Unit.

The Chief of Police and supervisors should receive and review training materials prepared by the Board of Peace Officer Standards and Training (POST) (Minn. Stat. § 626.8471, Subd. 7).

Training should also include in-service training on recognizing and valuing community diversity and cultural differences, including implicit bias, as required by Minn. Stat. § 626.8469, Subd. 1.

Roll Call Training

402.1 PURPOSE AND SCOPE

Roll Call training is generally conducted at the beginning of the officer's assigned shift. Roll Call provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct Roll Call.

Roll Call should accomplish, at a minimum, the following basic tasks:

- (a) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of prolific offenders, problem locations and major investigations.
- (b) Notifying officers of changes in schedules and assignments.
- (c) Notifying officers of new Departmental Directives or changes in Departmental Directives.
- (d) Reviewing recent incidents for training purposes.
- (e) Providing training on a variety of subjects.

402.2 PREPARATION OF MATERIALS

The supervisor conducting Roll Call, is responsible for collection and preparation of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate officer in his/her absence or for training purposes.

402.3 RETENTION OF BRIEFING TRAINING RECORDS

Roll Call training materials and a curriculum or summary shall be forwarded to the Training Unit for inclusion in training records as appropriate.

Crime and Disaster Scene Integrity

403.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

403.2 POLICY

It is the policy of the Rochester Police Department to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

403.3 SCENE RESPONSIBILITY

403.4 FIRST RESPONDER CONSIDERATIONS

403.4.1 NOTIFICATION OF INVESTIGATIONS

The Investigative Division shall be notified immediately in the following situations:

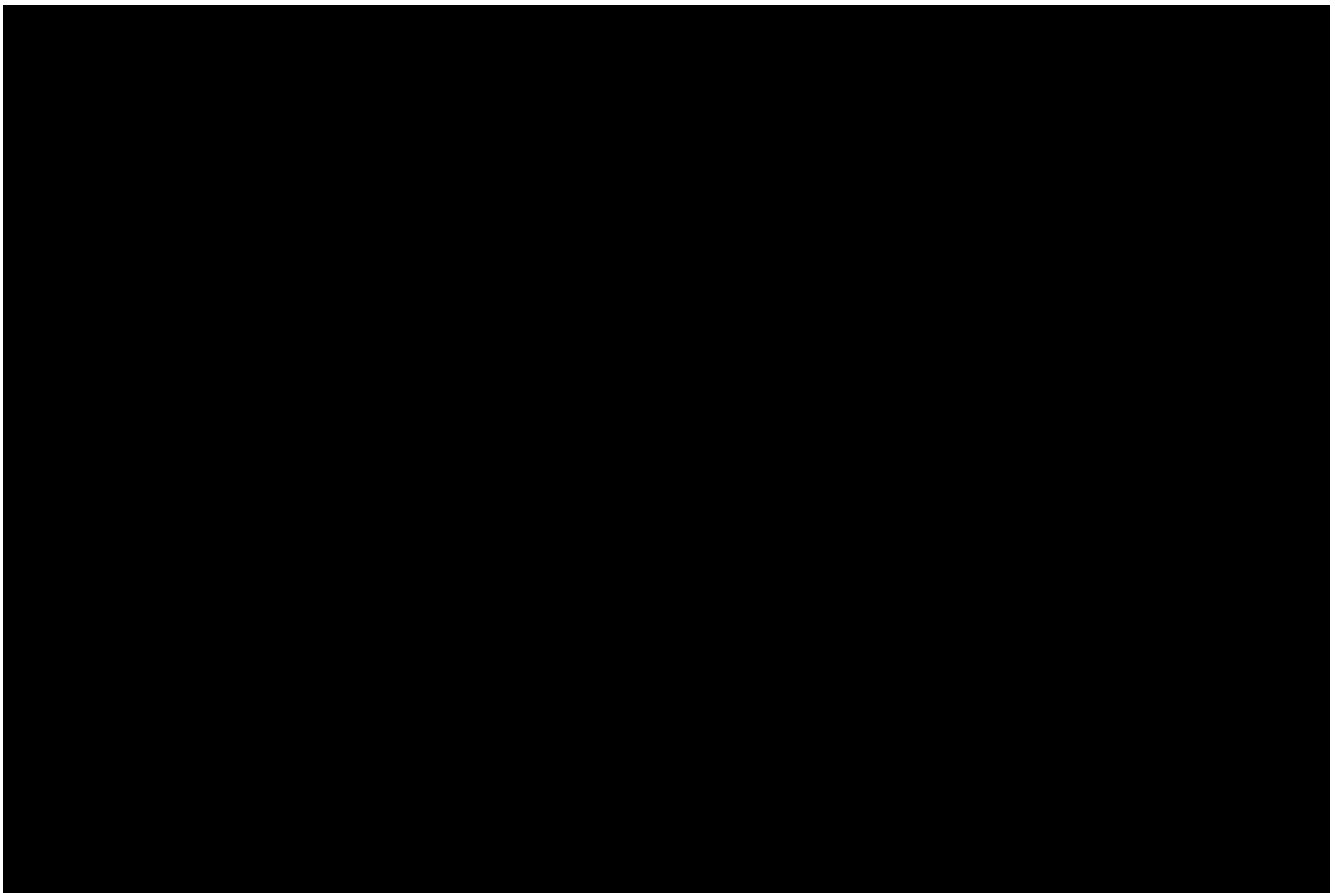
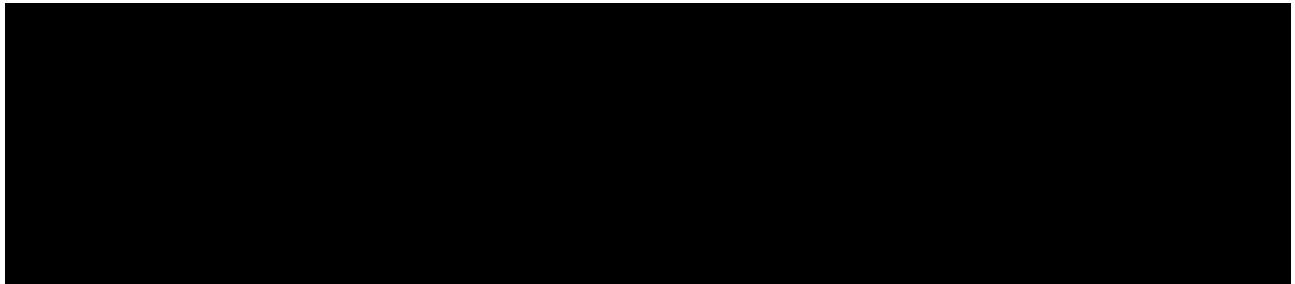
- (a) Homicides

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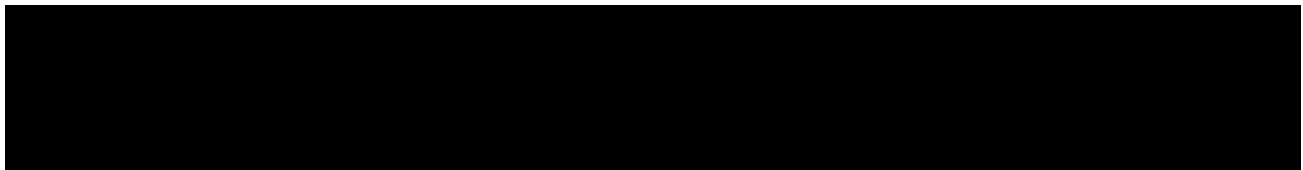
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Crime and Disaster Scene Integrity

- (b) Attempted Homicides
- (c) Suspicious Deaths
- (d) Kidnapping
- (e) Sexual Assaults



403.5 SEARCHES



Crime and Disaster Scene Integrity

403.6 EXECUTION OF HEALTH ORDERS

Any licensed member of this department may assist in the enforcement of all directives of the local health officer issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease (Minn. Stat. § 144.4195, Subd. 2(c)).

Emergency Response Unit

404.1 PURPOSE AND SCOPE

The Emergency Response Unit (ERU) is a Tactical (SWAT) Team. The ERU has been established to provide specialized support in handling critical field operations where intense negotiations and/or special tactical deployment methods beyond the capacity of field officers appear to be necessary.

404.1.1 OPERATIONAL AND ADMINISTRATIVE POLICY

The Policy Manual sections pertaining to the Emergency Response Unit are divided into Administrative and Operational Policy and Procedures. Since situations that necessitate the need for such a law enforcement response vary greatly from incident to incident and such events often demand on-the-scene evaluation, the Operational Policy outlined in this manual section serves as a guideline to department personnel, allowing for appropriate on-scene decision-making as required. The Administrative Procedures, however, are more restrictive and few exceptions should be taken.

404.1.2 SWAT TEAM DEFINED

SWAT team - A designated unit of law enforcement officers, including a multi-jurisdictional team, that is specifically trained and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex or unusual that they may exceed the capabilities of first responders or investigative units. This includes, but is not limited to, hostage taking, barricaded suspects, snipers, terrorist acts and other high-risk incidents. As a matter of department policy, such a unit may also be used to serve high-risk warrants, both search and arrest, where public and officer safety issues warrant the use of such a unit.

404.2 POLICY

It is the policy of this department to maintain a SWAT team and to provide the equipment, manpower and training necessary to maintain a SWAT team. The SWAT team should develop sufficient resources to perform three basic operational functions:

- (a) Command and control
- (b) Containment
- (c) Entry/apprehension/rescue

It is understood it is difficult to categorize specific capabilities for critical incidents. Training needs may vary based on the experience level of the team personnel, team administrators and potential incident commanders. Nothing in this policy shall prohibit individual teams from responding to a situation that exceeds their training levels due to the exigency of the circumstances. The preservation of innocent human life is paramount.

Emergency Response Unit

404.2.1 POLICY CONSIDERATIONS

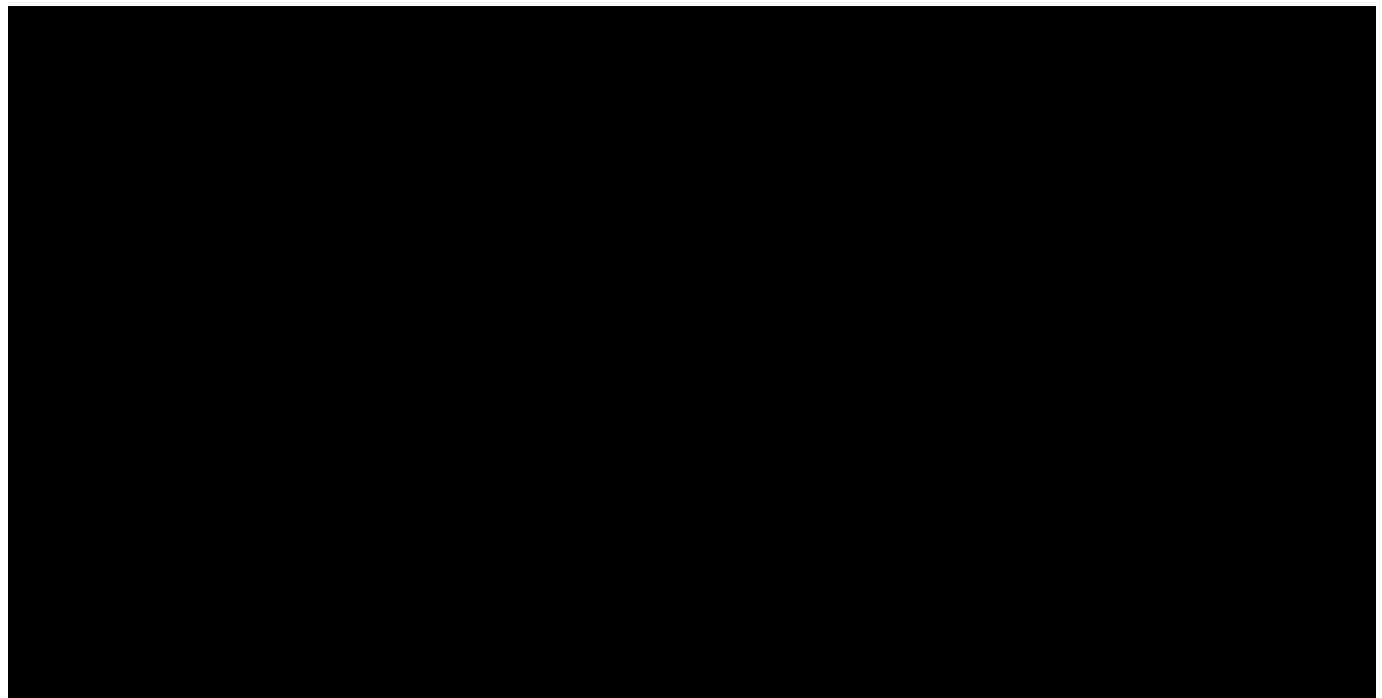
A needs assessment should be conducted to determine the type and extent of SWAT missions and operations appropriate to this department. The assessment should consider the team's capabilities and limitations and should be reviewed annually by the SWAT commander or designee.

404.2.2 ORGANIZATIONAL PROCEDURES

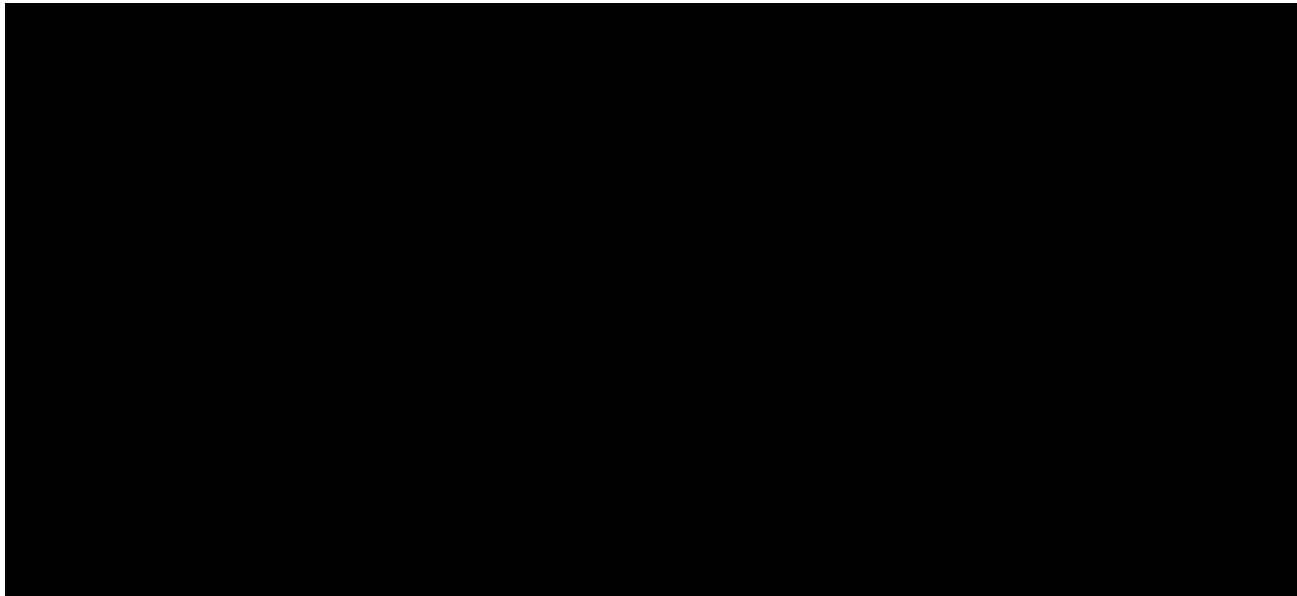
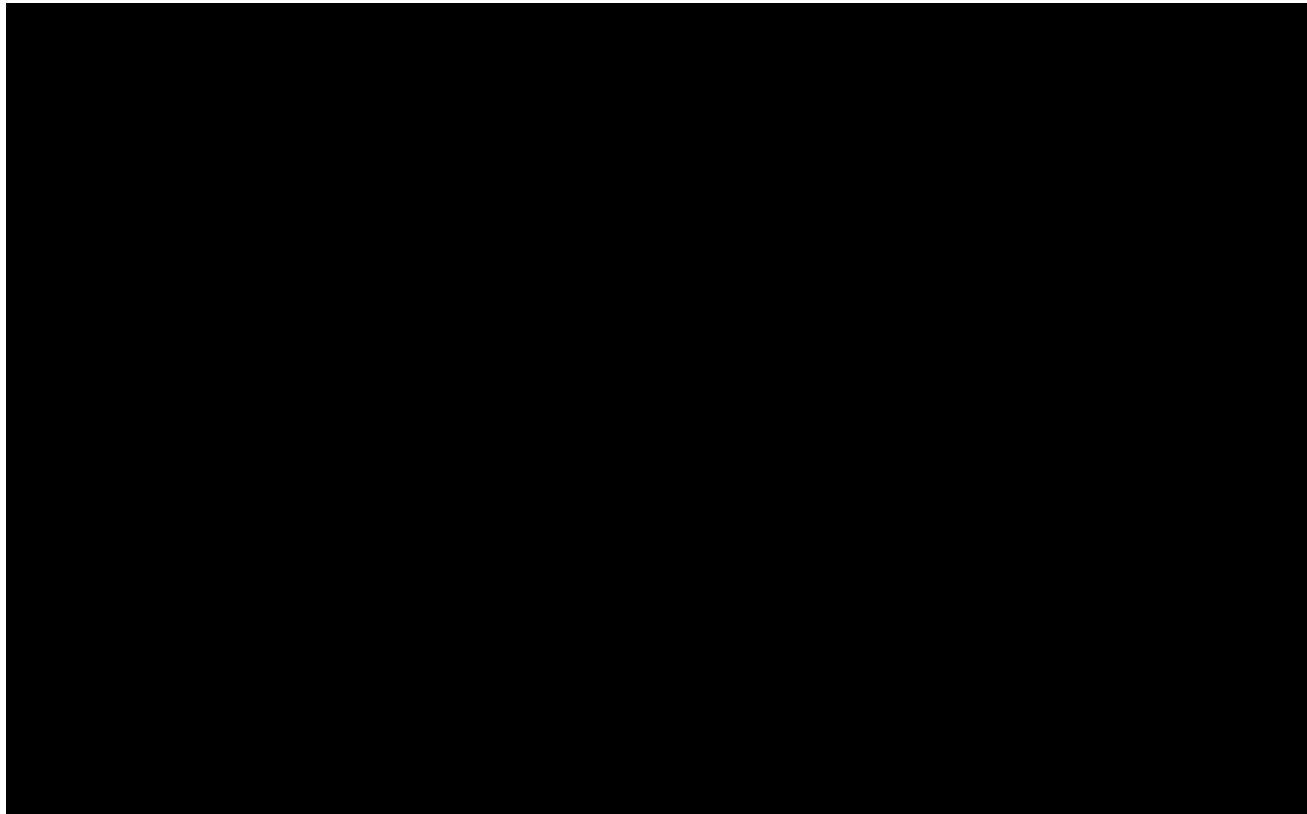
This department shall develop a separate written set of organizational procedures that should address, at minimum, the following:

- (a) Locally identified specific missions the team is capable of performing.
- (b) Team organization and function.
- (c) Personnel selection and retention criteria.
- (d) Training and required competencies.
- (e) Procedures for activation and deployment.
- (f) Command and control issues, including a clearly defined command structure.
- (g) Multi-agency response.
- (h) Out-of-jurisdiction response.
- (i) Specialized functions and supporting resources.

404.2.3 OPERATIONAL PROCEDURES



Emergency Response Unit



404.3 TRAINING NEEDS ASSESSMENT

The SWAT/ERU commander shall conduct an annual SWAT training needs assessment to ensure that training is conducted within team capabilities and department policy.

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Emergency Response Unit

404.3.1 INITIAL TRAINING

SWAT team operators and SWAT supervisors/team leaders should not be deployed until successful completion of an approved Basic SWAT Course or its equivalent.

- (a) To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content or topics meet or exceed requirements determined by the Department.

404.3.2 UPDATED TRAINING

Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team.

SWAT team operators and SWAT supervisors/team leaders should complete update or refresher training every 24 months.

404.3.3 SUPERVISION AND MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level. This is to ensure personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend a SWAT or Critical Incident Commander course or its equivalent. SWAT command personnel should attend a department-approved SWAT commander or tactical commander course or its equivalent.

404.3.4 SWAT ONGOING TRAINING

Training shall be coordinated by the ERU commander. The ERU commander may conduct monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training shall consist of the following:

- (a) Each SWAT member shall perform a physical fitness test annually. A minimum qualifying score must be attained by each team member.
- (b) Any SWAT team member failing to attain the minimum physical fitness qualification score will be notified of the requirement to retest.
- (c) Those members who are on vacation, ill or are on limited duty status with a medical provider's note of approval on the test date shall be responsible for reporting to a team supervisor and taking the test.
- (d) Quarterly each SWAT team member shall perform the mandatory SWAT handgun qualification course. The qualification course shall consist of the SWAT Basic Drill for the handgun. Failure to qualify will require the officer to seek remedial training from a Training Supervisor approved by the ERU commander. Team members who fail to qualify will not be used in SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.
- (e) Quarterly each SWAT team member shall perform a mandatory SWAT qualification course for any specialty weapon issued to or used by the officer during SWAT

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operations. Failure to qualify will require the officer to seek remedial training from a Training Supervisor approved by the ERU commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

404.3.5 TRAINING SAFETY

Use of a designated safety officer should be considered for all tactical training.

404.3.6 SCENARIO-BASED TRAINING

SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

404.3.7 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Training Unit. Such documentation shall be maintained in each member's individual training file.

404.4 UNIFORMS, EQUIPMENT AND FIREARMS

404.4.1 UNIFORMS

SWAT teams from this department should wear uniforms that clearly identify team members as law enforcement officers. It is recognized that certain tactical conditions may require covert movement. Attire may be selected appropriate to the specific mission.

404.4.2 EQUIPMENT

SWAT teams from this department should be adequately equipped to meet the specific mission(s) identified by the Department.

404.4.3 FIREARMS

Weapons and equipment used by SWAT, the specialized units and the supporting resources should be Department-issued or approved, including any modifications, additions or attachments.

404.4.4 OPERATIONAL READINESS INSPECTION

The commander of the ERU shall appoint a ERU Supervisor to perform an operational readiness inspection of all unit equipment at least quarterly. The results of the inspection will be forwarded to the ERU commander. The inspections will include personal equipment issued to members of the unit as well as special use equipment maintained for periodic or occasional use in the SWAT vehicle.

404.5 MANAGEMENT/SUPERVISION OF EMERGENCY RESPONSE UNIT

The commander of the ERU shall be selected by the Chief of Police.

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404.5.1 UNIT MANAGEMENT

The ERU will come under the command of the Patrol Division Captain who may delegate the operational authority to any officer, hereinafter referred to as the ERU Administrative Commander.

Supervisory responsibility may be delegated to a ranking officer hereinafter referred to as the ERU Tactical Commander.

The ERU Administrative Commander shall designate the ERU team members who will comprise the ERU Command Staff. In the absence of the appointed ERU Administrative Commander and/or the ERU Tactical Commander, an established internal chain of command within the ERU Command Staff will dictate the acting ERU Administrative Commander and/or the acting ERU Tactical Commander.

404.5.2 DESIGNATED TEAM LEADERS

The Crisis Negotiation Unit and each SWAT team will be supervised by designated team leaders.

The team leaders shall be selected by the Chief of Police upon specific recommendation by Staff and the ERU Commander.

The following represent the supervisor responsibilities for the Emergency Response Unit.

- (a) The Crisis Negotiation Unit supervisor's primary responsibility is to supervise the operations of the team, to include deployment, training, first-line participation and other duties as directed by the ERU Commander.
- (b) The SWAT team leader's primary responsibility is to supervise the operations of the team, which will include deployment, training, first-line participation and other duties as directed by the ERU Commander.

404.6 CRISIS NEGOTIATION UNIT ADMINISTRATIVE PROCEDURES

The Crisis Negotiation Unit has been established to provide skilled verbal communicators who may be utilized to attempt to de-escalate and effect surrender in critical situations where suspects have taken hostages, barricaded themselves or have suicidal tendencies.

The following procedures serve as directives for the administrative operation of the Crisis Negotiation Unit.

404.6.1 SELECTION OF PERSONNEL

Interested licensed personnel, who are off probation, shall submit a request to their appropriate Captain. A copy will be forwarded to the ERU Commander and the Crisis Negotiation Unit supervisor. Qualified applicants will then be invited to an oral interview. The oral board will consist of the ERU Commander, the Crisis Negotiation Unit supervisor and a third person to be selected by the two. Interested personnel shall be evaluated by the following criteria:

- (a) Recognized competence and ability as evidenced by performance.
- (b) Demonstrated good judgment and understanding of critical role of negotiator and negotiation process.
- (c) Effective communication skills to ensure success as a negotiator.

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- (d) Special skills, training or appropriate education as it pertains to the assignment.
- (e) Commitment to the unit, realizing that the assignment may necessitate unusual working hours, conditions and training obligations.

The oral board shall submit a list of successful applicants to staff for final selection.

404.6.2 TRAINING OF NEGOTIATORS

Those officers selected as members of the Crisis Negotiation Unit should attend a department-approved Basic Negotiators Course prior to deployment in an actual crisis situation. Untrained officers may be used in a support or training capacity. Additional training will be coordinated by the team supervisor.

A minimum of one training day per quarter will be required to provide the opportunity for role playing and situational training that is necessary to maintain proper skills. This will be coordinated by the team supervisor.

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the team supervisor. Performance and efficiency levels established by the team supervisor will be met and maintained by all team members. Any member of the Crisis Negotiation Unit who performs or functions at a level less than satisfactory shall be subject to dismissal from the unit.

404.7 SWAT TEAM ADMINISTRATIVE PROCEDURES

The SWAT team was established to provide a skilled and trained team that may be deployed during events requiring specialized tactics, in situations where suspects have taken hostages and/or barricaded themselves, as well as prolonged or predictable situations in which persons who are armed or suspected of being armed pose a danger to themselves or others.

The following procedures serve as directives for the administrative operation of the SWAT team.

404.7.1 SELECTION OF PERSONNEL

Interested licensed personnel who are off probation shall submit a request to their appropriate Captain, a copy of which will be forwarded to the ERU Commander and other SWAT supervisors. Those qualifying applicants will then be invited to participate in the testing process. The order of the tests will be given at the discretion of the ERU Commander. The testing process will consist of an oral board, physical agility test, and a SWAT basic handgun and team evaluation.

- (a) Oral board: The oral board will consist of personnel selected by the ERU Commander. Applicants will be evaluated by the following criteria:
 1. Recognized competence and ability as evidenced by performance.
 2. Demonstrated good judgment and understanding of the critical role of a SWAT member.
 3. Special skills, training or appropriate education as it pertains to this assignment.
 4. Commitment to the unit, realizing that the additional assignment may necessitate unusual working hours, conditions and training obligations.

Emergency Response Unit

- (b) Physical agility: The physical agility test is designed to determine the physical capabilities of the applicant as it relates to performance of SWAT-related duties. The test and scoring procedure will be established by the ERU Commander. A minimum qualifying score shall be attained by the applicant to be considered for the position.
- (c) SWAT basic handgun: Candidates will be invited to shoot the SWAT Basic Drill for the handgun. A minimum passing score must be attained to qualify.
- (d) Team evaluation: Current team members will evaluate each candidate on field tactical skills, teamwork, ability to work under stress, communication skills, judgment and any special skills that could benefit the team.
- (e) A list of successful applicants shall be submitted to staff by the ERU Commander for final selection.

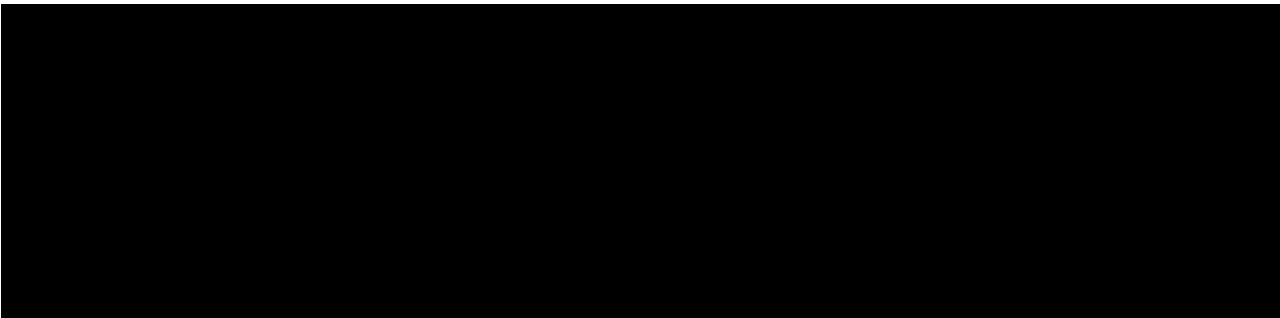
404.7.2 TEAM EVALUATION

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the ERU Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT team members. Any member of the SWAT team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.

404.8 OPERATIONAL GUIDELINES FOR EMERGENCY RESPONSE UNIT

The following procedures serve as guidelines for the operational deployment of the Emergency Response Unit. Generally, the SWAT team and the Crisis Negotiation Team will be activated together. It is recognized, however, that a tactical team may be used in a situation not requiring the physical presence of the Crisis Negotiation Team, such as warrant service operations. This shall be at the discretion of the ERU Commander.

404.8.1 ON-SCENE DETERMINATION



404.8.2 APPROPRIATE SITUATIONS FOR USE OF EMERGENCY RESPONSE UNIT

The following are examples of incidents that may result in the activation of the Emergency Response Unit:

- (a) Barricaded suspects who refuse an order to surrender.
- (b) Incidents where hostages have been taken.

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- (c) Cases of suicide threats involving the potential for harm to officers or members of the public.
- (d) Arrests of dangerous persons.
- (e) Any situation where an ERU response could enhance the ability to preserve life, maintain social order and ensure the protection of property.

404.8.3 OUTSIDE AGENCY REQUESTS

Requests by field personnel for assistance from outside agency crisis units must be approved by the Shift Commander. Deployment of the Rochester Police Department Emergency Response Unit in response to requests by other agencies must be authorized by a Captain.

404.8.4 MULTI-JURISDICTIONAL SWAT OPERATIONS

The SWAT team, including relevant specialized units and supporting resources, should develop protocols, agreements, memorandums of understanding, collective bargaining agreements or working relationships to support multi-jurisdictional or regional responses.

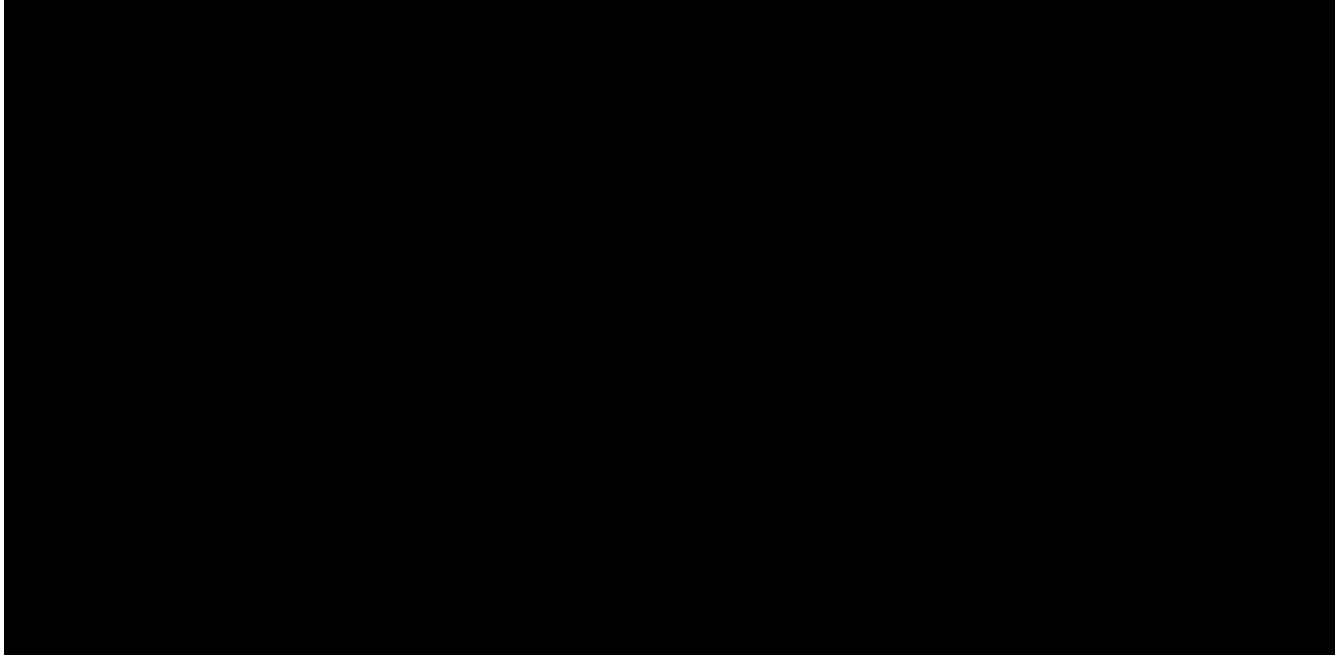
- (a) If it is anticipated that multi-jurisdictional SWAT operations will regularly be conducted, SWAT multi-agency and multidisciplinary joint training exercises are encouraged.
- (b) Members of the Rochester Police Department SWAT team shall operate under the policies, procedures and command of the Rochester Police Department when working in a multi-agency situation.

404.8.5 MOBILIZATION OF EMERGENCY RESPONSE UNIT

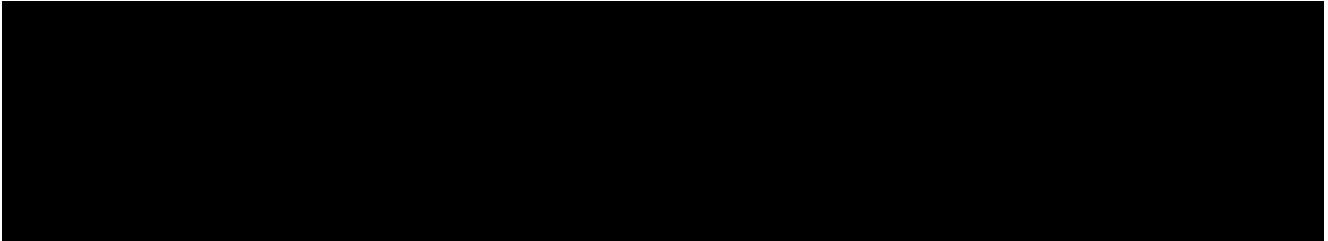


Emergency Response Unit

404.8.6 FIELD UNIT RESPONSIBILITIES



404.8.7 ON-SCENE COMMAND RESPONSIBILITIES



Ride-Along Policy

405.1 PURPOSE AND SCOPE

The Ride-Along Program provides an opportunity for persons to experience the law enforcement function first hand. This policy provides the requirements, approval process and hours of operation for the Ride-Along Program.

405.1.1 ELIGIBILITY

To be eligible to participate, the requesting person must:

- (a) Be at least 15 years of age, provided that persons between the age of 15 and 18 may participate only if a parent or legal guardian signs a waiver of liability along with the participant.
- (b) Not have a known history of negative police contacts or be a known associate of criminals.
- (c) Not be under the influence of, or recently used drugs or alcohol.
- (d) Be able to care for him/herself if the officers needs to drop him/her off, at a place designated by the officer, before handling a high-risk incident.
- (e) Be able to ride in the front passenger's seat of a standard marked squad car, with the seat belt fastened.
- (f) Be able to enter and exit the squad promptly without the assistance of the officer.
- (g) Be able to sit for an extended period of time.
- (h) Wear appropriate clothing without security, military, or law enforcement logos.

No ride-along will be permitted to bring along any equipment or device that may hamper the ability of the officer to perform his/her regular duties.

Friends, relatives and spouses of officers are encouraged to participate.

No one should be permitted to ride along more than two times a year unless specifically authorized by a supervisor.

405.2 PROCEDURE TO REQUEST A RIDE-ALONG

The participant will sign and submit a Ride-Along Request/Waiver of Liability form forty-eight (48) hours prior to the requested ride-along time. A Supervisor may waive the waiting period at his/her discretion.

Persons not required to sign the waiver are:

- (a) Employees or representatives of the City of Rochester or County of Olmsted if within the scope of employment.(This includes Police Chaplains, Civil Service Commission Members and City Council Members.)
- (b) Interns enrolled in the Department's program through an accredited post secondary institution.

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Ride-Along Policy

- (c) Police Explorer members who already have a waiver on file with the Police Explorer Supervisor.

A Supervisor will have the authority to approve, modify, or disapprove any citizen's request for participation. If a request is denied, the Supervisor will notify the applicant as soon as possible of the denial. The reason for denial shall be recorded in writing on the waiver/request form.

All request forms and associated reports shall be maintained in a central file in accordance with the Department's Records Retention Policy.

405.2.1 SUITABLE ATTIRE

Any person approved to ride-along is required to be suitably dressed. Sandals, T-shirts, tank tops, shorts and ripped or torn blue jeans are not permitted. Hats and ball caps will not be worn in the police vehicle. A supervisor may refuse a ride-along to anyone not properly dressed.

405.2.2 RIDE-ALONG CRIMINAL HISTORY CHECK

All ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Minnesota Bureau of Criminal Apprehension Criminal History System check prior to approval (provided that the ride-along is not an employee of the Rochester Police Department).

405.3 OFFICER'S RESPONSIBILITIES

The officer shall advise the dispatcher that a ride-along is present in the vehicle before going into service. Officers shall consider the safety of the ride-along at all times.

Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation and as soon as practicable have another police unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

Conduct by a person participating in a ride-along that results in termination of the ride or is otherwise inappropriate should be immediately reported to a supervisor.

Patrol Supervisors are responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, a copy of the ride-along waiver form shall be returned to a supervisor with any comments that may be offered by the officer.

405.4 CONTROL OF RIDE-ALONG

The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit participation. These instructions should include:

- (a) The ride-along will follow the directions of the officer.
- (b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects or handling any police equipment.

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Ride-Along Policy

- (c) The ride-along may terminate the ride at any time and the officer may return the observer to his/her home or to the station if the ride-along interferes with the performance of the officer's duties.
- (d) The officer may terminate the ride-along and return the observer to their home or to the station if the ride-along interferes with the performance of any officer's duties.
- (e) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety.
- (f) Officers will not allow any ride-alongs to be present in any residence or situation that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other person.

Hazardous Material Response

406.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees as a result of their exposure. To comply with Minnesota law, the following represents the policy of this department.

406.1.1 HAZARDOUS MATERIAL DEFINED

Hazardous material - Any refuse, sludge or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid or contained gaseous form, which, because of its quantity, concentration, or chemical, physical or infectious characteristics may (Minn. Stat. § 116.06 Subd. 11):

- (a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.
- (b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

406.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic collision, chemical spill or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and other persons.

The fire department is the agency trained and equipped to properly respond and mitigate most hazardous materials and biohazards.

Responders should not perform tasks or use equipment absent proper training. A responder entering the area may require decontamination before he/she is allowed to depart the scene and should be evaluated by appropriate technicians and medical professionals for signs of exposure.

The following steps should be considered at any scene involving suspected hazardous materials:

- (a) Attempt to identify the type of hazardous material. Identification can be determined by placard, driver's manifest or statements from the person transporting the material
- (b) Notify the Rochester Fire Department and request a Haz Mat response..
- (c) Provide first aid to injured parties if it can be done safely and without contamination.
- (d) Begin evacuation of the immediate and surrounding areas dependent on the material. Voluntary evacuation should be considered. Depending on the material, mandatory evacuation may be necessary.
- (e) Contact the Minnesota Duty Officer (800-422-0798).
- (f) Responders should remain uphill and upwind of the hazard until a zone of entry and a decontamination area are established.

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Hazardous Material Response

406.3 REPORTING EXPOSURE(S)

Department personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be properly documented by the employee in accordance with city policy and shall be forwarded via chain of command to police administration. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.

Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness, in addition to a crime report or incident report.

406.3.1 SUPERVISOR RESPONSIBILITIES

When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of employees, safety equipment is available through supervisory personnel. Safety items not maintained by the Department will be obtained through the Rochester Fire Department.

Hostage and Barricade Incidents

407.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

407.1.1 DEFINITIONS

Definitions related to this policy include:

Barricade situation - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

Hostage situation - An incident where it is reasonable to believe a person is unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.

407.2 POLICY

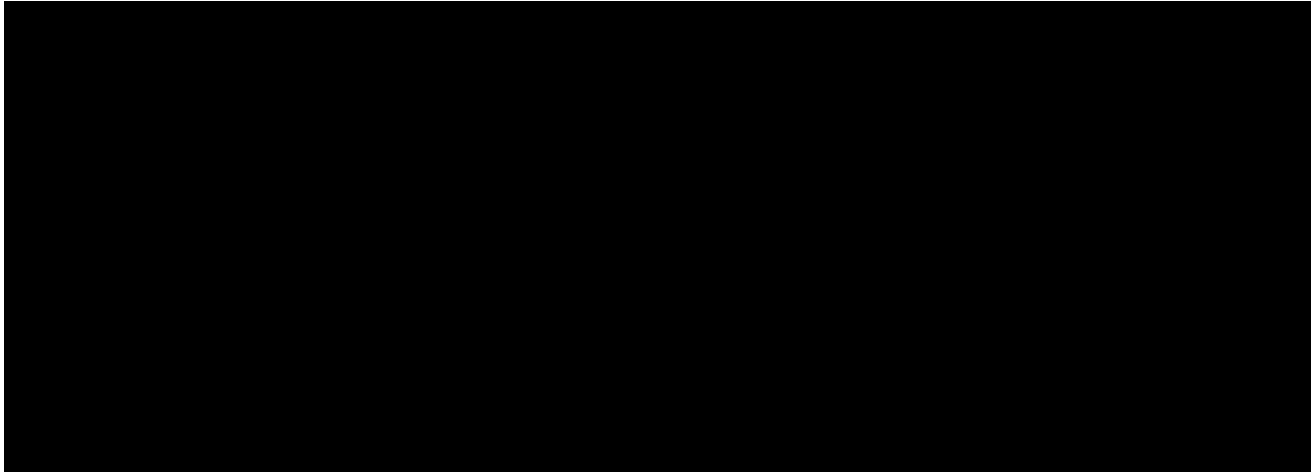
It is the policy of the Rochester Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

407.3 COMMUNICATION

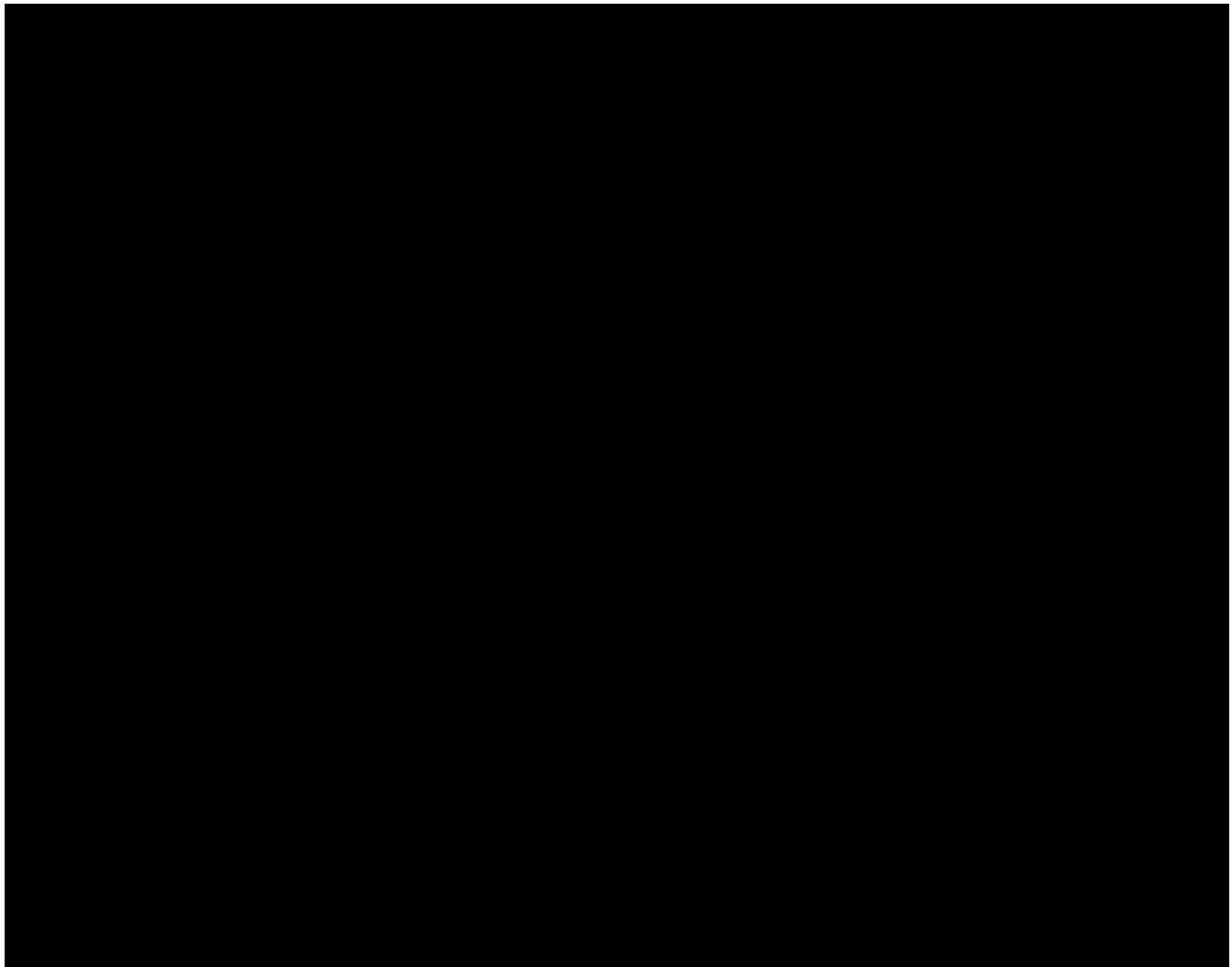
407.3.1 EMERGENCY COMMUNICATION

Hostage and Barricade Incidents

407.4 FIRST RESPONDER CONSIDERATION



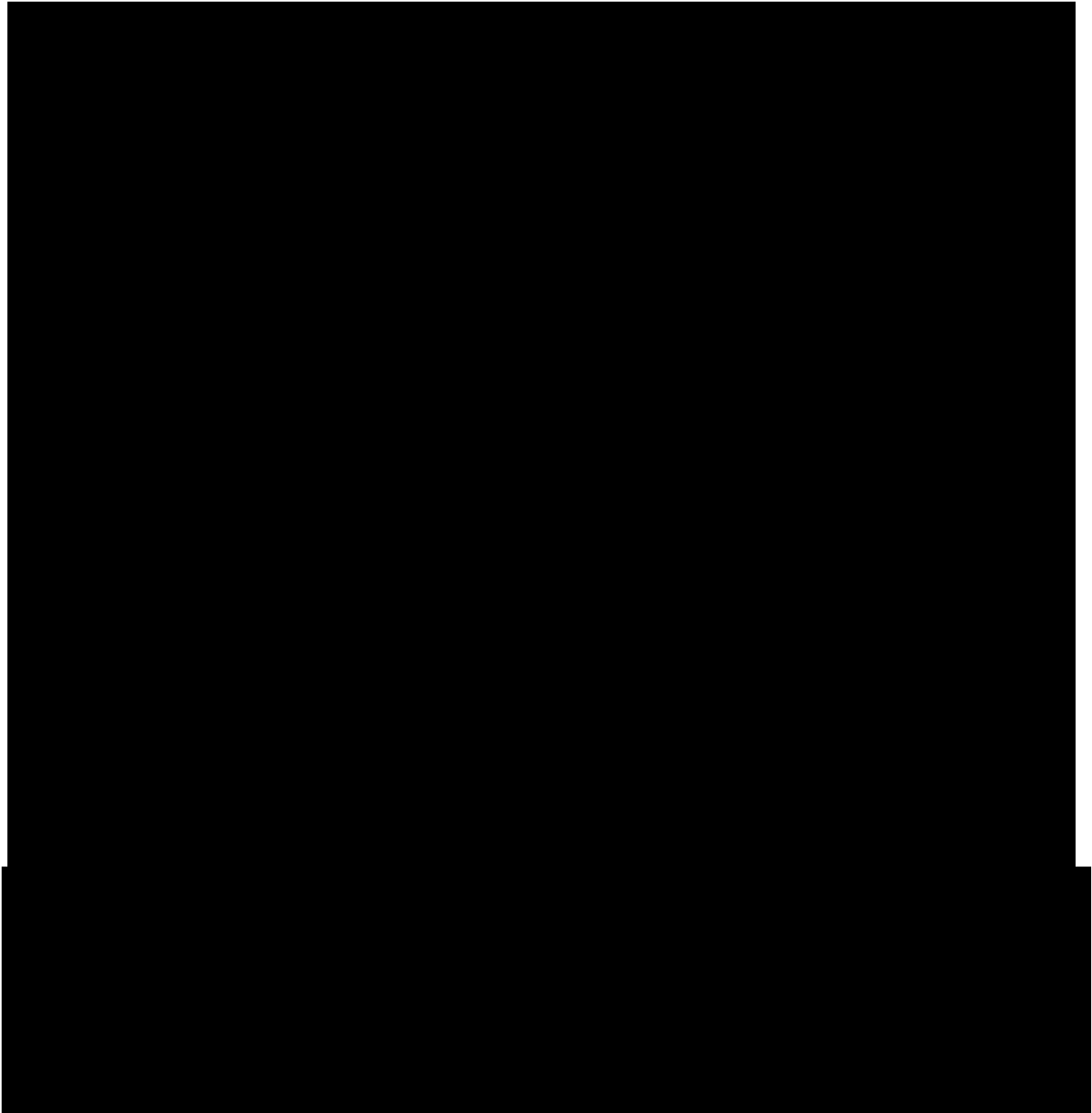
407.4.1 BARRICADE SITUATION



Hostage and Barricade Incidents



407.4.2 HOSTAGE SITUATION



Hostage and Barricade Incidents



407.5 SUPERVISOR RESPONSIBILITY



407.6 CRISIS RESPONSE UNIT



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Hostage and Barricade Incidents

407.7 REPORTING

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for completion and/or coordination of incident reports.

Response to Bomb Calls

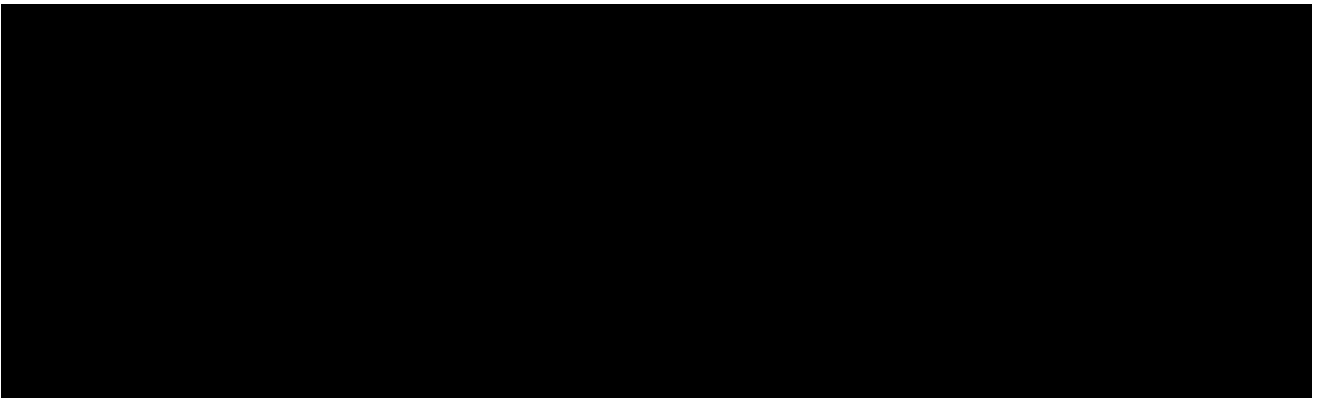
408.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Rochester Police Department in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

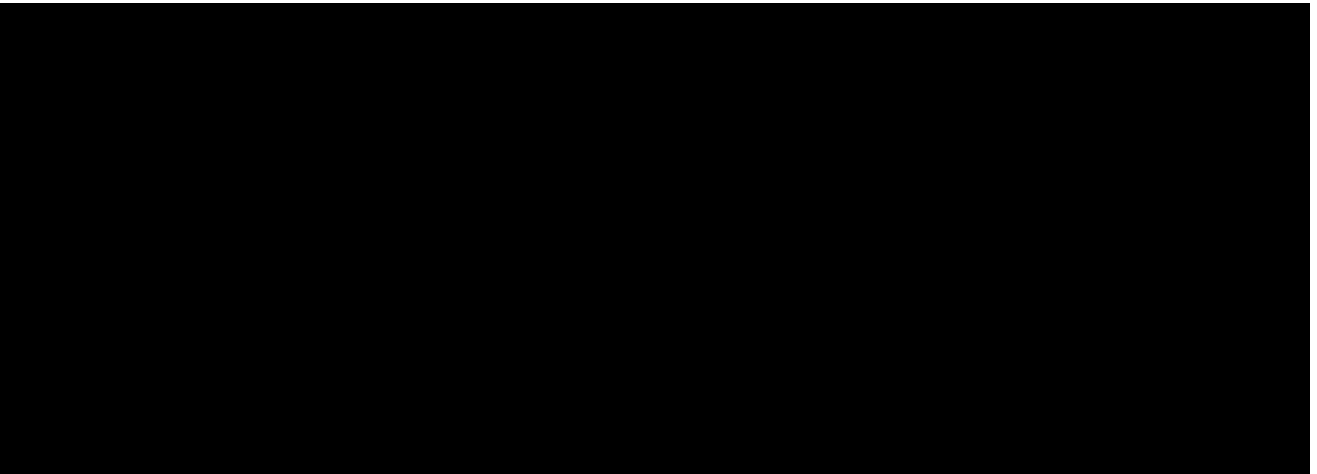
408.2 POLICY

It is the policy of the Rochester Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

408.3 RECEIPT OF BOMB THREAT



408.4 GOVERNMENT FACILITY OR PROPERTY

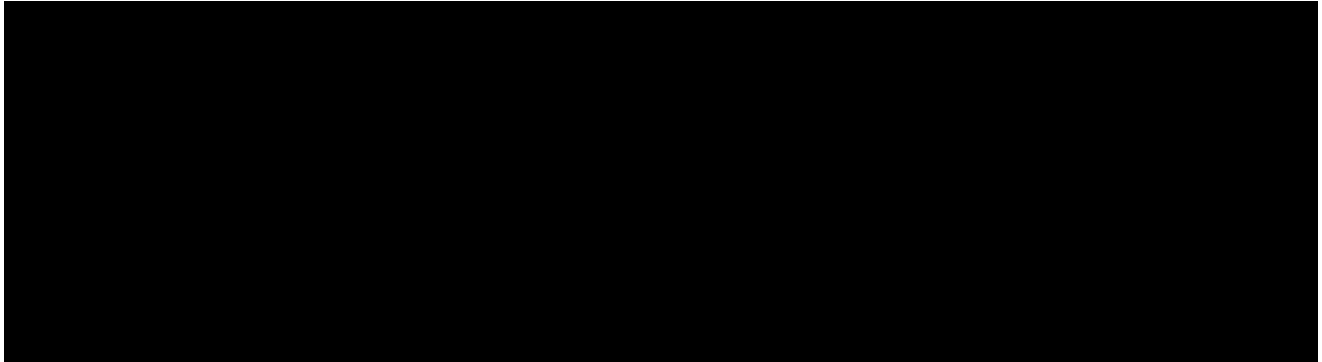


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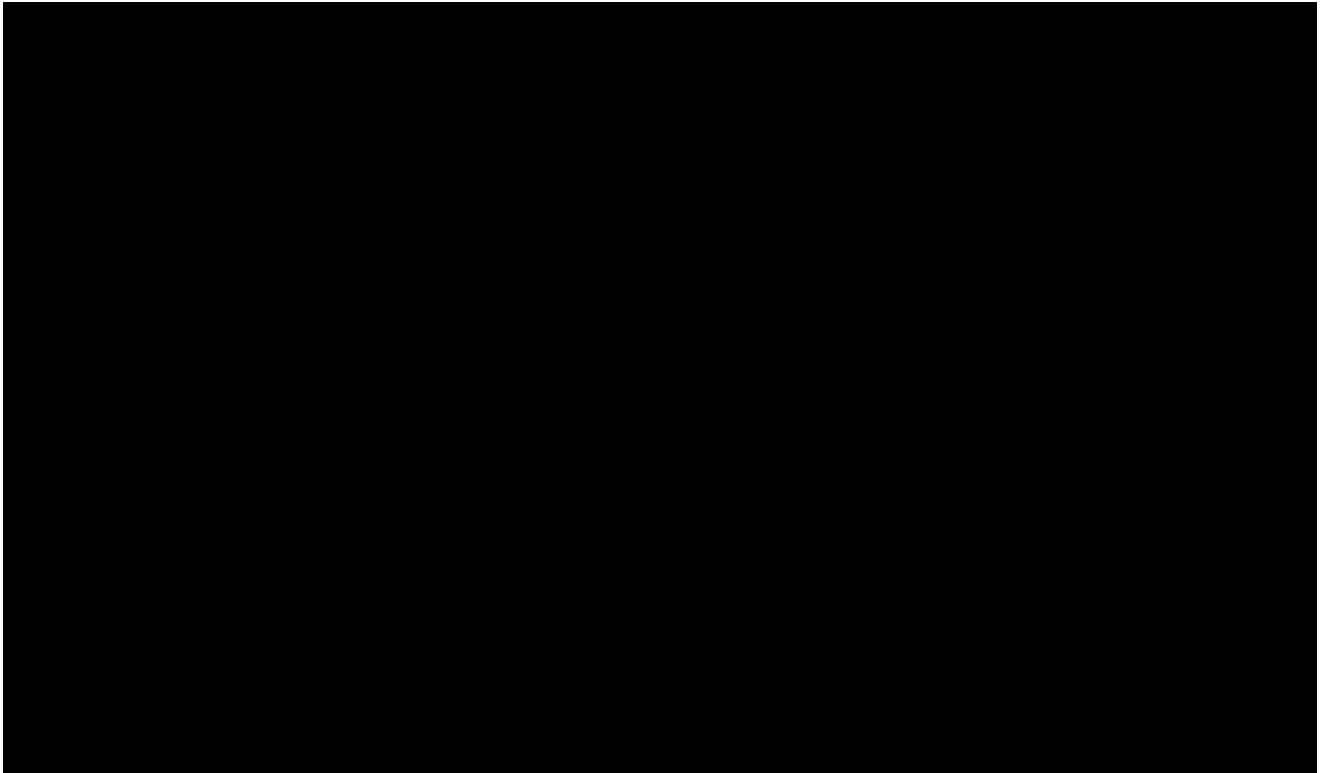
Policy Manual

Response to Bomb Calls

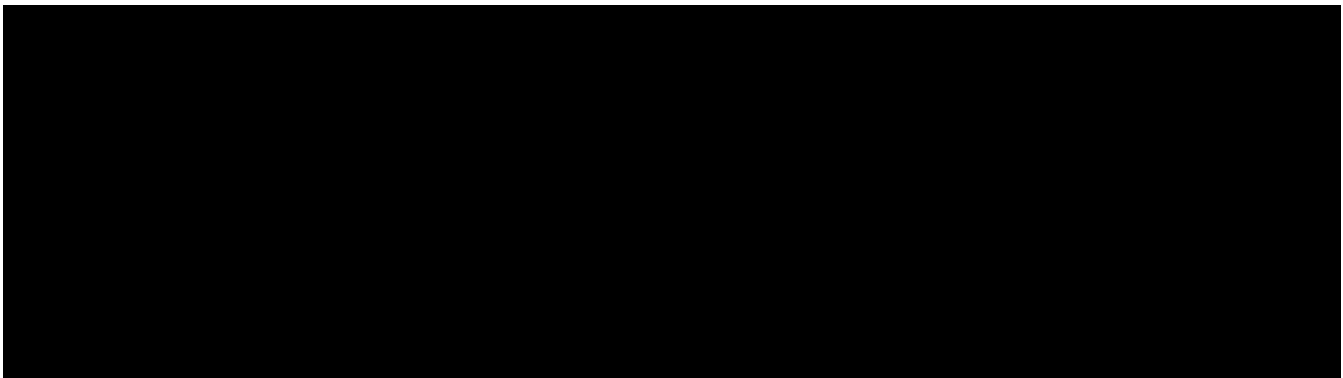
408.4.3 FEDERAL BUILDING OR PROPERTY



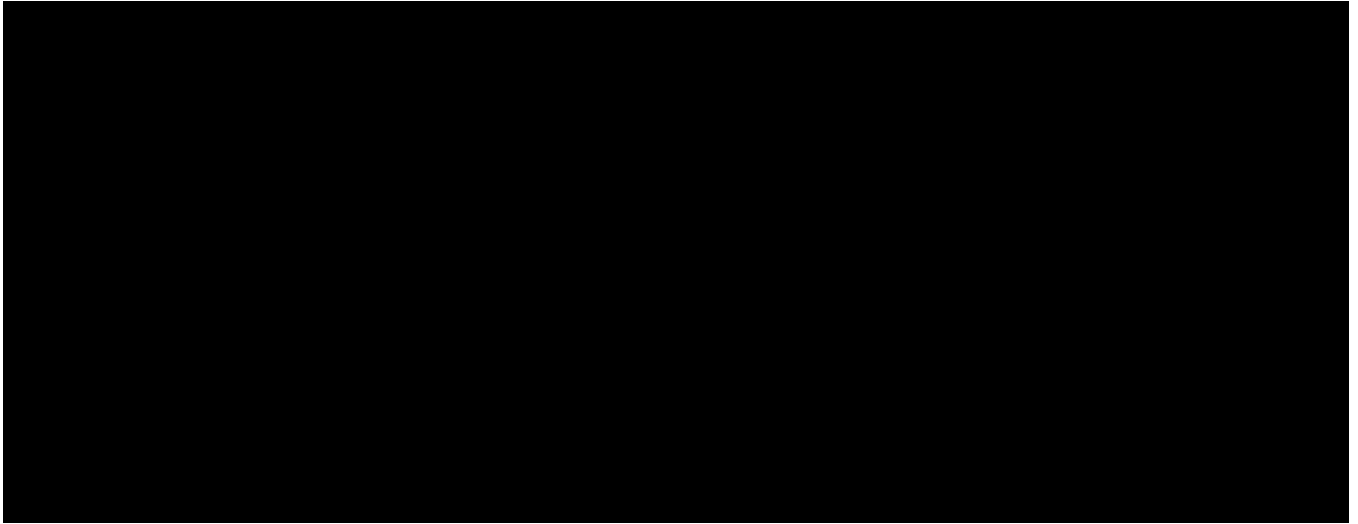
408.5 PRIVATE FACILITY OR PROPERTY



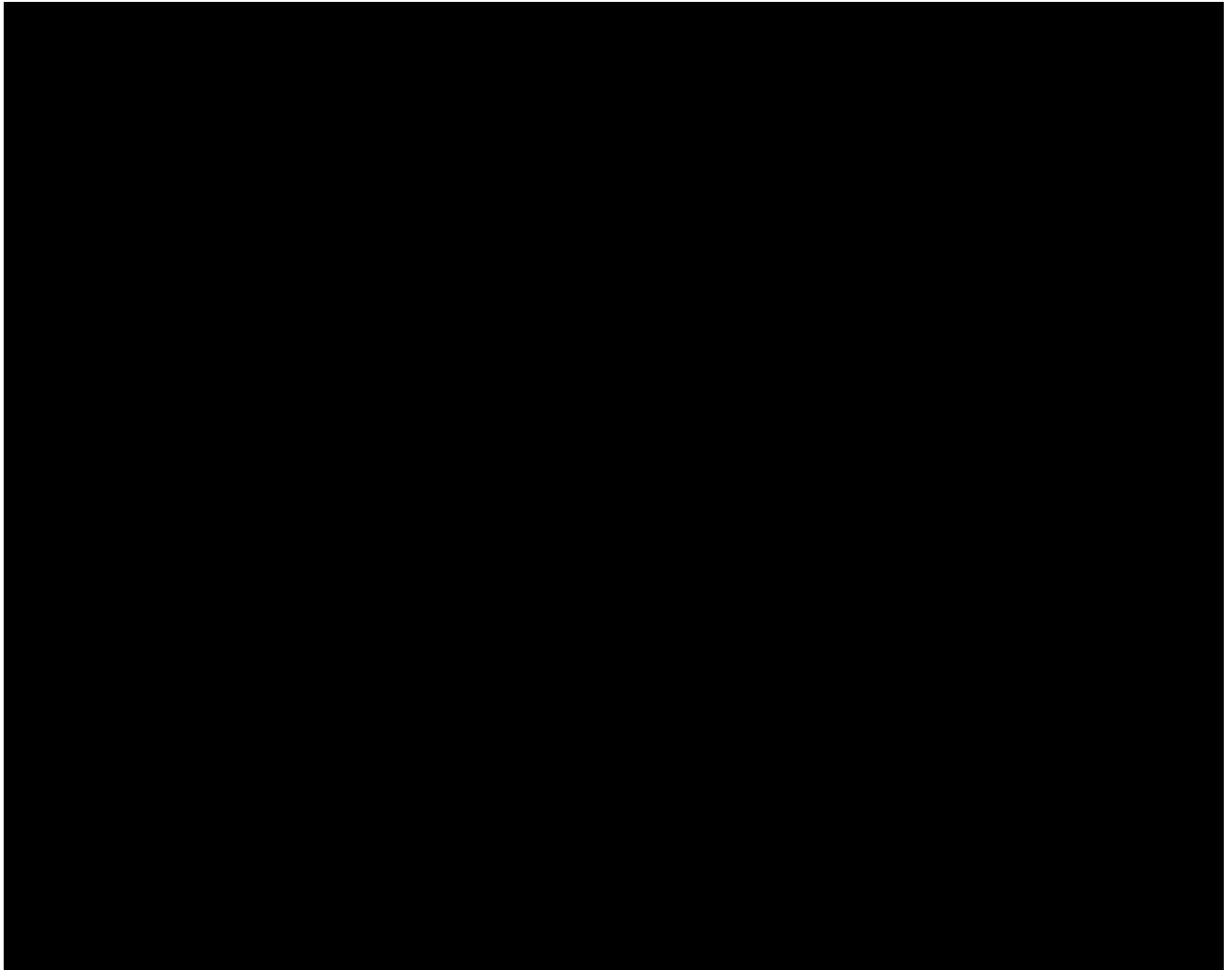
408.5.1 ASSISTANCE



Response to Bomb Calls



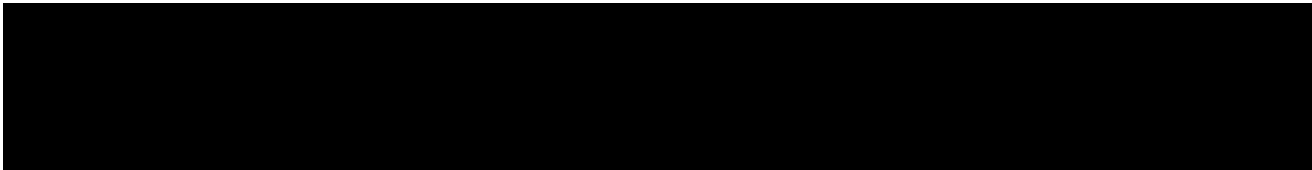
408.6 FOUND DEVICE



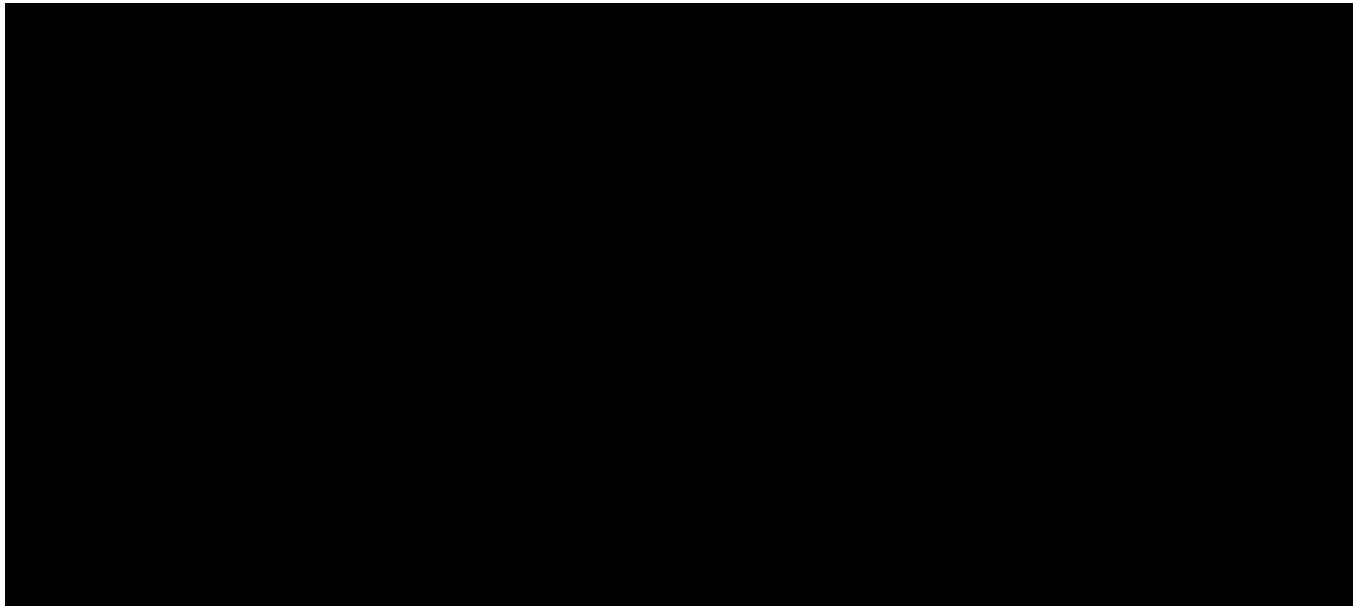
Response to Bomb Calls



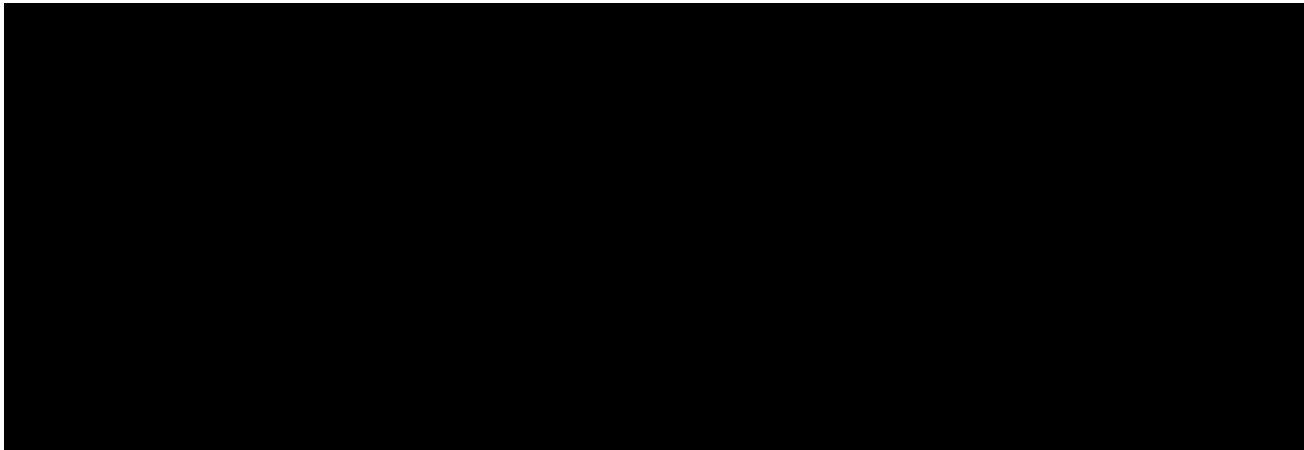
408.7 EXPLOSION/BOMBING INCIDENTS



408.7.1 CONSIDERATIONS



408.7.2 NOTIFICATIONS

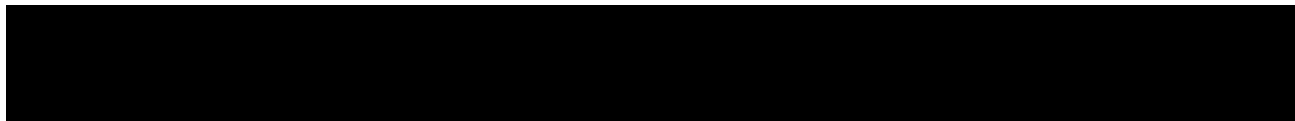


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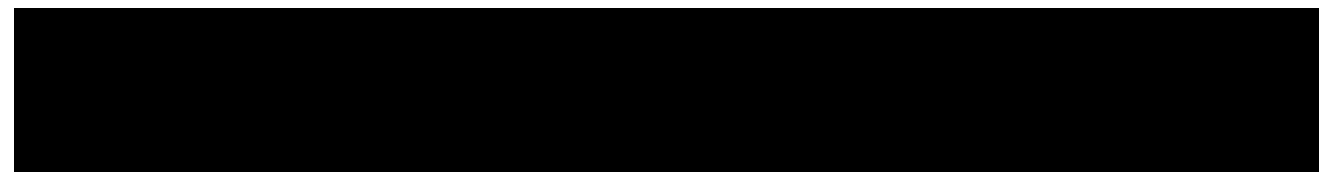
Policy Manual

Response to Bomb Calls

408.7.3 CROWD CONTROL



408.7.4 PRESERVATION OF EVIDENCE



Civil Commitments

409.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may place an individual in protective custody and request a 72-hour hold under the Minnesota Commitment and Treatment Act (Minn. Stat. § 253B.051).

409.2 POLICY

It is the policy of the Rochester Police Department to protect the public and individuals through legal and appropriate use of the 72-hour hold process.

409.3 AUTHORITY

An officer, having probable cause to believe that any individual because of mental illness, chemical dependency, or public intoxication is in danger of injuring him/herself or others if not immediately detained, may take, or cause to be taken, the individual to an appropriate treatment facility for a 72-hour evaluation (Minn. Stat. § 253B.051, Subd. 1).

The officer shall make written application for admission of the individual to an appropriate treatment facility. The application shall contain the officer's reasons for and circumstances under which the individual was taken into custody. If danger to specific individuals is a basis for the requested emergency hold, the statement must include identifying information for those individuals to the extent reasonably practicable. The officer shall also provide the department contact information for purposes of receiving notice if the individual is released prior to the 72-hour admission or leaves the facility without consent. The facility shall make a copy of the statement available to the individual taken into custody (Minn. Stat. § 253B.051, Subd. 1).

409.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for a 72-hour hold, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the individual so desires, the officers should:

- (a) Transport the individual to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to the Minnesota Commitment and Treatment Act.
- (b) If at any point the individual changes his/her mind regarding voluntary evaluation, officers should proceed with the application for a 72-hour hold, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

409.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a 72-hour hold should consider, as time and circumstances reasonably permit:

Civil Commitments

- (a) Available information that might assist in determining the cause and nature of the individual's action or stated intentions.
- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

409.4.1 ALTERNATIVE PLACEMENT

Officers are encouraged to seek alternative solutions in lieu of transport of intoxicated or chemically dependent persons. Treatment facilities are to be used for rehabilitation and treatment, not as a form of punishment. Alternative solutions may include the release of intoxicated parties to the care of another, or transportation to their home.

Juveniles should be treated the same as adults except that the officer must notify a parent or guardian as soon as possible.

409.5 TRANSPORTATION

When transporting any individual for a 72-hour hold, the transporting officer should have Dispatch notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Officers may transport individuals in a patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, supervisor approval is required before transport commences.

409.5.1 TYPE OF TRANSPORTATION

When transporting any individual on a Minn. Stat. § 253B.051 admission, and if reasonably practicable, officers should not be in uniform and should not use a vehicle visibly marked as a law enforcement vehicle (Minn. Stat. § 253B.051, Subd. 1(e)).

409.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for a 72-hour hold and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

Civil Commitments

409.7 DOCUMENTATION

The officer should complete an application for emergency admission, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

409.8 CRIMINAL OFFENSES

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken into custody for purposes of a 72-hour hold should resolve the criminal matter by issuing a warning or a citation, as appropriate.

Officers in contact with intoxicated or chemically dependent persons who have committed a crime, particularly crimes involving an act or threat of bodily harm, including misdemeanor offenses committed against officers and others, should consider the risk that the intoxicated party poses to officers, staff, and other patients at a treatment facility. Officers shall evaluate the need for custodial arrest if circumstances merit.

When an individual who may qualify for a 72-hour hold has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 72-hour hold.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 72-hour hold.

In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this decision.

409.9 FIREARMS AND OTHER WEAPONS

Whenever an individual is taken into custody for a 72-hour hold, the handling officers should seek to determine if the individual owns or has access to any firearm or other deadly weapon. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search unless lawful warrantless entry has already been made (e.g., exigent circumstances, consent). A warrant may also be needed before searching for or seizing weapons.

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Civil Commitments

The handling officers should further advise the individual of the procedure for the return of any firearm or other weapon that has been taken into custody.

409.10 TRAINING

This department will endeavor to provide department-approved training on interaction with mentally disabled persons, 72-hour holds and crisis intervention.

Citation Releases

410.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of the Rochester Police Department with guidance on when to release adults who are suspected offenders on a citation for a criminal offense, rather than having the person held in custody for a court appearance or released on bail.

This policy also provides guidance on when a court orders that a person be released.

Additional release restrictions may apply to those detained for domestic violence, as outlined in the Domestic Abuse Policy.

410.2 POLICY

The Rochester Police Department will consider its resources and its mission of protecting the community when exercising any discretion to release suspected offenders on a citation, when authorized to do so.

410.3 RELEASE

A suspected offender shall be released on issuance of a citation:

- (a) When the offender has been arrested without a warrant and either a prosecutor or district court judge orders that the offender should be released (Minn. R. Crim. P. 4.02; Minn. R. Crim. P. 6.01).
 - 1. Release is not required if a reviewing supervisor determines that the offender should be held pursuant to Minn. R. Crim. P. 6.01 Subd. 1.
- (b) When the offender is charged with a petty or fine-only misdemeanor (Minn. R. Crim. P. 6.01).
- (c) In misdemeanor cases unless it reasonably appears to the arresting officer that the offender will (Minn. R. Crim. P. 6.01):
 - 1. Cause bodily injury to him/herself or another if he/she is not detained.
 - 2. Continue engaging in criminal conduct.
 - 3. Not respond to a citation.
- (d) When the offender is from another state which has a reciprocal agreement with Minnesota unless the offense is (Minn. Stat. § 169.91):
 - 1. One which would result in the revocation of the offender's driver's license under Minnesota law upon conviction.
 - 2. A violation of a highway weight limitation.
 - 3. A violation of a law governing the transportation of hazardous materials.
 - 4. That the offender was driving without a valid driver's license.

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Citation Releases

410.4 PROHIBITIONS

The release of a suspected offender on a citation is not permitted when:

- (a) The offender has committed a driving while impaired (DWI) offense (Minn. Stat. § 169A.40; Minn. Stat. § 169.91).
- (b) The offender is arrested for a violation of state law or an ordinance related to the operation or registration of a vehicle punishable as a misdemeanor or felony and (Minn. Stat. § 169.91):
 1. The offender demands an immediate appearance before a judge.
 2. The offender is charged with:
 - (a) An offense involving an accident that resulted in injury or death.
 - (b) Criminal vehicular homicide.
 - (c) Failure to stop after being involved in an accident that resulted in death, personal injuries or damage to property.
 3. There is reasonable cause to believe that the offender may leave the state.

See the Domestic Abuse Policy for release restrictions related to those investigations.

410.5 CONSIDERATIONS

In determining whether to cite and release a person when discretion is permitted, officers should consider:

- (a) The type of offense committed.
- (b) The known criminal history of the suspected offender.
- (c) The ability to identify the suspected offender with reasonable certainty.
- (d) Whether there is any record of the individual failing to appear in previous cases or other articulable indications that the individual may not appear in court for this offense.
- (e) The individual's ties to the area, such as residence, employment or family.
- (f) Whether there is reasonable likelihood that criminal conduct by the individual will continue.

410.6 FISH AND GAME AND ENVIRONMENT-RELATED OFFENSES

In the case of game and fish laws or other environment-related offenses, as specified in Minn. Stat. § 97A.211, officers should release the offender unless there is reason to believe that criminal conduct will continue or that the offender will not respond as required by the citation (Minn. Stat. § 97A.211).

Foreign Diplomatic and Consular Representatives

411.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Rochester Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

411.2 POLICY

The Rochester Police Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

411.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

411.4 ENFORCEMENT ACTION

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

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Foreign Diplomatic and Consular Representatives

- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
 - 1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
 - 1. Diplomatic-level staff of missions to international organizations and recognized family members
 - 2. Diplomatic agents and recognized family members
 - 3. Members of administrative and technical staff of a diplomatic mission and recognized family members
 - 4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
 - 1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
 - 2. Support staff of missions to international organizations.
 - 3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
 - 4. Honorary consular officers.

411.5 DOCUMENTATION

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

411.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members

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Foreign Diplomatic and Consular Representatives

Diplomatic Agent	No (note b)	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Member of Admin and Tech Staff	No (note b)	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Service Staff	Yes (note a)	Yes	Yes	Yes	No for official acts Yes otherwise (note a)	No immunity or inviolability (note a)
Career Consul Officer	Yes if for a felony and pursuant to a warrant (note a)	Yes (note d)	Yes	Yes	No for official acts Yes otherwise (note a)	No immunity or inviolability
Honorable Consul Officer	Yes	Yes	Yes	No for official acts Yes otherwise	No for official acts Yes otherwise	No immunity or inviolability
Consulate Employees	Yes (note a)	Yes	Yes	No for official acts Yes otherwise	No for official acts Yes otherwise (note a)	No immunity or inviolability (note a)
Int'l Org Staff (note b)	Yes (note c)	Yes (note c)	Yes	Yes (note c)	No for official acts Yes otherwise (note c)	No immunity or inviolability
Diplomatic-Level Staff of Missions to Int'l Org	No (note b)	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Support Staff of Missions to Int'l Orgs	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

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Foreign Diplomatic and Consular Representatives

- (a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.
- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

411.7 LEGISLATIVE IMMUNITY

Officers shall observe legislators' privilege from arrest as set forth in the State of Minnesota Constitution, Article IV, Section 10:

"The members of each house shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during the session of their respective houses, and in going to or returning from the same."

Rapid Response and Deployment

412.1 PURPOSE AND SCOPE

Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist officers in situations that call for rapid response and deployment.

412.2 POLICY

The Rochester Police Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Department in protecting themselves or others from death or serious injury.

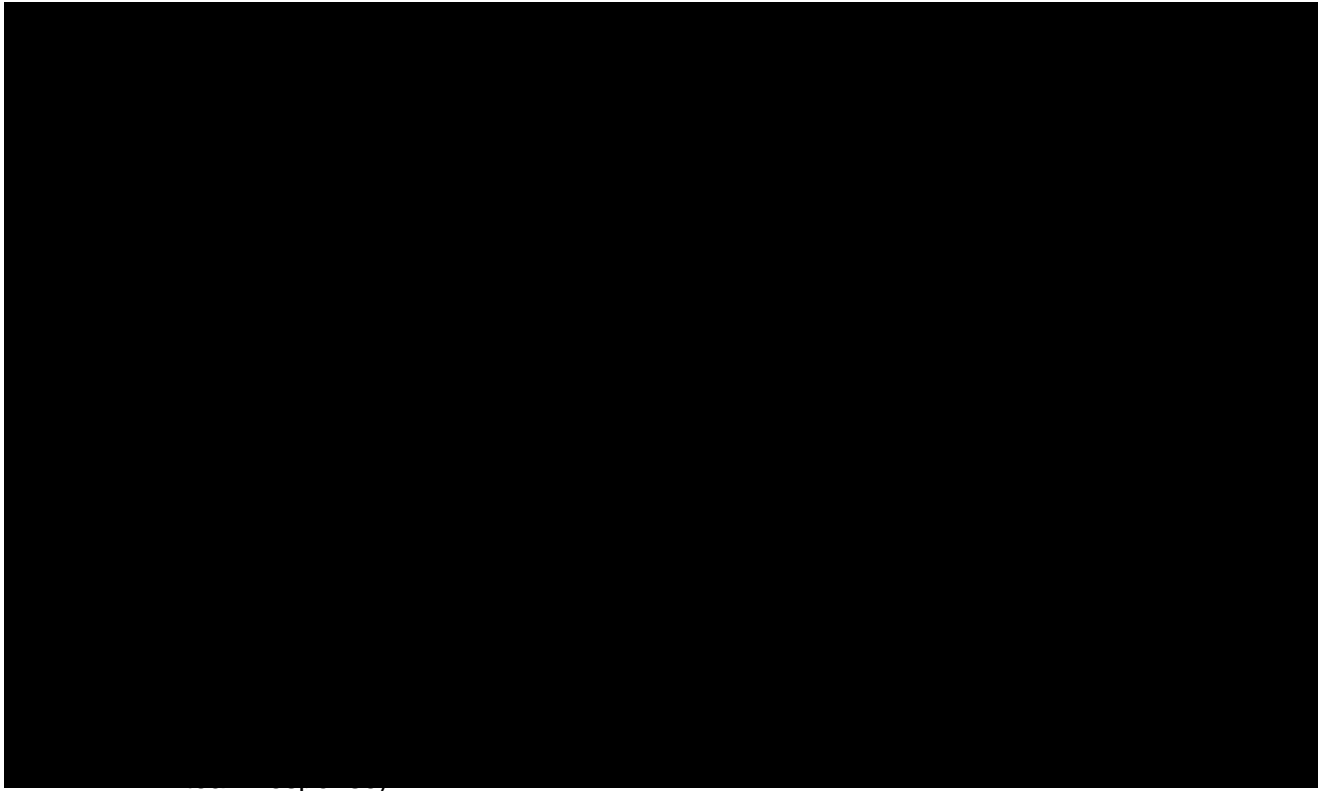
412.3 CONSIDERATIONS



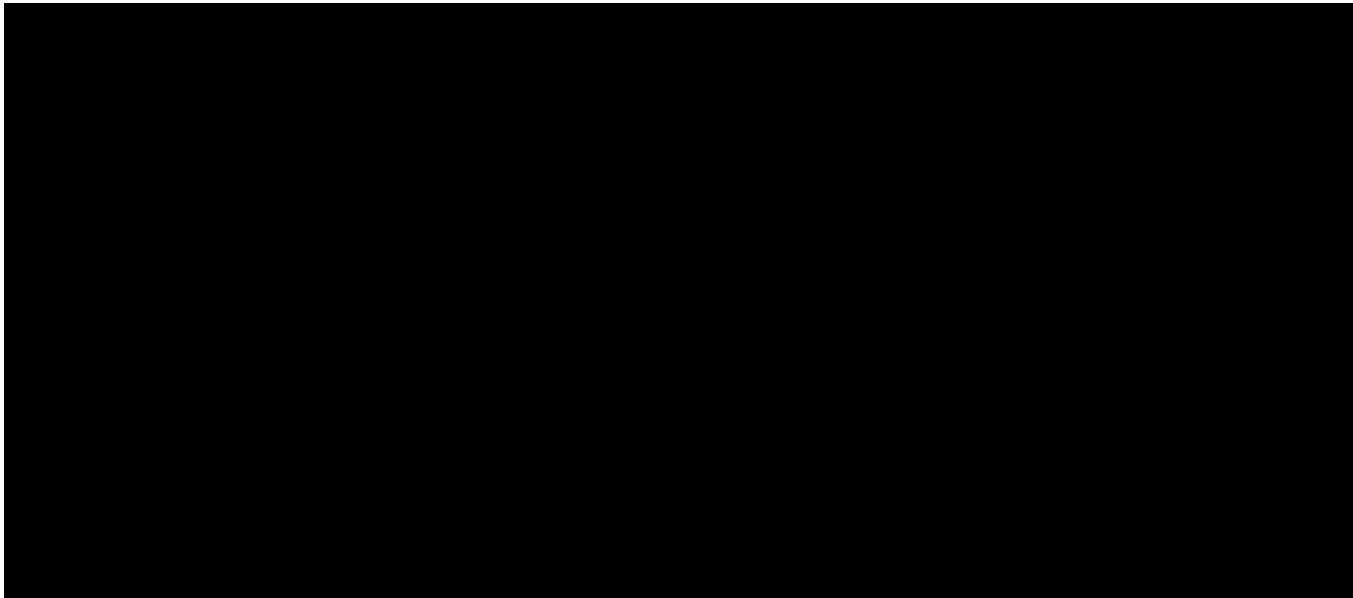
412.4 FIRST RESPONSE



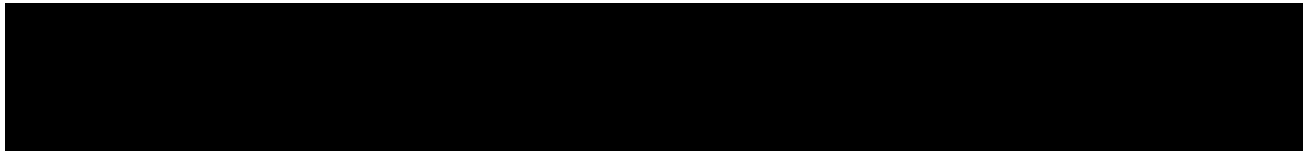
Rapid Response and Deployment



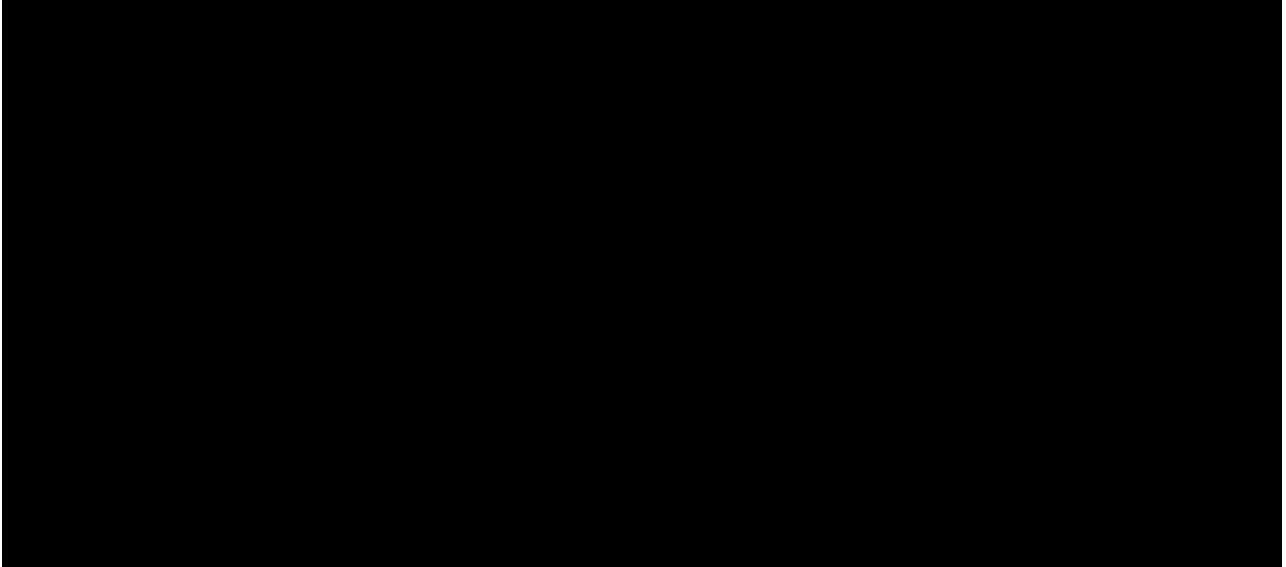
412.4.1 RAPID DEPLOYMENT ALL-CALL



412.5 PLANNING



Rapid Response and Deployment



412.6 TRAINING

The Training Unit should include rapid response to critical incidents in the training plan. This training should address:

- (a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Communications interoperability with other law enforcement and emergency service agencies.
- (c) Patrol first-response training.
- (d) First aid, including gunshot trauma.
- (e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).

Immigration Violations

413.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Rochester Police Department relating to immigration and interacting with federal immigration officials.

413.2 POLICY

It is the policy of the Rochester Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

413.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or Minnesota constitutions.

413.4 DETENTIONS

An officer should not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant.

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of federal immigration law may detain the person for a reasonable period of time in order to contact federal immigration officials to verify whether an immigration violation is a federal civil violation or a criminal violation. If the violation is a criminal violation, the officer may continue to detain the person for a reasonable period of time if requested by federal immigration officials (8 USC § 1357(g)(10)). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has committed a criminal immigration offense, he/she may continue the detention and may request a federal immigration official to respond to the location to take custody of the detained person (8 USC § 1357(g)(10)).

An officer shall forgo detentions made solely on the basis of a misdemeanor offense when time limitations, availability of personnel, issues of officer safety, communication capabilities, or the potential to obstruct a separate investigation outweigh the need for the detention.

Immigration Violations

An officer should notify a supervisor as soon as practicable whenever an individual is being detained for a criminal immigration violation.

413.4.1 SUPERVISOR RESPONSIBILITIES

When notified that an officer has detained an individual and established reasonable suspicion or probable cause to believe the person has violated a criminal immigration offense, the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Lawfully arrest the person for a criminal offense or pursuant to a judicial warrant (see the Law Enforcement Authority Policy).

413.5 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT

An officer should not notify federal immigration officials when booking arrestees at a county jail facility. Any required notification will be handled according to jail operation procedures. No individual who is otherwise ready to be released should continue to be detained solely for the purpose of notification.

413.6 FEDERAL REQUESTS FOR ASSISTANCE

Requests by federal immigration officials for assistance from this department should be directed to a supervisor. The Department may provide available support services, such as traffic control or peacekeeping efforts.

413.7 INFORMATION SHARING

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials
- (b) Maintaining such information in department records
- (c) Exchanging such information with any other federal, state, or local government entity

413.7.1 IMMIGRATION DETAINERS

No individual shall be held based solely on a federal immigration detainer under 8 CFR 287.7 unless the person has been charged with a federal crime or the detainer is accompanied by a warrant, affidavit of probable cause, or removal order. Notification to the federal authority issuing the detainer should be made prior to the release.

413.8 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

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Immigration Violations

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Administrative Services Manager assigned to oversee the handling of any related case. The Administrative Services Manager should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.
 - 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented and forwarded to the appropriate prosecutor.

413.9 TRAINING

The Training Unit should ensure officers receive training on this policy.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration offense has been committed.

Emergency Utility Service

414.1 PURPOSE AND SCOPE

The City Public Works Department has personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this department should be handled in the following manner.

414.1.1 BROKEN WATER LINES

The City's responsibility ends at the water meter. Any break or malfunction in the water system from the water meter to the citizen's residence or business is the customer's responsibility. Public Works can only turn off the valve at the meter. The citizen can normally accomplish this.

If a break occurs on the City side of a water meter, Rochester Public Utilities should be called as soon as practicable by Dispatch. Officers should assist with hazards associated with water line breaks as necessary.

414.1.2 ELECTRICAL LINES

When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. Rochester Public Utilities should be promptly notified, as appropriate.

414.1.3 RESERVOIRS, PUMPS AND WELLS

Public Works maintains the reservoirs and public water equipment, as well as several underpass and other street drainage pumps. In the event of flooding or equipment malfunctions, emergency personnel should be contacted as soon as possible.

414.1.4 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies will be maintained by Dispatch.

414.2 TRAFFIC SIGNAL MAINTENANCE

Upon observing a damaged or malfunctioning signal, officers should advise Dispatch of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency.

Aircraft Accidents

415.1 PURPOSE AND SCOPE

The purpose of this policy is to provide department members with guidelines for handling aircraft accidents.

This policy does not supersede, and is supplementary to, applicable portions of the Crime and Disaster Scene Integrity, Emergency Operations Plan and Hazardous Material Response policies.

415.1.1 DEFINITIONS

Definitions related to this policy include:

Aircraft - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

415.2 POLICY

It is the policy of the Rochester Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

415.3 ARRIVAL AT SCENE

Officers or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

- (a) Protect persons and property.
- (b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.
- (c) Preserve ground scars and marks made by the aircraft.
- (d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.
- (e) Maintain a record of persons who enter the accident site.
- (f) Consider implementation of an Incident Command System (ICS).

415.4 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the Southern Minnesota Regional Medical Examiner's Office and National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

Aircraft Accidents

415.5 NOTIFICATIONS

When an aircraft accident is reported to this department, the responding supervisor shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), and when applicable, the appropriate branch of the military.

Supervisors shall ensure other notifications are made once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft accident has occurred, it is generally necessary to notify the following:

- (a) Fire department
- (b) Appropriate airport tower
- (c) Emergency medical services (EMS)

415.6 CONTROLLING ACCESS AND SCENE AUTHORITY

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

- (a) FAA.
- (b) Fire department, EMS or other assisting law enforcement agencies.
- (c) Medical Examiner.
- (d) Air Carrier/Operators investigative teams with NTSB approval.
- (e) Appropriate branch of the military, when applicable.
- (f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB has primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft accident, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB or military representative arrives on-scene, the efforts of this department will shift to a support role for those agencies.

If NTSB or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene department supervisor should ensure the accident is still appropriately investigated and documented.

415.7 DANGEROUS MATERIALS

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

- (a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.
- (b) Pressure vessels, compressed gas bottles, accumulators and tires.

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Aircraft Accidents

- (c) Fluids, batteries, flares and igniters.
- (d) Evacuation chutes, ballistic parachute systems and composite materials.

415.8 DOCUMENTATION

All aircraft accidents occurring within the City of Rochester shall be documented. At a minimum the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of RPD members deployed to assist; other City resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

415.8.1 WRECKAGE

When reasonably safe, members should:

- (a) Obtain the aircraft registration number (N number) and note the type of aircraft.
- (b) Attempt to ascertain the number of casualties.
- (c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.
 - 1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).
- (d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.
- (e) Acquire copies of any recordings from security cameras that may have captured the incident.

415.8.2 WITNESSES

Members tasked with contacting witnesses should obtain:

- (a) The location of the witness at the time of his/her observation relative to the accident site.
- (b) A detailed description of what was observed or heard.
- (c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.
- (d) The names of all persons reporting the accident, even if not yet interviewed.
- (e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

415.9 MEDIA RELATIONS

The designated PIO should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the surrounding community. Any

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release of information regarding details of the accident itself should be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The PIO should coordinate with other involved entities before the release of information.

Field Training Program

416.1 PURPOSE AND SCOPE

The Field Training Program is intended to provide a standardized program to facilitate the officer's transition from the academic setting to the actual performance of general law enforcement duties of the Rochester Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training Program that is designed to prepare the new officer to perform in a patrol assignment and to acquire all of the skills needed to operate in a safe, productive and professional manner.

416.2 TRAINING OFFICER - SELECTION AND TRAINING

The Training Officer (TO) is an experienced officer skilled in training and evaluating entry-level and lateral police officers in the application of their previously acquired knowledge and skills.

416.2.1 SELECTION PROCESS

TOs will be selected based on the following requirements:

- (a) Desire to be a TO.
- (b) Minimum of two years of patrol experience, one of which shall be with this department.
- (c) Demonstrated ability as a positive role model.
- (d) Participate and pass an internal oral interview selection process.
- (e) Evaluation by supervisors and current TOs.
- (f) Possess a TO certificate of completion from a department approved course.

416.2.2 CONTINUED TRAINING

All TOs must complete a department approved TO update course every three years while assigned to the position.

416.3 TRAINING OFFICER PROGRAM SUPERVISOR

The Training Unit supervisors will oversee the TO Program.

The responsibilities of the TO Program Supervisor include the following:

- (a) Training and Certification of training officers.
- (b) Recommendation of trainee and TO assignments.
- (c) Evaluation of trainee progress through phases.
- (d) Evaluation of documentation to ensure consistency.
- (e) Intervention and recommendation when training challenges arise.
- (f) TO update meetings.

Field Training Program

416.4 TRAINEE DEFINED

Trainee - Any entry level or lateral police officer newly appointed to the Rochester Police Department who possesses a Minnesota POST license or is eligible to be licensed.

416.5 REQUIRED TRAINING

Entry level officers shall be required to successfully complete the Field Training Program.

The training period for lateral officers may be modified depending on the trainee's demonstrated performance and level of experience.

The required training will take place on at least two different shifts and with at least two different TOs if reasonably possible.

416.5.1 FIELD TRAINING PROGRAM

Each new officer will receive training related to Field Training Program expectations at the beginning of his/her Primary Training. This training will outline the competencies, skills and core values necessary to properly function as an officer with the Rochester Police Department. The officer shall become knowledgeable of the subject matter as outlined.

The Field Training Program will specifically cover those policies, procedures, rules and regulations enacted by the Rochester Police Department.

416.6 EVALUATIONS

Evaluations are an important component of the training process and shall be completed as outlined below.

416.6.1 TRAINING OFFICER

The TO will be responsible for the following:

- (a) Completing and submitting a written Call Evaluation Reports (CERs) on the performance of the assigned trainee.
- (b) Reviewing the Daily CERs with the trainee each day.
- (c) Completing a detailed end-of-phase performance evaluation on the assigned trainee at the end of each phase of training.
- (d) Signing off all completed competencies contained in the Field Training Program, noting the method of learning and evaluating the performance of the assigned trainee.

416.6.2 FIELD TRAINING SUPERVISOR

The designated Field Training Supervisor shall review weekly CERs and evaluate progress meeting weekly with the trainee and training officer.

416.6.3 FIELD TRAINING ADMINISTRATOR

The patrol lieutenant assigned as the shift Field Training Administrator will review the Trainee's Performance and make recommendations for phase advancement.

Field Training Program

The Field Training Administrator will hold periodic meetings with the shift TOs and immediate supervisors to ensure understanding and compliance with the requirements of the Field Training Program.

416.7 DOCUMENTATION

All documentation of the Field Training Program will be retained in the officer's training folder and will consist of the following:

- (a) Call Evaluation Reports.
- (b) Sergeant's Weekly Reports.
- (c) Trainee Weekly Reports.
- (d) End of phase evaluations.
- (e) Status Reports.

Obtaining Air Support

417.1 PURPOSE AND SCOPE

The use of air support can be invaluable in certain situations. This policy specifies potential situations where the use of air support may be requested and the responsibilities for making a request.

417.2 REQUEST FOR AIR SUPPORT ASSISTANCE

If a supervisor or officer in charge of an incident determines that the use of air support would be beneficial, a request to obtain air support assistance may be made.

417.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for air support, the on scene supervisor or designee will contact the Minnesota State Patrol to determine if air support is available. The requesting dispatcher will relay specific details of the incident prompting the request.

417.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Law enforcement air support may be requested under any of the following conditions:

- (a) When the aircraft is activated under existing mutual aid agreements.
- (b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the aircraft may reduce such hazard.
- (c) When the use of aircraft will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community.
- (d) When an aircraft is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard.
- (e) Vehicle pursuits (Minn. Stat. § 626.8458).
- (f) When the on scene supervisor determines a reasonable need exists.

While it is recognized that the availability of air support will generally provide valuable assistance to ground personnel, the presence of air support will rarely replace the need for officers on the ground.

Contacts and Temporary Detentions

418.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

418.1.1 DEFINITIONS

Definitions related to this policy include:

Consensual encounter - When an officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

Field interview (FI) - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the officer's suspicions.

Field photographs - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Video Recorder (MVR) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-down search - A type of search used by officers in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

Reasonable suspicion - When, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

Temporary detention - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person's freedom of movement.

418.2 FIELD INTERVIEWS

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Rochester Police Department to strengthen community involvement, community awareness, and problem identification.

Contacts and Temporary Detentions

418.2.1 INITIATING A FIELD INTERVIEW

When initiating the stop, the officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act.
- (b) Actions suggesting that he/she is engaged in a criminal activity.
- (c) Presence in an area at an inappropriate hour of the day or night.
- (d) Presence in a particular area is suspicious.
- (e) Carrying of suspicious objects or items.
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon.
- (g) Location in proximate time and place to an alleged crime.
- (h) Physical description or clothing worn that matches a suspect in a recent crime.
- (i) Prior criminal record or involvement in criminal activity as known by the officer.

418.3 PAT-DOWN SEARCHES

A pat-down search of a detained subject may be conducted whenever an officer reasonably believes that the person may possess an object that can be utilized as a weapon or whenever the officer has a fear for his/her own safety or the safety of others based upon reasonable suspicion. The purpose of this limited search is not to discover evidence of a crime, but to allow the to pursue the investigation without fear of violence.

Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

418.4 FIELD PHOTOGRAPHS

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer shall carefully consider, among other things, the factors listed below.

418.4.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent.

418.4.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal

Contacts and Temporary Detentions

conduct. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

Related reports shall be submitted to a supervisor and retained in compliance with this policy.

418.4.3 DISPOSITION OF PHOTOGRAPHS

The circumstances of photographing detained individuals shall be documented in a police report. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an active investigation where a case number has been issued, the photograph shall be forwarded to the specialized unit conducting the investigation, such as CIU or the Intel Unit, and document the circumstances in consultation with the specialty unit supervisor.

When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be stored electronically and retained in accordance with retention schedules.

418.4.4 SUPERVISOR RESPONSIBILITIES

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken. Field photographs shall be classified as law enforcement data under Minn. Stat. § 13.82, and shall be collected, maintained, and disseminated consistent with the Minnesota Government Data Practices Act. Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

418.5 POLICY

The Rochester Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete an FI, pat-down search, or field photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

418.6 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

- (a) Identifying all persons present at the scene and in the immediate area.

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1. When feasible, a recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.
 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by department members.
1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if reasonably available, prior to transport.

Criminal Organizations

419.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Rochester Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

419.1.1 DEFINITIONS

Definitions related to this policy include:

Criminal intelligence system - Any record system that receives, stores, exchanges or disseminates information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates. This does not include temporary information files.

419.2 POLICY

The Rochester Police Department recognizes that certain criminal activities often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this department to collect and share relevant information while respecting the privacy and legal rights of the public.

419.3 CRIMINAL INTELLIGENCE SYSTEMS

No department member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for department use.

Any criminal intelligence system approved for department use should be compliant with 28 CFR 23.20.

The Intelligence Unit will be responsible for maintaining each criminal intelligence system that has been approved for department use. The supervisor or the authorized designee should ensure the following:

- (a) Members using any such system are appropriately selected and trained.
- (b) Use of every criminal intelligence system is appropriately reviewed and audited.
- (c) Any system security issues are reasonably addressed.

419.3.1 SYSTEM ENTRIES

It is the Intelligence Unit's responsibility to approve the entry of any information from a report, FI, photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, such as open or public

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source documents or documents that are on file at another agency, the designated supervisor should ensure source documentation is maintained.

419.3.2 ENTRIES INTO CRIMINAL GANG INVESTIGATIVE DATA SYSTEM

It is the Intelligence Unit's responsibility to approve the entry of any information into the criminal gang investigative data system maintained by the Minnesota Bureau of Criminal Apprehension and authorized by Minn. Stat. § 299C.091. Entries may be made if the individual is 14 years of age or older and the Department documents the following:

- (a) The Department has reasonable suspicion to believe that the individual has met at least three of the criteria or identifying characteristics of gang membership, developed by the Violent Crime Coordinating Council.
- (b) The individual has been convicted of a gross misdemeanor or felony, or has been adjudicated or has a stayed adjudication as a juvenile for an offense that would be a gross misdemeanor or felony if committed by an adult.

419.4 TEMPORARY INFORMATION FILE

No member may create or keep files on individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the department-approved CIS only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of CIS entries.

419.4.1 FILE CONTENTS

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

419.4.2 FILE REVIEW AND PURGING

The contents of a temporary information file shall not be retained longer than one year. At the end of one year, the contents must be purged or entered in an authorized criminal intelligence system, as applicable.

The Intelligence Unit shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the supervisor.

419.5 INFORMATION RECOGNITION

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

- (a) Gang indicia associated with a person or residence.

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- (b) Information related to a drug-trafficking operation.
- (c) Vandalism indicating an animus for a particular group.
- (d) Information related to an illegal gambling operation.

419.6 RELEASE OF INFORMATION

Department members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

Information from a temporary information file may only be furnished to department members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

419.7 CRIMINAL STREET GANGS

The Intelligence Unit supervisor should ensure that there are an appropriate number of department members who can:

- (a) Testify as experts on matters related to criminal street gangs, and maintain an above average familiarity with identification of criminal street gangs, criminal street gang members and patterns of criminal gang activity.
- (b) Coordinate with other agencies in the region regarding criminal street gang crimes and information.
- (c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.

419.8 TRAINING

The Intelligence Unit should provide training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

- (a) The protection of civil liberties.
- (b) Participation in a multi-agency criminal intelligence system.
- (c) Submission of information into a multi-agency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.

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Criminal Organizations

- (d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.
- (e) The review and purging of temporary information files.

Patrol Supervision

420.1 PURPOSE AND SCOPE

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with Department policies, procedures, practices, functions and objectives. To accomplish this goal, a Lieutenant heads Patrol Teams and works in coordination with shift Sergeants.

Mobile Video Recorders

421.1 PURPOSE AND SCOPE

The Rochester Police Department has equipped marked patrol cars with Mobile Video Recording (MVR) systems to provide records of events and assist officers in the performance of their duties. This policy provides guidance on the use of these systems.

421.1.1 DEFINITIONS

Definitions related to this policy include:

Activate - Any process that causes the MVR system to transmit or store video or audio data in an active mode.

In-car camera system and Mobile Video Recorder (MVR) - Synonymous terms - that refer to any system that captures audio and video signals that is capable of installation in a vehicle and that includes at minimum, a camera, microphone, recorder and monitor.

Law Enforcement Operator (LEO) - Primarily a licensed peace officer but on occasion may be a non-licensed representative of the Department who is authorized and assigned to operate MVR-equipped vehicles to the extent consistent with Minn. Stat. § 169.98.

MGDPA - The Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13.

MVR technician - Personnel certified or trained in the operational use and repair of MVRs, duplicating methods, storage and retrieval methods and procedures, and who possess a working knowledge of video forensics and evidentiary procedures.

Recorded media - Audio-video signals recorded or digitally stored on a storage device or portable media.

421.2 POLICY

It is the goal of the Rochester Police Department to use mobile video recorder (MVR) technology to more effectively fulfill the department's mission and to ensure these systems are used securely and efficiently.

421.3 OFFICER RESPONSIBILITIES

Prior to going into service each officer will properly equip him/herself to record audio and video in the field. At the end of the shift each officer will follow the established procedures for providing to the Department any recordings or used media and any other related equipment. Each officer should have adequate recording media for the entire duty assignment. In the event an officer works at a remote location and reports in only periodically additional recording media may be issued. Only Rochester Police Department identified media is to be used.

At the start of each shift, officers should test the MVR system operation in accordance with manufacturer specifications and department operating procedures and training.

Mobile Video Recorders

If the system is malfunctioning, the officer shall take the vehicle out of service unless a supervisor requests the vehicle remain in service.

421.4 ACTIVATION OF THE MVR

The MVR system is designed to turn on whenever the unit's emergency lights are activated. The system remains on until it is turned off manually. Audio should be activated by the officer whenever appropriate. When audio is being recorded the video will also record.

Operators are encouraged to narrate events, when applicable, as to provide the best documentation for pretrial and courtroom presentation.

421.4.1 REQUIRED ACTIVATION OF THE MVR

This policy is not intended to describe every possible situation in which the MVR system may be used, although there are many situations where its use is appropriate. An officer may activate the system any time the officer believes its use would be appropriate and/or valuable to document an incident.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However the audio portion can be valuable evidence and is subject to the same activation requirements as the MVR. The MVR system should be activated in any of the following situations:

- (a) All field contacts involving actual or potential criminal conduct within video or audio range:
 - 1. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
 - 2. Priority responses
 - 3. Vehicle pursuits
 - 4. Suspicious vehicles
 - 5. Arrests
 - 6. Vehicle searches
 - 7. Physical or verbal confrontations or use of force
 - 8. Prisoner transports
 - 9. Non-custody transports
 - 10. Pedestrian checks
 - 11. DWI investigations including field sobriety tests
 - 12. Consensual encounters
 - 13. Crimes in progress
 - 14. Responding to an in-progress call
 - 15. Medical incidents attended to by members of the Department

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- (b) All self-initiated activity in which an officer would normally notify Dispatch
- (c) Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect:
 - 1. Family violence calls
 - 2. Disturbance of peace calls
 - 3. Offenses involving violence or weapons
- (d) Any other contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording
- (e) Any other circumstance where the officer believes that a recording of an incident would be appropriate

421.4.2 CESSATION OF RECORDING

Once activated the MVR system should remain on until the incident has concluded. For purposes of this section conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and all witnesses and victims have been interviewed. Recording may cease if an officer is simply waiting for a tow truck or a family member to arrive, or in other similar situations.

421.4.3 WHEN ACTIVATION IS NOT REQUIRED

Activation of the MVR system is not required when exchanging information with other officers or during breaks, lunch periods, when not in service or actively on patrol.

No member of this department may surreptitiously use City equipment to record a conversation of any other member of this department except with a court order or when lawfully authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation.

421.4.4 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if vehicles with non-functioning MVR systems should be placed into service.

At reasonable intervals, supervisors should validate that officers under their supervision are utilizing the departments MVR according to training and this policy.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, peace officer-involved shootings, department-involved collisions), a supervisor shall respond to the scene and ensure that the appropriate supervisor, MVR technician or crime scene investigator properly retrieves the recorded media. The media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media. Copies may be distributed to investigators as appropriate to the investigation.

Mobile Video Recorders

421.5 REVIEW OF MVR RECORDINGS

All recording media, recorded images and audio recordings are the property of the agency and subject to the provisions of the MGDPA. Dissemination outside of the agency is strictly prohibited except to the extent permitted or required under the MGDPA, Peace Officer Disciplinary Procedures Act or other applicable law.

To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the department MVR technician or forensic media staff. When reasonably possible a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

Recordings may be reviewed in any of the following situations.

- (a) For use when preparing reports or statements
- (b) By a supervisor investigating a specific act of officer conduct
- (c) By a supervisor to assess officer performance
- (d) To assess proper functioning of MVR systems
- (e) By department investigators, after approval of a supervisor, who are participating in an official investigation such as a personnel complaint, administrative inquiry or a criminal investigation
- (f) By department personnel who request to review recordings
- (g) By an officer who is captured on or referenced in the video or audio data and reviews and uses the data for any purpose relating to his/her employment
- (h) By court personnel through proper process or with permission of the Chief of Police or the authorized designee
- (i) By the media through proper process or with an MGDPA request (Minn. Stat. § 13.01 et seq.)
- (j) To assess possible training value
- (k) Recordings may be shown for staff or public safety training purposes. If an involved officer objects to showing a recording, his/her objection will be submitted to the staff to determine if the training value outweighs the officer's objection

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

421.6 DOCUMENTING MVR USE

If any incident is recorded with either the video or audio system, the existence of that recording shall be documented in the officer's report or within call notes if the recording relates to a traffic offense.

Mobile Video Recorders

421.7 MVR RECORDINGS AS EVIDENCE

Officers who reasonably believe that an MVR recording is likely to contain evidence relevant to a criminal offense, potential claim against the officer or against the Rochester Police Department should indicate this in an appropriate report. Officers should ensure relevant recordings are preserved.

421.8 SYSTEM OPERATIONAL STANDARDS

- (a) MVR system vehicle installations should be based on officer safety requirements and vehicle and device manufacturer recommendations.
- (b) The MVR system should be configured to minimally record for 30 seconds prior to an event.
- (c) The MVR system may not be configured to record audio data occurring prior to activation.
- (d) LEOs using digital transmitters that are individually synchronized to their individual MVR shall activate both audio and video recordings when responding in a support capacity in order to obtain additional perspectives of the incident scene.
- (e) With the exception of law enforcement radios or other emergency equipment other electronic devices should not be used within the law enforcement vehicle in order to intentionally interfere with the capability of the MVR system to record audio data.
- (f) LEOs shall not erase, alter, reuse, modify or tamper with MVR recordings. Only a MVR system administrator may erase and reissue previously recorded recordings and may only do so pursuant to the provisions of this policy.

421.9 MVR TECHNICIAN RESPONSIBILITIES

The MVR technician is responsible for:

- (a) Ordering, issuing, retrieving, storing, erasing and duplicating of all recorded media.
- (b) Collecting all completed media for oversight and verification of wireless downloaded media. Once collected the MVR technician:
 - 1. Ensures it is stored in a secured location with authorized controlled access.
 - 2. Makes appropriate entries in the chain of custody log.
- (c) Erasing of media:
 - 1. Pursuant to a court order.
 - 2. In accordance with established records retention policies, including reissuing all other media deemed to be of no evidentiary value.
- (d)
 - 1. Maintaining a record of issued media.
- (e) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the records retention schedule.

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Mobile Video Recorders

421.10 TRAINING

Users of the MVR systems and supervisors shall successfully complete an approved course of instruction prior to being deployed with MVR systems in operational settings.

Mobile Computer Terminal Use

422.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use and application of the Mobile Computer Terminal (MCT) system in order to ensure appropriate access to confidential records from local, state and national law enforcement databases, and to ensure effective electronic communications between department members and Dispatch.

422.2 POLICY

Rochester Police Department members using the MCT shall comply with all appropriate federal and state rules and regulations and shall use the MCT in a professional manner, in accordance with this policy.

422.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

422.4 RESTRICTED ACCESS AND USE

MCT use is subject to the Information Technology Use and Protected Information policies.

Members shall not access the MCT system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MCT by another member to their supervisors.

Use of the MCT system to access law enforcement databases or transmit messages is restricted to official activities, business-related tasks and communications that are directly related to the business, administration or practices of the Department. In the event that a member has questions about sending a particular message or accessing a particular database, the member should seek prior approval from his/her supervisor.

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive, harassing or any other inappropriate messages on the MCT system is prohibited and may result in discipline.

It is a violation of this policy to transmit a message or access a law enforcement database under another member's name or to use the password of another member to log in to the MCT system unless directed to do so by a supervisor. Members are required to log off the MCT or secure the MCT when it is unattended. This added security measure will minimize the potential for unauthorized access or misuse.

422.4.1 USE WHILE DRIVING

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MCT use is discouraged while driving and restricted to duty-related inquiries or response necessary for the performance of duties. In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

422.5 DOCUMENTATION OF ACTIVITY

Except as otherwise directed by the Shift Commander or other department-established protocol, all calls for service assigned by a dispatcher should be communicated by voice over the police radio and electronically via the MCT unless security or confidentiality prevents such broadcasting.

MCT and voice transmissions are used to document the member's daily activity. To ensure accuracy:

- (a) All contacts or activity shall be documented at the time of the contact.
- (b) Whenever the activity or contact is initiated by voice, it should be documented by a dispatcher.

422.5.1 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted over the police radio or through the MCT system.

Members responding to in-progress calls should advise changes in status over the radio to assist other members responding to the same incident. Other changes in status can be made on the MCT while the vehicle is not in motion.

422.5.2 EMERGENCY ACTIVATION

If there is an emergency activation and the member does not respond to a request for confirmation of the need for emergency assistance or confirms the need, available resources will be sent to assist in locating the member. If the location is known, the nearest available officer should respond in accordance with the Officer Response to Calls Policy.

Members should ensure a field supervisor is notified of the incident without delay.

Officers not responding to the emergency shall refrain from transmitting on the police radio until a no-further-assistance broadcast is made or if they are also handling an emergency.

422.6 EQUIPMENT CONSIDERATIONS

422.6.1 MALFUNCTIONING MCT

Whenever possible, members will not use vehicles with malfunctioning MCTs. Whenever members must drive a vehicle in which the MCT is not working, they shall notify Dispatch. It shall be the responsibility of the dispatcher to document all information that will then be transmitted verbally over the police radio.

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Mobile Computer Terminal Use

422.6.2 BOMB CALLS



Portable Audio/Video Recorders

423.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties (Minn. Stat. § 626.8473). Portable audio/video recording devices include all recording systems whether body-worn, handheld or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Rochester Police Department facility, undercover operations, wiretaps or eavesdropping (concealed listening devices) unless captured by a portable recording system.

423.1.1 DEFINITIONS

Definitions related to this policy include:

Portable recording system - A device worn by a member that is capable of both video and audio recording of the member's activities and interactions with others, or collecting digital multimedia evidence as part of an investigation and as provided in Minn. Stat. § 13.825.

423.2 POLICY

The Rochester Police Department may provide members with access to portable recorders for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

423.3 COORDINATOR

The Chief of Police or the authorized designee should designate a coordinator responsible for (Minn. Stat. § 626.8473; Minn. Stat. § 13.825):

- (a) Establishing procedures for the security, storage and maintenance of data and recordings.
 1. The coordinator should work with the Custodian of Records and the member assigned to coordinate the use, access and release of protected information to ensure that procedures comply with requirements of the Minnesota Government Data Practices Act (MGDPA) and other applicable laws (Minn. Stat. § 13.01 et seq.) (See the Protected Information and the Records Maintenance and Release policies).
- (b) Establishing procedures for accessing data and recordings.
 1. These procedures should include the process to obtain written authorization for access to non-public data by RPD members and members of other governmental entities and agencies.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging or marking events.

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Portable Audio/Video Recorders

- (e) Establishing an inventory of portable recorders including:
 1. Total number of devices owned or maintained by the Rochester Police Department.
 2. Daily record of the total number deployed and used by members and, if applicable, the precinct or district in which the devices were used.
 3. Total amount of recorded audio and video data collected by the devices and maintained by the Rochester Police Department.
- (f) Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9.
- (g) Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Rochester Police Department that expands the type or scope of surveillance capabilities of the department's portable recorders.

423.4 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time or while acting in an official capacity of this department, regardless of ownership of the device, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

423.5 MEMBER RESPONSIBILITIES

Officers who have been provided a department-issued device shall operate and use them consistent with this policy. Prior to going into service, each officer whose job duties involve enforcement will be responsible for making sure that he/she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order (Minn. Stat. § 13.825). If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed officers should wear the recorder in a conspicuous manner (Minn. Stat. § 626.8473).

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording (Minn. Stat. § 626.8473). Members should include the circumstances and reason for deactivation.

423.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER

This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate.

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Portable Audio/Video Recorders

General guidelines for activation and recording include:

- (a) Officers shall activate their recorder when anticipating that they will be involved in, become involved in, or witness other officers of this agency involved in a pursuit, Terry stop of a motorist or pedestrian, search, seizure, arrest, use of force, adversarial contact, and during other activities likely to yield information having evidentiary value. However, officers need not activate their device when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified under 423.5.
- (b) Officers shall use their device in combination with their squad based mobile recorder to record the transportation and physical transfer of persons in custody to hospitals, detox facilities, mental health care facilities, juvenile detention centers, and jails.
- (c) Plainclothes/undercover officers are not required to utilize their recorder if doing so would compromise their safety and/or the effectiveness of their assignment. In the event that undercover officers are recorded incidentally by other employees, it is not permissible to make the data of the undercover officer public.
- (d) Officers have discretion to record or not record general citizen contacts.
- (e) Officers have no affirmative duty to inform people that a device is being operated or that the individuals are being recorded.
- (f) Officers shall not intentionally block the device's audio or visual recording functionality to defeat the purposes of this policy.
- (g) Notwithstanding any other provision in this policy, officers shall not use their device to record other agency personnel during non-enforcement related activities, such as during pre- and post-shift time in locker rooms, during meal breaks, or during other private conversations, unless recording is authorized as part of an administrative or criminal investigation.
- (h) Officers may use their device to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value, unless such recording is otherwise prohibited.
- (i) Recorded statements from persons believed to be victims, suspects, or witnesses of crimes may be taken when considering the needs of the investigation.
- (j) Officers should not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. When responding to an apparent mental health crisis or event, devices shall be activated.

423.6.1 CESSATION OF RECORDING

Once activated, the device should continue recording until the conclusion of the incident or encounter, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. If the recording is discontinued while an investigation, response, or incident is ongoing, officers shall document the reasons for the interruption in recording. If circumstances change, officers shall reactivate their device as required by this policy to capture information having evidentiary value.

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Law Enforcement operators may mute or deactivate their device while deliberating with other law enforcement staff and not otherwise interacting with members of the public.

423.6.2 SURREPTITIOUS RECORDINGS

Minnesota law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Minn. Stat. § 626A.02).

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

Members shall not surreptitiously record another department member without a court order unless authorized by the Chief of Police or the authorized designee.

423.6.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

423.7 PROHIBITED USE OF AUDIO/VIDEO RECORDERS

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of their Captain. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

423.8 RETENTION OF RECORDINGS

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 90 days.

If an individual captured in a recording submits a written request, the recording may be retained for additional time period. The coordinator should be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825).

Portable Audio/Video Recorders

423.8.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

423.8.2 ACCESS TO RECORDINGS

Except as provided by Minn. Stat. § 13.825, Subd. 2, audio/video recordings are considered private or nonpublic data.

Any person captured in a recording may have access to the recording. If the individual requests a copy of the recording and does not have the consent of other non-law enforcement individuals captured on the recording, the identity of those individuals must be blurred or obscured sufficiently to render the subject unidentifiable prior to release. The identity of on-duty peace officers may not be obscured unless their identity is protected under Minn. Stat. § 13.82, Subd. 17.

Transcripts derived from a portable recording system are subject to the provisions of Minn. Stat. § 13.82.

423.9 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark the recordings in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an under-cover officer or confidential informant.
- (g) The recording or portions of the recording may be protected under the Minnesota Data Practices Act.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should appropriately preserve the recording and notify a supervisor if applicable.

423.10 REVIEW OF RECORDED MEDIA FILES

Officers may access and view stored recordings only when there is a business need for doing so. Officers may review video recordings of a typical law enforcement incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about an incident. The exception will be officer involved shootings or other critical incidents (See the Officer-Involved

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Portable Audio/Video Recorders

Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report. Agency personnel are prohibited from accessing recording data for non-business reasons.

Supervisors or administrative staff members are authorized to review relevant recordings for the purpose of training, critique, early intervention inquiries, civil claims, administrative inquiry, use of force review, incident review, crash review, or other articulable reason.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) In compliance with the Minnesota Data Practices Act request, if permitted or required by the Act, including pursuant to Minn. Stat. § 13.82, Subd. 15, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (See the Records Maintenance and Release Policy). Recordings that are clearly offensive to common sensibilities should not be publicly released unless disclosure is required by law or order of the court (Minn. Stat. § 13.82, Subd. 7; Minn. Stat. § 13.825, Subd. 2).

423.11 ACCOUNTABILITY

Any member who accesses or releases recordings without authorization may be subject to discipline (See the Standards of Conduct and the Protected Information policies) (Minn. Stat. § 626.8473).

Public Recording of Law Enforcement Activity

424.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

424.2 POLICY

The Rochester Police Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Officers should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

424.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

- (a) Recordings may be made from any public place or any private property where the individual has the legal right to be present.
- (b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
 - 1. Tampering with a witness or suspect.
 - 2. Inciting others to violate the law.
 - 3. Being so close to the activity as to present a clear safety hazard to the officers.
 - 4. Being so close to the activity as to interfere with an officer's effective communication with a suspect or witness.
- (c) The individual may not present an undue safety risk to the officers, him/herself or others.

424.4 OFFICER RESPONSE

Officers should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or

Public Recording of Law Enforcement Activity

behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

424.5 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of department members, such as how and where to file a complaint.

424.6 SEIZING RECORDINGS AS EVIDENCE

Officers should not seize recording devices or media unless (42 USC § 2000aa):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
 - 1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
 - 1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
 - 2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the

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evidence is to transmit a copy of the recording from a device to a department-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

Bicycle Patrol Unit

425.1 PURPOSE AND SCOPE

The Rochester Police Department has established the Bicycle Patrol Unit (BPU) for the purpose of enhancing patrol efforts and community engagement within Rochester. Bicycle patrol has been shown to be an effective way to increase officer visibility in congested areas. A bicycle's quiet operation can provide a tactical approach to crimes in progress. The purpose of this policy is to provide guidelines for the safe and effective operation of the patrol bicycle.

425.2 POLICY

Patrol bicycles may be used for regular patrol duty, traffic enforcement, parking control or special events. The use of the patrol bicycle will emphasize its mobility and visibility to the community.

Bicycles may be deployed to any area at all hours of the day or night, according to Department needs and as staffing levels allow.

Requests for specific deployment of bicycle patrol officers shall be coordinated through the Community Action Team (CAT) supervisor.

425.3 SELECTION OF PERSONNEL

Licensed Police Officers and Community Service Officers who are off probation are eligible for bicycle patrol. Prior to training approval, personnel will be evaluated on their:

- (a) Recognized competence and ability as evidenced by performance.
- (b) Special skills or training as it pertains to the assignment.
- (c) Good physical condition.
- (d) Willingness to perform duties using the bicycle as a mode of transportation.

425.3.1 BICYCLE PATROL UNIT COORDINATOR

The BPU Coordinator will be selected by the Captain of Community Services or designee.

The BPU Coordinator shall have responsibility for the following:

- (a) Organizing bicycle patrol training.
- (b) Inspecting and maintaining inventory of patrol bicycles and program equipment.
- (c) Scheduling maintenance and repairs.
- (d) Coordinating activities between Patrol and the Community Services Division.
- (e) Inspection and documentation no less than annually that bicycles not in active service are in a serviceable condition.
- (f) Other activities as required to maintain the efficient operation of the unit.

Bicycle Patrol Unit

425.4 TRAINING

Participants in the program must complete an initial Department-approved bicycle-training course after acceptance into the program. Thereafter, bicycle patrol officers should receive in-service training to improve skills and refresh safety, health and operational procedures. The initial training shall minimally include the following:

- Bicycle patrol strategies
- Bicycle safety and accident prevention
- Operational tactics using bicycles

425.5 UNIFORMS AND EQUIPMENT

Officers shall wear the department-approved uniform and safety equipment while operating the department bicycle. Safety equipment may include department-approved helmet, riding gloves, protective eyewear and approved footwear.

Bicycle patrol officers shall carry the same equipment on the bicycle patrol duty belt as they would on a regular patrol assignment.

425.6 CARE AND USE OF PATROL BICYCLES

Officers will be assigned a specially marked and equipped patrol bicycle.

Bicycles utilized for uniformed bicycle patrol shall be primarily blue with a "Police" decal affixed to each side of the crossbar or the bike's saddlebag. Every such bicycle shall be equipped with front and rear reflectors, front and rear lamps and a siren/horn. Lamps and reflectors must meet legal requirements.

Each bicycle shall be equipped with a steady or flashing blue warning light that is visible from the front, sides or rear of the bicycle.

Bicycle officers shall conduct an inspection of the bicycle and equipment prior to use to ensure proper working order of the equipment. Officers are responsible for the routine care and maintenance of their equipment (e.g., tire pressure, chain lubrication, overall cleaning).

Each bicycle will have scheduled maintenance, to be performed by a Department-approved repair shop/technician.

At the end of a bicycle assignment, the bicycle shall be returned clean and ready for the next tour of duty. Bicycles in need of repair shall be reported to the Bike Coordinator and removed from service.

Officers shall not modify the patrol bicycle, remove, modify or add components except with the express approval of the bicycle supervisor or in the event of an emergency.

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Vehicle bicycle racks are available should the officer need to transport the patrol bicycle. Due to possible component damage, transportation of the patrol bicycle in a trunk or on a patrol car push-bumper is discouraged.

Bicycles shall be properly secured when not in the officer's immediate presence.

425.7 OFFICER RESPONSIBILITIES

Officers are exempt from operating the bicycle in compliance with Minnesota law while performing their duties (Minn. Stat. § 169.222 Subd. 11). Officers may operate the bicycle without lighting equipment during hours of darkness, when such operation reasonably appears necessary for officer safety and tactical considerations. Officers must use caution and care when operating the bicycle.

Foot Pursuits

426.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

426.2 POLICY

It is the policy of this department that officers, when deciding to initiate or continue a foot pursuit, must continuously balance the objective of apprehending the suspect with the risk and potential for injury to department members, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances.

426.3 DECISION TO PURSUE

The safety of department members and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department members.

Officers may be justified in initiating a foot pursuit of any individual the officer reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as the sole justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity or being wanted by law enforcement.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits potentially place department members and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as the following:

- (a) Containment of the area.
- (b) Saturation of the area with law enforcement personnel, including assistance from other agencies.
- (c) A canine search.

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- (d) Thermal imaging or other sensing technology.
- (e) Air support.
- (f) Apprehension at another time, when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the foot pursuit.

426.4 GENERAL GUIDELINES

When reasonably practicable, officers should consider alternatives to engaging in or continuing a foot pursuit when:

- (a) Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory.
- (b) The officer is acting alone.
- (c) Two or more officers become separated, lose visual contact with one another or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the suspect in sight from a safe distance and coordinate the containment effort.
- (d) The officer is unsure of his/her location and direction of travel.
- (e) The officer is pursuing multiple suspects and it is not reasonable to believe that the officer would be able to control the suspect should a confrontation occur.
- (f) The physical condition of the officers renders him/her incapable of controlling the suspect if apprehended.
- (g) The officer loses radio contact with Dispatch or with assisting or backup officers.
- (h) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.
- (i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.
- (j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.
- (k) The officer loses possession of his/her firearm or other essential equipment.
- (l) The officer or a third party is injured during the foot pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.

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- (m) The suspect's location is no longer known.
- (n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to Department personnel or the public if the suspect is not immediately apprehended.
- (o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other environmental conditions.

426.5 RESPONSIBILITIES IN FOOT PURSUITS

426.5.1 INITIATING OFFICER RESPONSIBILITIES

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating officer should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient officers are present to safely apprehend the suspect.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should broadcast the following information as soon as it becomes practicable and available:

- (a) Location and direction of travel
- (b) Call sign identifier
- (c) Reason for the foot pursuit, such as the crime classification
- (d) Number of suspects and description, to include name if known
- (e) Whether the suspect is known or believed to be armed with a dangerous weapon

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the foot pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify Dispatch of his/her location and the status of the foot pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary, to include requesting medical aid as needed for officers, suspects or members of the public.

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426.5.2 ASSISTING OFFICER RESPONSIBILITIES

Whenever any officer announces that he/she is engaged in a foot pursuit, all other officers should minimize nonessential radio traffic to permit the involved officers maximum access to the radio frequency.

426.5.3 SUPERVISOR RESPONSIBILITIES

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever reasonably possible. The supervisor does not, however, need to be physically present to exercise control over the foot pursuit. The supervisor should continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing officers or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor should promptly proceed to the termination point to direct the post-pursuit activity.

426.5.4 DISPATCH RESPONSIBILITIES

Upon notification or becoming aware that a foot pursuit is in progress, the dispatcher is responsible for:

- (a) Clearing the radio channel of non-emergency traffic.
- (b) Coordinating pursuit communications of the involved officers.
- (c) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (d) Ensuring that a field supervisor is notified of the foot pursuit.
- (e) Notifying and coordinating with other involved or affected agencies as practicable.
- (f) Notifying the Shift Commander as soon as practicable.
- (g) Assigning an incident number and logging all pursuit activities.

426.6 REPORTING

The initiating officer shall complete the appropriate crime/arrest reports documenting, at minimum:

- (a) Date and time of the foot pursuit.
- (b) Initial reason and circumstances surrounding the foot pursuit.
- (c) Course and approximate distance of the foot pursuit.
- (d) Alleged offenses.
- (e) Involved vehicles and officers.
- (f) Whether a suspect was apprehended as well as the means and methods used.

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1. Any use of force shall be reported and documented in compliance with the Use of Force Policy.
 - (g) Arrestee information, if applicable.
 - (h) Any injuries and/or medical treatment.
 - (i) Any property or equipment damage.
 - (j) Name of the supervisor at the scene or who handled the incident.

Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.

In any case in which a suspect is not apprehended and there is insufficient information to warrant further investigation, a supervisor may authorize that the initiating officer need not complete a formal report.

Automated License Plate Readers (ALPR)

427.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology (Minn. Stat. § 626.8472).

427.2 POLICY

The policy of the Rochester Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

427.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Rochester Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Services Captain in coordination with the Intel Lieutenant. The Intel Lieutenant will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

System administrators shall:

- (a) Provide or oversee the training of all officers and civilian employees who are authorized to operate an ALPR or to access or use ALPR stored data.
- (b) Review and approve requests to access and use stored ALPR data.
- (c) Ensure compliance with this directive and all state and federal laws.

427.4 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use, the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official law enforcement business and in accordance with the law.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not necessary before using an ALPR.

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- (c) An ALPR may be used to canvass license plates around major crime scenes or an area of repeated minor offenses. Captured data can be analyzed and utilized in any active criminal investigation.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access confidential department, state or federal data unless authorized to do so.
- (f) An officer shall verify an ALPR response through the Minnesota Justice Information Services (MNJIS) and National Law Enforcement Telecommunications System (NLETS) databases before taking enforcement action that is based solely upon an ALPR alert.

427.4.1 RESTRICTIONS, NOTIFICATIONS AND AUDITS

The Rochester Police Department will observe the following guidelines regarding ALPR use (Minn. Stat. § 13.824):

- (a) Data collected by an ALPR will be limited to:
 - 1. License plate numbers.
 - 2. Date, time and location of data captured.
 - 3. Pictures of license plates, vehicles and areas surrounding the vehicle captured.
- (b) ALPR data may only be matched with the Minnesota license plate data file, unless additional sources are needed for an active criminal investigation.
- (c) ALPRs shall not be used to monitor or track an individual unless done so under a search warrant or because of exigent circumstances.
- (d) The Bureau of Criminal Apprehension shall be notified within 10 days of any installation or use and of any fixed location of an ALPR.

427.5 DATA COLLECTION AND RETENTION

The Services Captain, in conjunction with the Intel Lieutenant, are responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

ALPR data received from another agency shall be maintained securely and released in the same manner as ALPR data collected by this department (Minn. Stat. § 13.824).

ALPR data not related to an active criminal investigation must be destroyed no later than 60 days from the date of collection with the following exceptions (Minn. Stat. § 13.824):

- (a) Exculpatory evidence - Data must be retained until a criminal matter is resolved if a written request is made from a person who is the subject of a criminal investigation asserting that ALPR data may be used as exculpatory evidence.
- (b) Address Confidentiality Program - Data related to a participant of the Address Confidentiality Program, such as the Safe at Home program, must be destroyed upon the written request of the participant. ALPR data already collected at the time of the

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request shall be destroyed and future related ALPR data must be destroyed at the time of collection. Destruction can be deferred if it relates to an active criminal investigation.

All other ALPR data should be retained in accordance with the established records retention schedule.

427.5.1 LOG OF USE

A public log of ALPR use will be maintained that includes (Minn. Stat. § 13.824):

- (a) Specific times of day that the ALPR collected data.
- (b) The aggregate number of vehicles or license plates on which data are collected for each period of active use and a list of all state and federal public databases with which the data were compared.
- (c) For each period of active use, the number of vehicles or license plates related to:
 1. A vehicle or license plate that has been stolen.
 2. A warrant for the arrest of the owner of the vehicle.
 3. An owner with a suspended or revoked driver's license or similar category.
 4. Active investigative data.
- (d) For an ALPR at a stationary or fixed location, the location at which the ALPR actively collected data and is installed and used.

A publicly accessible list of the current and previous locations, including dates at those locations, of any fixed ALPR or other surveillance devices with ALPR capability shall be maintained. The list may be kept from the public if the data is security information as provided in Minn. Stat. § 13.37, Subd. 2.

427.5.2 BOLO LISTS

A BOLO may be created when a determination is made by the Rochester Police Department or another law enforcement agency there is a legitimate and specific law enforcement purpose to identify or locate a particular vehicle related to an active criminal investigation.

For purpose of the ALPR, a BOLO list may be maintained that consists of a compilation of one or more license plates, or partial license plates, of a vehicle or vehicles for which a BOLO situation exists. A BOLO list may be programmed into an ALPR so that the device will alert if it captures the image of a license plate that matches a BOLO list entry.

BOLO lists shall only be comprised of license plates that are associated with specific vehicles or persons for which or whom there is a legitimate and documented law enforcement reason to identify and locate, or for which there is a legitimate and documented law enforcement reason to determine the subject vehicle's past location(s) through the analysis of stored ALPR data.

Examples of legitimate and specific reasons for adding a license plate or partial license plate to a BOLO list include, but are not limited to:

- (a) Persons who are subject to an outstanding arrest warrant

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- (b) Missing persons
- (c) Amber or Silver Alerts
- (d) Stolen vehicles
- (e) Vehicles that are reasonably believed to be involved in the commission of a crime
- (f) Vehicles that are registered to or are reasonably believed to be operated by persons who do not have a valid operator's license or who are on the revoked or suspended list
- (g) Vehicles with expired registrations
- (h) Persons who are subject to a restraining order or curfew issued by a court or by the Parole Board, or who are subject to any other duly issued order restricting their movements
- (i) Persons wanted by a law enforcement agency who are of interest in a specific investigation, whether or not such persons are themselves suspected of criminal activity
- (j) Persons who are on any watch list issued by a State or federal agency responsible for homeland security

BOLO list information may be downloaded in batch form from other databases, including but not limited to the National Crime Information Center (NCIC), National Insurance Crime Bureau, United States Department of Homeland Security, and Motor Vehicle Commission database.

A BOLO list may be revised at any time necessitating frequent updates. For a mobile ALPR, updates to the BOLO list shall be made at the start of each shift. A stationary ALPR positioned at a fixed location shall be updated as frequently as practicable, but no less than on a daily basis.

Officers alerted to the fact that an observed motor vehicle's license plate is on the BOLO list may be required to make a reasonable effort to determine if a lawful basis to stop the vehicle exists. An officer reacting to an alert shall consult the database to determine the reason why the vehicle had been placed on the BOLO list and whether the alert has been designated as a non-encounter alert. In the event of a non-encounter alert, the officer shall follow any instructions included in the alert for notifying the law enforcement or homeland security agency that had put out the BOLO.

427.6 ACCOUNTABILITY

All saved data will be closely safeguarded and protected by both procedural and technological means. The Rochester Police Department will observe the following safeguards regarding access to and use of stored data (Minn. Stat. § 13.824; Minn. Stat. § 13.05):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data

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relate to a specific criminal investigation or department-related civil or administrative action.

- (c) Biennial audits and reports shall be completed pursuant to Minn. Stat. § 13.824, Subd. 6.
- (d) Breaches of personal data are addressed as set forth in the Protected Information Policy (Minn. Stat. § 13.055).
- (e) All queries and responses, and all actions, in which data are entered, updated, accessed, shared or disseminated, must be recorded in a data audit trail.
- (f) Any member who violates Minn. Stat. § 13.09 through the unauthorized acquisition or use of ALPR data will face discipline and possible criminal prosecution (Minn. Stat. § 626.8472).

427.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures (Minn. Stat. § 13.824):

- (a) The agency makes a written request for the ALPR data that includes:
 - 1. The name of the agency.
 - 2. The name of the person requesting.
 - 3. The intended purpose of obtaining the information.
 - 4. A record of the factual basis for the access and any associated case number, complaint or incident that is the basis for the access.
 - 5. A statement that the request is authorized by the head of the requesting law enforcement agency or his/her designee.
- (b) The request is reviewed by the Services Captain or the authorized designee and approved before the request is fulfilled.
 - 1. A release must be based on a reasonable suspicion that the data is pertinent to an active criminal investigation.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy. All data collected by ALPR's is classified as private data on individuals, until it is determined that the data should be classified as public data by the Minnesota Government Data Practices Act.

Homeless Persons

428.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that personnel understand the needs and rights of the homeless and to establish procedures to guide officers during all contacts with the homeless, whether consensual or for enforcement purposes. The Rochester Police Department recognizes that members of the homeless community are often in need of special protection and services. The Rochester Police Department will address these needs in balance with the overall missions of this department. Therefore, officers will consider the following policy when serving the homeless community.

428.2 POLICY

It is the policy of the Rochester Police Department to provide law enforcement services to all members of the community while protecting the rights, dignity and private property of the homeless. Homelessness is not a crime and members of this department will not use homelessness solely as a basis for detention or law enforcement action.

428.3 HOMELESS COMMUNITY LIAISON

The Chief of Police has designated the department's Community Action Team (CAT) to act as Homeless Liaisons. The responsibilities of CAT include the following:

- (a) Maintain and make available to all Department employees a list of assistance programs and other resources that are available to the homeless.
- (b) Meet with social services and representatives of other organizations that render assistance to the homeless.
- (c) Remain abreast of laws dealing with the removal and/or destruction of the personal property of the homeless. This will include the following:
 1. Proper posting of notices of trespass and clean-up operations.
 2. Proper retention of property after clean up, to include procedures for owners to reclaim their property in accordance with the Property Procedures Policy and other established procedures.
- (d) Be present during any clean-up operation conducted by this department involving the removal of personal property of the homeless to ensure the rights of the homeless are not violated.
- (e) Assess training to assist officers in understanding current legal and social issues relating to the homeless.

428.4 FIELD CONTACTS

Officers are encouraged to contact the homeless for purposes of rendering aid, support and for community-oriented policing purposes. Nothing in this policy is meant to dissuade an officer from taking reasonable enforcement action when facts support a reasonable suspicion of criminal

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activity. However, when encountering a homeless person who has committed a non-violent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest. Officers should provide homeless persons with resource and assistance information whenever it is reasonably apparent such services may be appropriate.

428.4.1 OTHER CONSIDERATIONS

Homeless members of the community will receive the same level and quality of service provided to other members of our community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Officers should consider the following when handling investigations involving homeless victims, witnesses or suspects:

- (a) Documenting alternate contact information. This may include obtaining addresses and telephone numbers of relatives and friends.
- (b) Document places the homeless person may frequent.
- (c) Provide homeless victims with victim/witness resources when appropriate.
- (d) Obtain statements from all available witnesses in the event a homeless victim is unavailable for a court appearance.
- (e) Consider whether the person may be a dependent adult or elder and if so proceed in accordance with the Adult Abuse Policy.
- (f) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.
- (g) Consider whether a crime should be reported and submitted for prosecution even when a homeless victim indicates he/she does not desire prosecution.

428.5 PERSONAL PROPERTY

The personal property of homeless persons must not be treated differently than the property of other members of the public. Officers should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, officers should make reasonable accommodations to permit the person to lawfully secure his/her personal property. Otherwise, the arrestee's personal property should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the officer, a supervisor should be consulted. The property should be photographed and measures should be taken to remove or secure the property. It will be the supervisor's responsibility to coordinate the removal and safekeeping of the property.

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Officers should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the CAT. When practicable, requests by the public for clean-up operations of a homeless encampment should be referred to the CAT.

Officers who encounter unattended encampments, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the CAT if such property appears to involve a trespass, blight to the community or is the subject of a complaint.

428.6 MENTAL ILLNESSES AND MENTAL IMPAIRMENTS

Some homeless persons may suffer from a mental illness or a mental impairment. Officers shall not detain a homeless person under a 72-hour emergency medical hold unless facts and circumstances warrant such a detention.

428.7 ECOLOGICAL ISSUES

Sometimes homeless encampments can affect the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

Criminal Conduct on School Buses

429.1 PURPOSE AND SCOPE

Criminal conduct on school buses has been identified by the legislature as a critical component for the safety and security of the community. The primary purpose of this policy is to provide officers guidance in responding to reports of alleged criminal conduct on school buses. This department, in cooperation with any other law enforcement agency that may have concurrent jurisdiction over the alleged offense, is responsible for responding to all reports of criminal misconduct on school buses in this jurisdiction.

This policy is not intended to interfere with or replace school disciplinary policies that relate to student misconduct on school buses (Minn. Stat. § 169.4581).

429.2 COMMUNITY COOPERATION

The Rochester Police Department shall work with and consult with school officials, transportation personnel, parents and students to respond to these incidents to protect student safety and deal appropriately with those who violate the law.

429.3 PROCEDURE

This department shall respond to all criminal misconduct on school buses within the jurisdiction of this department regardless of the source of the report. Officers should take reasonable actions to complete the following:

- (a) Provide for the safety of any person involved in the incident or present at the incident.
- (b) Coordinate any appropriate care.
- (c) Investigate reports of crimes committed on school buses using the same procedures as followed in other criminal investigations as appropriate for juveniles and/or adults.
- (d) Issue citations, release pending further investigation, or apprehend and transport individuals committing crimes on school buses to the extent authorized by law.
- (e) Submit reports regarding the incident for review, approval and consideration for prosecution.
- (f) Complete follow-up and additional investigation as reasonably necessary to prepare a case pertaining to criminal conduct on school buses as required for prosecution.
- (g) Provide information to the relevant school regarding the incident as required or authorized by law.

Suspicious Activity Reporting

430.1 PURPOSE AND SCOPE

This policy provides guidelines for reporting and investigating suspicious and criminal activity.

430.1.1 DEFINITIONS

Definitions related to this policy include:

Involved party - An individual who has been observed engaging in suspicious activity, as defined in this policy, when no definitive criminal activity can be identified, thus precluding the person's identification as a suspect.

Suspicious activity - Any reported or observed activity that a member reasonably believes may have a nexus to any criminal act or attempted criminal act, or to foreign or domestic terrorism. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions). Examples of suspicious activity may include but are not limited to:

- Suspected pre-operational surveillance or intelligence gathering (e.g., photographing security features, asking questions about sensitive security-related subjects).
- Tests of security measures and response to incidents (e.g., "dry run," creating false alarms, attempts to enter secure areas without authorization).
- Suspicious purchases (e.g., purchasing large quantities of otherwise legal items, such as fertilizer, that could be used to create an explosive or other dangerous device).
- An individual in possession of such things as a hoax explosive or dispersal device, sensitive materials (e.g., passwords, access codes, classified government information), or coded or ciphered literature or correspondence.

Suspicious Activity Report (SAR) - An incident report used to document suspicious activity.

430.2 POLICY

The Rochester Police Department recognizes the need to protect the public from criminal conduct and acts of terrorism and shall lawfully collect, maintain and disseminate information regarding suspicious activities, while safeguarding civil liberties and privacy protections.

430.3 RESPONSIBILITIES

The Intelligence Unit will manage SAR activities.

The responsibilities of the Intelligence Unit include, but are not limited to:

- (a) Remaining familiar with those databases available to the Department that would facilitate the purpose of this policy.

Suspicious Activity Reporting

- (b) Maintaining adequate training in the area of intelligence gathering to ensure no information is being maintained that would violate the law or civil rights of any individual.
- (c) Ensuring a process is available that would allow members to report relevant information. The process should be designed to promote efficient and quick reporting, and should not be cumbersome, duplicative or complicated.
- (d) Ensuring that members are made aware of the purpose and value of documenting information regarding suspicious activity, as well as the databases and other information resources that are available to the Department.
- (e) Ensuring that SAR information is appropriately disseminated to members in accordance with their job responsibilities.
- (f) Coordinating investigative follow-up with department JTTF members, if appropriate.
- (g) Coordinating with any appropriate agency or fusion center.
- (h) Ensuring that, as resources are available, the Department conducts outreach that is designed to encourage members of the community to report suspicious activity and that outlines what they should look for and how they should report it (e.g., website, public service announcements).

430.4 REPORTING AND INVESTIGATION

Any department member receiving information regarding suspicious activity should take any necessary immediate and appropriate action, including a request for tactical response or immediate notification of specialized entities, when applicable. Any non-sworn member who receives such information should ensure that it is passed on to an officer in a timely manner.

If the suspicious activity is not directly related to a reportable crime, the member should prepare a SAR and include information about involved parties and the circumstances of the incident. If, during any investigation, an officer becomes aware of suspicious activity that is unrelated to the current investigation, the information should be documented separately in a SAR and not included in the original incident report. The report number of the original incident should be included in the SAR as a cross reference. A SAR should be processed as any other incident report.

430.5 HANDLING INFORMATION

The Investigations Division will forward copies of SARs to the Intelligence Unit as part of the case management process.

Medical Aid and Response

431.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons in need of medical aid and establishes a law enforcement response to such situations.

431.2 POLICY

It is the policy of the Rochester Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

431.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact Dispatch and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide Dispatch with information for relay to EMS personnel in order to enable an appropriate response, including:

- (a) The location where EMS is needed.
- (b) The nature of the incident.
- (c) Any known scene hazards.
- (d) Information on the person in need of EMS, such as:
 1. Signs and symptoms as observed by the member.
 2. Changes in apparent condition.
 3. Number of patients, sex, and age, if known.
 4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
 5. Whether the person is showing signs of extreme agitation or is engaging in violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel whether to transport the person for treatment.

Medical Aid and Response

431.4 TRANSPORTING ILL AND INJURED PERSONS

Except in extraordinary cases where alternatives are not reasonably available, members should not transport persons who are unconscious, who have serious injuries or who may be seriously ill. EMS personnel should be called to handle patient transportation.

Officers should search any person who is in custody before releasing that person to EMS for transport.

An officer should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes or when so directed by a supervisor.

Members should not provide emergency escort for medical transport or civilian vehicles.

431.5 PERSONS REFUSING EMS CARE

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an officer shall not force that person to receive care or be transported. However, members may assist EMS personnel when EMS personnel determine the person lacks mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the officer should consider proceeding with a 72-hour hold in accordance with the Civil Commitments Policy.

If an officer believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The officer may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person who is in custody still refuses, the officer will require the person to be transported to the nearest medical facility. In such cases, the officer should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

431.6 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Conducted Energy Device policies.

431.7 AIR AMBULANCE

Generally, when on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response.

Medical Aid and Response

431.8 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE

431.8.1 AED USER RESPONSIBILITY

Members who are issued AEDs for use in department vehicles should check the AED at the beginning of the shift to ensure it is properly charged and functioning. Any AED that is not functioning properly will be taken out of service and given to the Services Unit who is responsible for ensuring appropriate maintenance.

Following use of an AED, the device shall be cleaned and/or decontaminated as required. The electrodes and/or pads will be replaced as recommended by the AED manufacturer.

Any member who uses an AED should contact Dispatch as soon as possible and request response by EMS.

431.8.2 AED REPORTING

Any member using an AED will complete an incident report detailing its use.

431.8.3 AED TRAINING AND MAINTENANCE

The Training Unit should ensure appropriate training is provided to members authorized to use an AED.

The Training Unit is responsible for ensuring AED devices are appropriately maintained and will retain records of all maintenance in accordance with the established records retention schedule.

431.9 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

Only officers who receive training in the recognition of signs of opiate overdose and the use of opiate antagonists may administer opioid overdose medication. Officers may administer opioid overdose medication in accordance with protocol specified by the physician who prescribed the overdose medication for use by the officer (Minn. Stat. § 151.37; Minn. Stat. § 604A.04).

431.9.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES

Officers who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Officers should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Training Unit.

431.9.2 OPIOID OVERDOSE MEDICATION REPORTING

Any officer administering opioid overdose medication should detail its use in an appropriate report.

431.9.3 OPIOID OVERDOSE MEDICATION TRAINING

The Training Unit should ensure training is provided to officers authorized to administer opioid overdose medication (Minn. Stat. § 151.37).

Medical Aid and Response

431.10 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance. Officers shall not transport an arrestee to a hospital without a supervisor's approval.

Nothing in this section should delay an officer from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the officer's training.

431.11 FIRST AID TRAINING

Subject to available resources, the Training Unit should ensure officers receive periodic first aid training appropriate for their position.

Crisis Intervention Incidents

432.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. It often requires an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

432.1.1 DEFINITIONS

Definitions related to this policy include:

Person in crisis - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

432.2 POLICY

The Rochester Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis.

432.3 SIGNS

Members should be alert to any of the following possible signs of mental health issues or crises:

- (a) A known history of mental illness
- (b) Threats of or attempted suicide
- (c) Loss of memory
- (d) Incoherence, disorientation or slow response
- (e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas
- (f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt
- (g) Social withdrawal
- (h) Manic or impulsive behavior, extreme agitation, lack of control
- (i) Lack of fear
- (j) Anxiety, aggression, rigidity, inflexibility or paranoia

Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

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432.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS

The Chief of Police should designate a Crisis Intervention Coordinator to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources to guide department interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

432.4.1 OBTAINING MENTAL HEALTH INFORMATION

The Chief of Police should designate a member of the Department to develop access procedures, retention guidelines, data security safeguards, notification procedures, and any other applicable standards for obtained mental health information (Minn. Stat. § 626.8477).

Officers may seek information from a mental health professional during a crisis situation pursuant to department procedures. When information is requested, officers should provide an explanation why disclosure of mental health information is necessary to protect the health or safety of the individual in crisis or of another person (Minn. Stat. § 13.46; Minn. Stat. § 144.294).

Information obtained from mental health professionals in crisis incidents should generally be limited to that necessary to safely respond. Officers obtaining mental health information to address crisis incidents should document the following in the associated reports (Minn. Stat. § 13.46; Minn. Stat. § 144.294):

- (a) The name of the officer who requested the information
- (b) The name of the health professional who provided the information
- (c) The name of the individual experiencing the crisis

Mental health information obtained in these circumstances should not be used for any purpose beyond addressing the crisis. The subject of the information should be advised of the information obtained (Minn. Stat. § 13.46; Minn. Stat. § 144.294).

432.5 FIRST RESPONDERS

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer responding to a call involving a person in crisis should:

- (a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.
- (b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.

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- (c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
- (d) Attempt to determine if weapons are present or available.
- (e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.
- (f) Secure the scene and clear the immediate area as necessary.
- (g) Employ tactics to preserve the safety of all participants.
- (h) Determine the nature of any crime.
- (i) Request a supervisor, as warranted.
- (j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.
- (k) If circumstances reasonably permit, consider and employ alternatives to force.

432.6 DE-ESCALATION

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

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432.7 INCIDENT ORIENTATION

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request additional information as it becomes available. This includes:

- (a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.
- (b) Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous police response.

432.8 SUPERVISOR RESPONSIBILITIES

When requested, a supervisor should respond to the scene of a person in crisis incident. Responding supervisors should:

- (a) Attempt to secure appropriate and sufficient resources.
- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- (c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
- (d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.

432.9 INCIDENT REPORTING

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

432.9.1 DIVERSION

Individuals who are not being arrested should be processed in accordance with the Civil Commitments Policy.

432.10 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS

Non-sworn members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.

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- (c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

432.11 EVALUATION

The Crisis Intervention Coordinator designated to manage the crisis intervention strategy for this department should ensure that a thorough review and analysis of the department response to these incidents is conducted annually.

432.12 TRAINING

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis.

Additionally, the Training Unit will provide officers with in-service training in crisis intervention and mental illness crisis as required by Minn. Stat. § 626.8469 and Minn. Stat. § 626.8474.

First Amendment Assemblies

433.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

433.2 POLICY

The Rochester Police Department respects the rights of people to peaceably assemble. It is the policy of this department not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

433.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills, leafleting and loitering. However, officers shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Officers should not:

- (a) Engage in assembly or demonstration-related discussion with participants.
- (b) Harass, confront or intimidate participants.
- (c) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.

Supervisors should continually observe department members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

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433.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS

Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating department performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious or social views of associations, or the activities of any individual, group, association, organization, corporation, business or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

433.4 UNPLANNED EVENTS

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to Dispatch, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

433.5 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

433.5.1 INFORMATION GATHERING AND ASSESSMENT

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.

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- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

433.5.2 OPERATIONAL PLANS

An operational planning team with responsibility for event planning and management should be established. The planning team should develop an operational plan for the event.

The operational plan will minimally provide for the following:

- (a) Command assignments, chain of command structure, roles and responsibilities
- (b) Staffing and resource allocation
- (c) Management of criminal investigations
- (d) Designation of uniform of the day and related safety equipment (e.g., helmets, shields)
- (e) Deployment of specialized resources
- (f) Event communications and interoperability in a multijurisdictional event
- (g) Liaison with demonstration leaders and external agencies
- (h) Liaison with City government and legal staff
- (i) Media relations
- (j) Logistics: food, fuel, replacement equipment, duty hours, relief and transportation
- (k) Traffic management plans
- (l) First aid and emergency medical service provider availability
- (m) Prisoner transport and detention
- (n) Review of policies regarding public assemblies and use of force in crowd control
- (o) Parameters for declaring an unlawful assembly
- (p) Arrest protocol, including management of mass arrests
- (q) Protocol for recording information flow and decisions
- (r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force
- (s) Protocol for handling complaints during the event

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- (t) Parameters for the use of body-worn cameras and other portable recording devices.

433.5.3 MUTUAL AID AND EXTERNAL RESOURCES

The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Outside Agency Assistance Policy).

433.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he/she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

433.7 USE OF FORCE

Use of force is governed by current department policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices, and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and TASER (TM) devices should be considered only when the participants' conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and the Conducted Energy Device policies).

Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

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Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

433.8 ARRESTS

The Rochester Police Department should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

- (a) Reasonable measures to address the safety of officers and arrestees.
- (b) Dedicated arrest, booking and report writing teams.
- (c) Timely access to medical care.
- (d) Timely access to legal resources.
- (e) Timely processing of arrestees.
- (f) Full accountability for arrestees and evidence.
- (g) Coordination and cooperation with the prosecuting authority, jail and courts (see the Citation Releases Policy).

433.9 MEDIA RELATIONS

The designated PIO should use all available avenues of communication, including press releases, briefings, press conferences and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

433.10 DEMOBILIZATION

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.

433.11 POST EVENT

The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

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- (a) Operational plan
- (b) Any incident logs
- (c) Any assignment logs
- (d) Vehicle records
- (e) Incident, arrest, use of force, injury and property damage reports
- (f) Photographs, audio/video recordings, Dispatch records/tapes
- (g) Media accounts (print and broadcast media)

433.11.1 AFTER-ACTION REPORTING

The Incident Commander should work with City legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

- (a) Date, time and description of the event
- (b) Actions taken and outcomes (e.g., injuries, property damage, arrests)
- (c) Problems identified
- (d) Significant events
- (e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

433.12 TRAINING

Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management. The Department should, when practicable, train with its external and mutual aid partners.

Civil Disputes

434.1 PURPOSE AND SCOPE

This policy provides members of the Rochester Police Department with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic Abuse Policy will address specific legal mandates related to domestic violence court orders. References in this policy to “court orders” apply to any order of a court that does not require arrest or enforcement by the terms of the order or by Minnesota law.

434.2 POLICY

The Rochester Police Department recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, members of this department will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, members will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

434.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial.

While not intended to be an exhaustive list, members should give considerations to the following when handling civil disputes:

- (a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.
- (b) Members should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.
- (c) Members shall not provide legal advice, however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.
- (d) Members are reminded that they shall not enter a residence or other non-public location without legal authority including valid consent.
- (e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts longer than 30 minutes are warranted.

Civil Disputes

434.4 COURT ORDERS

Disputes involving court orders can be complex. Where no mandate exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating officer should document the following:

- (a) The person's knowledge of the court order or whether proof of service exists.
- (b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor. The report should also be forwarded to the court issuing the order with a notice that the report was also forwarded to the prosecutor for review.

434.4.1 STANDBY REQUESTS

Officers responding to a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person should be advised that items that are disputed will not be allowed to be removed. The member may advise the person to seek private legal advice as to the distribution of disputed property.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party would remove the property.

If the other party is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Officers should not order the other party to allow entry or the removal of any items. If there is a restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location, the member will not allow entry into the location or the removal of property from the location.

434.5 VEHICLES AND PERSONAL PROPERTY

Officers may be faced with disputes regarding possession or ownership of vehicles or other personal property. Officers may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal property can be complex. Generally, officers should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented.

434.6 REAL PROPERTY

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.

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Civil Disputes

Medical Cannabis

435.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the possession or use of medical cannabis under Minnesota's medical cannabis laws.

435.1.1 DEFINITIONS

Definitions related to this policy include (Minn. Stat. § 152.22):

Medical cannabis - Any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins in the form of a liquid, oil, pill, or dried raw cannabis that is properly packaged and labeled with:

- (a) The name and address of the authorized manufacturer.
- (b) The patient's registry identification number, name, date of birth, and address.
- (c) The chemical composition of medical cannabis.
- (d) Recommended dosage.
- (e) Directions for use.
- (f) Batch number.
- (g) Date of manufacture.

Patient - A Minnesota resident who has been diagnosed with a qualifying medical condition by a health care practitioner and who has met any other requirements for patients under Minn. Stat. § 152.22 et seq.

Caregiver - A person who has been approved by the Minnesota Commissioner of Health to assist a patient who is unable to self-administer medication or acquire medical cannabis from a distribution facility, and who is authorized to assist the patient with the use of medical cannabis.

435.2 POLICY

It is the policy of the Rochester Police Department to prioritize resources to avoid making arrests related to medical cannabis that the arresting officer reasonably believes would not be prosecuted by state or federal authorities.

Minnesota medical cannabis laws are intended to provide protection from prosecution to those who use or possess medical cannabis for medical purposes. The Rochester Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under Minnesota law and the resources of the Department.

435.3 INVESTIGATION

Investigations involving the possession or use of cannabis generally fall into one of two categories:

- (a) Investigations when no person makes a medicinal claim.
- (b) Investigations when a person claims to be a patient or caregiver.

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Medical Cannabis

435.3.1 INVESTIGATIONS WITH NO MEDICAL CLAIM

In any investigation involving the possession, delivery, production or use of a cannabis product or drug paraphernalia where no person claims that the cannabis is used for medicinal purposes, the officer should proceed with a criminal investigation. A medicinal claim may be raised at any time, so officers should document any statements and observations that may be relevant to whether the cannabis was possessed or produced for medicinal purposes.

435.3.2 INVESTIGATIONS INVOLVING A PATIENT OR CAREGIVER

Arrest shall not be made for the possession of medical cannabis by a patient, a caregiver or the parent or legal guardian of a patient (Minn. Stat. § 152.32).

Possession of medical cannabis properly packaged and labeled by an authorized manufacturer should suffice for verification of a person's status as a patient. The possession of medical cannabis registry verification from the Minnesota Department of Health should also suffice for verification a person's status as a patient or caregiver (Minn. Stat. § 152.22; Minn. Stat. § 152.27).

435.3.3 EXCEPTIONS

This policy does not apply to the following offenses. Officers may take enforcement action if the person (Minn. Stat. § 152.23):

- (a) Possesses or engages in the use of medical cannabis on a school bus or van, on the grounds of any preschool or primary or secondary school, in any correctional facility, or on the grounds of any child care facility or home daycare.
- (b) Vaporizes or smokes medical cannabis on any form of public transportation, where the vapor or smoke would be inhaled by a non-patient minor child, or in any public place or a place of employment.
- (c) Operates any motor vehicle, aircraft, train, or motorboat, or works on transportation property, equipment, or facilities while under the influence of medical cannabis.

435.4 FEDERAL LAW ENFORCEMENT

Officers should provide information regarding a medical cannabis investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

435.5 PROPERTY AND EVIDENCE SUPERVISOR RESPONSIBILITIES

The Property and Evidence supervisor shall ensure that medical cannabis, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical cannabis is not destroyed. Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Property and Evidence supervisor shall as soon as practicable return to the person from whom it was seized any medical cannabis, drug paraphernalia or other related property.

The Property and Evidence supervisor may not destroy medical cannabis except upon receipt of a court order.

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The Property and Evidence supervisor may release medical cannabis to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Investigative Division supervisor.

435.6 REPORTING

Officers aware of a person experiencing a negative medical condition or a death related to a cannabis overdose, including as a result of an unauthorized access to medical cannabis, must contact the Minnesota Department of Health's Office of Medical Cannabis within five business days. If discovered as part of an ongoing investigation, the report must be made within 72 hours of the conclusion of the investigation (Minn. R. 4770.4002; Minn. R. 4770.4004).

Officers having reasonable suspicion of unauthorized possession of medical cannabis or of violations of cannabis laws by individuals authorized to possess medical cannabis, must report to the Office of Medical Cannabis using the designated online form. Reports related to unauthorized possession must be submitted within 72 hours, unless discovered as part of an ongoing investigation, in which case reporting must be made within 72 hours of the conclusion of the investigation. Reports of violations by persons authorized to possess medical cannabis must be submitted within 15 days (Minn. R. 4770.4010).

Mobile Response Team

436.1 PURPOSE AND SCOPE

The Mobile Response Team (MRT) supports the mission of the Rochester Police Department by providing a coordinated response during incidents of civil unrest, riotous behavior, or other events where specialized training is necessary to control unpredictable crowd behavior.

436.2 POLICY

It is the policy of this department to maintain a Mobile Response Team and provide the equipment, staffing, and training necessary to rapidly deploy during civil unrest or other incidents requiring crowd control that exceed the capacity of normal patrol operations. The primary operational functions of the MRT include:

- (a) Responding to civil unrest.
- (b) Providing security and protection to critical infrastructure.
- (c) Providing assistance during any disaster or emergency to prevent unrest or looting.

The MRT may act as a regional and state resource when emergencies occur and a request for assistance has been approved by the Chief of Police.

436.3 PERSONNEL

Licensed police officers not currently in field training are eligible for assignment to the MRT. Prior to selection, officers will be evaluated on their:

- (a) Recognized competence as demonstrated by their performance and trainability.
- (b) Good physical condition
- (c) Willingness to perform the duties of the MRT.

436.3.1 SUPERVISION

The Chief of Police shall appoint both an Administrative and Operational Commander of the MRT.

MRT Commanders will work in tandem to ensure the functional needs of the team are met.

Responsibilities of the Administrative Commander include:

- (a) Budgeting
- (b) Policy
- (c) Planning
- (d) Coordination with other law enforcement agencies

Responsibilities of the Operational Commander include:

- (a) Operational Command

Mobile Response Team

- (b) Coordination with MRT platoon supervisors
- (c) Training
- (d) Equipment

In addition, sufficient line-level supervision will be assigned to each platoon within the MRT.

436.4 TRAINING

Upon selection and assignment to the MRT, officers shall receive initial training on field force operations, crowd control, security tactics, and mass arrest procedures. Thereafter, members of the MRT are required to attend training annually.

In addition, members may be required to attend supplemental training as determined by the Operational Commander. The need for additional training will be evaluated based on specific mission needs, events, and other circumstances that may not be identified during annual training.

436.5 EQUIPMENT

Supplemental equipment shall be issued to members of the MRT to allow for the safe and efficient operation of the team. In addition to basic equipment issued to all officers, MRT members will receive at minimum:

- (a) Helmet
- (b) Face Shield
- (c) Chest/Shoulder Protection
- (d) Groin Protection
- (e) Protective Gloves
- (f) Knee/Shin Pads

Members are responsible for the care and condition of issued equipment and are expected to follow the requirements outlined under Policy 700 - Department Owned and Personal Property. All equipment shall be kept and stored in accordance with identified procedure. Equipment shall be inspected and inventoried annually by MRT platoon supervisors.

436.6 OPERATIONAL PROCEDURES

The need for MRT activation shall be assessed by the on-scene supervisor at a particular event or incident. If MRT activation is requested, the Communications Unit shall contact the MRT Administrative or Operational Commanders, who will coordinate with the shift commander to determine the necessity of MRT response. In the event of activation, the Chief of Police shall be notified.

The MRT may deploy in whole or in part based on operational needs. At minimum, one full squad of MRT members shall be deployed during an activation.

Mobile Response Team

436.6.1 PREPARATION AND PLANNING

When the MRT is activated for either a spontaneous or planned event, every effort should be made to identify and contact event organizers to gather the following information to ensure accurate assignment of personnel and resources:

- (a) Type of event.
- (b) Number of participants.
- (c) Assembly and route locations if the event is a planned march.
- (d) Event logistics (Does the event coincide with a larger scale event such as a concert or parade?).
- (e) Is a counter protest expected.
- (f) Mutual Aid considerations
- (g) Proximity of critical infrastructure
- (h) Organizer and participant history, particularly as it relates to incidents of violence

MRT Command shall prepare a written Incident Action Plan (IAP) in accordance with department standards for planned events where MRT activation is necessary. For spontaneous events where an urgent activation of the MRT is necessary, a written IAP shall be developed as soon as possible.

436.6.2 TACTICAL CONSIDERATIONS

The MRT is a specialized and trained response unit, but it's not a tactical team. Tactical support from the department's Emergency Response Unit (ERU) may be necessary depending on the nature of the MRT's mission. MRT Commanders should consult with ERU Commanders when deployment occurs to determine the appropriate tactical response.

436.7 REPORTING

Upon deactivation, the Operational Commander in coordination with Platoon Supervisors shall complete an after-action report and submit it to the Administrative Commander. The after-action report should include a review of the operation, tactics, techniques, outcomes, and recommendations for future operations.

Peer Support Program

436.1 PURPOSE

The Rochester Police Department recognizes the value of providing support to department members who need assistance with personal and/or professional problems. The Peer Support Program provides peer based assistance and support through shared experiences. This support also extends to the immediate family of impacted members.

436.2 DEFINITIONS

Critical Incident - Any event that overwhelms an individual's usual ability to cope and which may interfere with the functioning of a person's coping mechanism immediately or in the future.

Critical Incident Stress - An intense but normal reaction to any event that is sufficiently powerful enough to overwhelm usual coping mechanisms. Reactions to traumatic stress can continue for an extended period. These reactions may or may not seriously interfere with the ability to function in one's normal duties.

Peer Support Team - A team comprised of sworn and non-sworn personnel that have specialized and ongoing training in assisting others and their families in dealing with the immediate adverse psychological reactions to critical incidents.

Debriefing - A closed, confidential discussion of a critical incident relating to the feelings and perceptions of those directly involved prior to, during and after a stressful event. The debriefing is intended to provide support, education and an outlet for views and feelings associated with the event. Debriefings are neither counseling nor an operational critique of the incident.

Defusing - A brief, confidential discussion between someone involved in a critical incident and peer support members immediately following an incident. The purpose of a defusing is to restore a person's cognitive functioning and to prepare them for future stress reactions from the incident.

Mental Health Professional - A licensed, Ph.D. Psychologist or Masters level degree Social Worker, approved by the Chief of Police, chosen to assist Peer Support advisors when needed.

436.3 POLICY

Peer support team advisors are intended to be a resource available to members of the department in the event of personal or professional critical stress. Peer support advisors will be available to:

- (a) Listen to another employee after a critical incident or crisis situation.
- (b) Provide information on other resources available

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- (c) Conduct or assist supervisors with a defusing; conduct debriefings.
- (d) Respond to an employee's request for peer support;.
- (e) Respond to be with a member(s) upon a critical incident to allow Union Stewards to focus on their administrative work.
- (f) Provide peer support information to new members.

Peer support advisors shall also be available to assist on any other incident at the discretion of the Chief of Police and their designee.

Peer support advisors who may be involved in conducting any criminal or internal investigation of another member shall avoid any conflict of interest which may arise by placing themselves in both a peer support and investigative role on the same incident.

436.4 CONFIDENTIALITY

The acceptance and success of the Peer Support Program will be determined, in part, by the observance of strict confidentiality. It is imperative that each peer support advisor maintain confidentiality of all information learned about an individual within the guidelines of this program.

Communication between peer support advisors and members of this office is considered confidential except for matters involving the following, (Minn. Stat. § 181.9731, Subd. 4.) :

- (a) The peer support counselor reasonably believes disclosure is necessary to prevent harm to self or another.
- (b) Information is disclosed that is required to be reported under mandated reporting laws.
- (c) Written consent is given authorizing disclosure.
- (d) The member receiving services is deceased and the surviving spouse or administrator of the estate provides written consent authorizing disclosure.
- (e) The member who received peer counseling voluntarily testifies, in which case the peer support counselor may be compelled to testify on the same subject.

Disclosures under these exceptions will be made directly to the Chief of Police or their designee.

A general principle for peer support advisors is to inform the member, prior to any discussion, what the limitations and exceptions are regarding information revealed. In cases where a question regarding confidentiality arises, the peer support advisor shall immediately contact the program coordinator, who shall take the appropriate action.

436.5 INTERNAL INVESTIGATIONS

It may occur that a peer support advisor is assisting a member who is or becomes the subject of a disciplinary investigation. The peer support advisor should be guided by the confidentiality clause of the program. The peer support advisor should not volunteer any information received in confidence. However, advisors may not hamper or impede any actual investigation, nor may they attempt to shelter the member from the department's investigation.

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The peer support advisor's role in disciplinary situations is one of support and assistance to the member during the stress they may face during the disciplinary process. If an advisor has any questions regarding these situations, they should consult with the program coordinator for guidance.

All members of this office charged with conducting the internal investigation of another member shall respect the confidential conversations between peer support advisors and the member being investigated.

436.6 COMPOSITION

The Peer Support Team will be supervised by a coordinator appointed by the Chief of Police. The program coordinators will oversee the operations of the Peer Support Team and complete the same specialized and ongoing training as all peer support advisors. Due to the necessity of confidentiality of the program, the coordinators will report directly to the Chief of Police.

Peer Support Team Advisors will receive training in peer support for emergency responders, critical incidents, post-trauma stress and basic critical incident stress management

436.6.1 SELECTION PROCESS

Peer support advisors are recruited from department personnel at large. The recruiting process shall consist of identifying those members who meet the following criteria:

- (a) Not on probation.
- (b) Agree to maintain confidentiality as provided in this policy.
- (c) Be empathetic and possess above average interpersonal and communication skills.
- (d) Motivated to assist co-workers and their families.
- (e) Successful review of the member's work performance history and personnel file.
- (f) Attend quarterly meetings.
- (g) Willing to respond after-hours to a critical incident.
- (h) Successful completion of peer support training.

Members interested in becoming a part of the peer support team must submit a letter of interest to the peer support coordinator. Member's submissions will be reviewed by the peer support coordinator with final approval made by the Chief of Police. The peer support team will be comprised of no more than ten peer support members, not including the coordinator.

436.7 MEMBER RESPONSIBILITIES

Peer support advisors provide support and assistance to members in times of stress and crisis. The responsibilities of an advisor are as follows:

- (a) Convey trust and anonymity, and ensure confidentiality within the guidelines to members who seek assistance from the peer support program.

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- (b) Provide emotional support during and after times of personal and/or professional crisis to members who express the need for assistance.
- (c) Support members and their families during tragedies or critical incidents and make proper referrals to professional resources.
- (d) Check on members who are off work due to extended illness or injury and provide support for those who express the need for assistance.
- (e) Be available to members for additional follow-up support.
- (f) Maintain contact with the program coordinator regarding program activities without breaching confidentiality.
- (g) Agree to be contacted and, if necessary, to respond at any hour to assist a member in need.
- (h) Attend peer support trainings and quarterly meetings.

436.8 PEER SUPPORT NOTIFICATION

Members of this office will respond differently to critical incidents or stressful calls depending on life experiences and current situations in their own life. It is imperative that supervisors be aware of the serious incidents that have the potential to impact their staff.

The following situations could be potential circumstances a peer support advisor(s) could be contacted to assist:

- (a) Shootings where a suspect is killed or wounded.
- (b) A member witnesses another member's death or serious injury.
- (c) Hostage situation.
- (d) Witnessed suicide.
- (e) Witnessed violent death or serious injury.
- (f) Witness or participant in an incident involving multiple deaths.
- (g) An infant or child death.
- (h) Any situation the member is asking for peer support.
- (i) Any situation that is likely to affect the member's ability to interact with the public and carry out their job functions.
- (j) Any situation as deemed appropriate by the member's supervisor.

436.9 DEFUSING

A defusing follows the critical event as soon as practical and generally lasts no more than one hour. It gives all parties involved in the incident the big picture of what occurred. A defusing may eliminate the need for a formal debriefing or it may enhance the debriefing process. Supervisors should contact the peer support team coordinator to inform them of a critical event and who was involved.

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Peer support advisors could be called in to assist with a defusing in which they will offer reminders of psychological stress, steps to overcome them and give support to those that were involved in the incident. Advisors will follow-up with all members involved within a reasonable period of time following the incident to ensure any concerns are addressed and to initiate referral, if necessary. Advisors are to consult with the designated Mental Health Professional, when necessary, and are to refrain from giving advice to members which is beyond their formal peer support training.

436.10 DEBRIEFING

A debriefing follows a critical event 24-72 hours after the critical incident and is strongly encouraged, unless otherwise mandated by the Chief of Police, for all members involved. A debriefing generally lasts two to four hours.

The Division Captain is responsible for notifying the peer support coordinator of the incident and the members involved. The coordinator will notify advisors and plan to initiate the debriefing. Advisors will follow-up with all members involved within a reasonable period of time following the incident to ensure any concerns are addressed and to initiate referral, if necessary. Advisors are to consult with the designated Mental Health Professional, when necessary, and are to refrain from giving advice to members which is beyond their formal peer support training.

A defusing or debriefing is confidential. It is not meant to be a fact-finding mission for disciplinary action.

Only members involved in the critical incident may participate in a defusing or debriefing which will be facilitated by either peer support team members or the designated Mental Health Professional. Supervisors or command staff may only participate in these sessions if they were directly involved in the incident. All staff not directly involved, including command staff, shall refrain from injecting themselves in a debriefing or defusing.

Chapter 5 - Traffic Operations

Traffic Function and Responsibility

500.1 PURPOSE AND SCOPE

The ultimate goal of traffic enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventative patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on collision data, enforcement activity records, traffic volume and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in collision situations but also in terms of traffic-related needs.

500.2 TRAFFIC ENFORCEMENT DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the Rochester Police Department. Information provided by the Minnesota Office of Traffic Safety (OTS) is a valuable resource for traffic collision occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of collision-causing violations during periods of high-collision incidence and at locations of occurrence. All officers will take directed enforcement action on request, and random enforcement action when appropriate, against violators as a matter of routine. All officers shall maintain high visibility while working general enforcement, especially at high-collision incidence locations.

Other factors to be considered for deployment are citizen requests, construction zones or special events.

500.3 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of citations issued by any officer shall not be used when evaluating officer performance (Minn. Stat. § 169.985; Minn. Stat. § 299D.08). The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

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500.3.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant.

500.3.2 TRAFFIC CITATIONS

Traffic citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

- (a) Explanation of the violation or charge.
- (b) E-citation procedure and court process.

500.3.3 TRAFFIC CITATION COURT JURISDICTION

An officer who issues a traffic citation shall ensure that the citation is properly directed to the court having jurisdiction (Minn. Stat. § 169.91 Subd. 3).

500.3.4 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses. These physical arrest cases usually deal with, but are not limited to (Minn. Stat. § 169.91):

- (a) Negligent homicide.
- (b) Driving under the influence of alcohol/drugs.
- (c) Hit-and-run resulting in serious injury or death.
- (d) Hit-and-run resulting in damage to any vehicle or property.

500.4 HIGH-VISIBILITY VESTS

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; Minn. R. 5205.0030).

Although intended primarily for use while performing traffic-related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

500.4.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, collision investigations, lane closures and while at disaster scenes, or any time high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

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Traffic Function and Responsibility

Vests maintained in the investigation units may be used any time a plain clothes officer might benefit from being readily identified as an officer.

500.4.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests shall be maintained and kept in good condition by the employee. Each vest should be stored inside the resealable plastic bag provided to protect and maintain the vest in a serviceable condition.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Training Unit should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

Traffic Collisions

501.1 PURPOSE AND SCOPE

This policy provides guidelines for responding to and investigating traffic collisions.

501.2 POLICY

It is the policy of the Rochester Police Department to respond to traffic collisions and render or summon aid to injured victims as needed. The Department will investigate and prepare reports according to the established minimum reporting requirements with the goal of reducing the occurrence of collisions by attempting to identify the cause of the collision and through enforcing applicable laws. Unless restricted by law, traffic collision reports will be made available to the public upon request.

501.3 RESPONSE

Upon arriving at the scene, the responding member should assess the need for additional resources and summon assistance as appropriate. Generally, the member initially dispatched to the scene will be responsible for the investigation and report, if required, unless responsibility is reassigned by a supervisor.

A supervisor should be notified when the incident:

- (a) Is within the jurisdiction of this department and there is:
 - (a) A life-threatening injury.
 - (b) A fatality.
 - (c) A City vehicle involved.
 - (d) A City official or employee involved.
 - (e) Involvement of an on- or off-duty member of this department.
- (b) Is within another jurisdiction and there is:
 - 1. A City of Rochester vehicle involved.
 - 2. A City of Rochester official involved.
 - 3. Involvement of an on-duty member of this department.

501.3.1 MEMBER RESPONSIBILITIES

Upon arriving at the scene, the responding member should consider and appropriately address:

- (a) Traffic direction and control
- (b) Proper placement of emergency vehicles, cones, roadway flares or other devices if available to provide protection for members, the public and the scene.
- (c) First aid for any injured parties if it can be done safely.
- (d) The potential for involvement of hazardous materials.

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- (e) The need for additional support as necessary (e.g., traffic control, emergency medical services, fire department, HAZMAT, tow vehicles).
- (f) Clearance and cleanup of the roadway.

501.4 NOTIFICATION

If a traffic collision involves a life-threatening injury or fatality, the responding officer shall notify a supervisor. For life-threatening or fatal collisions, a supervisor with the Forensic Mapping Unit (FMU) shall be contacted to determine investigative responsibility. A supervisor will ensure notification is made to the chain of command in accordance with the Major Incident Notification Policy.

501.4.1 NOTIFICATION OF FAMILY

In the event of a life-threatening injury or fatality, the supervisor responsible for the incident should ensure notification of the victim's immediate family or coordinate such notification with the Medical Examiner. Notification should be made as soon as practicable following positive identification of the victim.

The identity of any person seriously injured or deceased in a traffic collision should not be released until notification is made to the victim's immediate family.

501.5 MINIMUM REPORTING REQUIREMENTS

A collision report shall be taken when:

- (a) A fatality, any injury (including complaint of pain), impaired driving or hit and run is involved.
- (b) An on-duty member of the City of Rochester is involved.
- (c) The collision results in any damage to any City-owned or leased vehicle.
- (d) The collision involves any other public agency driver or vehicle.
- (e) There is damage to public property.
- (f) There is damage to any vehicle to the extent that towing is required.
- (g) Prosecution or follow-up investigation is contemplated.
- (h) Directed by a supervisor.
- (i) Property damage is \$1000 or more (Minn. Stat. § 169.09).
- (j) At the request of one of the parties involved.

501.5.1 PRIVATE PROPERTY

Generally, reports should not be taken when a traffic collision occurs on private property unless there is an injury or fatality, a hit-and-run violation or other traffic law violation involved. Members may provide assistance to motorists as a public service, such as exchanging information and arranging for the removal of the vehicles.

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Traffic Collisions

501.5.2 CITY VEHICLE INVOLVED

A traffic collision report shall be taken when a City vehicle is involved in a traffic collision that results in property damage or injury.

A general information report may be taken in lieu of a traffic collision report at the direction of a supervisor when the incident occurs entirely on private property or does not involve another vehicle.

501.5.3 INJURED ANIMALS

Department members should refer to the Animal Control Policy when a traffic collision involves the disposition of an injured animal.

501.6 INVESTIGATION

When a traffic collision meets minimum reporting requirements the investigation should include, at a minimum:

- (a) Identification and interview of all involved parties.
- (b) Identification and interview of any witnesses.
- (c) A determination of whether a violation of law has occurred and the appropriate enforcement action.
- (d) Identification and protection of items of apparent evidentiary value.
- (e) Documentation of the incident as necessary (e.g., statements, measurements, photographs, collection of evidence and reporting) on the appropriate forms.

501.6.1 INVESTIGATION BY OUTSIDE LAW ENFORCEMENT AGENCY

A supervisor should request that the Minnesota Department of Public Safety or other outside law enforcement agency investigate and complete a traffic collision investigation when a life-threatening injury or fatal traffic collision occurs within the jurisdiction of the Rochester Police Department and involves:

- (a) An on- or off-duty member of the Department.
 - 1. The involved member shall complete the department traffic collision form. If the member is unable to complete the form, the supervisor shall complete it.
- (b) An on-or off-duty official or employee of the City of Rochester.

Department members shall promptly notify a supervisor when any department vehicle is involved in a traffic collision. The collision investigation and report shall be completed by the agency having jurisdiction.

501.6.2 COMMERCIAL VEHICLE COLLISIONS

Commercial vehicle collisions additionally require notification to the Minnesota State Patrol if the collision results in (Minn. Stat. § 169.783):

- (a) A fatality.

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- (b) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the collision.
- (c) One or more vehicles incurring disabling damage as a result of the collision, requiring the vehicle to be transported away from the scene by tow truck or other motor vehicle.

A waiver or inspection by a state trooper or other authorized person is required before a person may drive a commercial motor vehicle that was involved in such a collision (Minn. Stat. § 169.783).

501.7 ENFORCEMENT ACTION

After a thorough investigation in which physical evidence or independent witness statements indicate that a violation of a traffic law contributed to the collision, authorized members should issue a citation or arrest the offending driver, as appropriate.

More serious violations, such as driving under the influence of drugs or alcohol, vehicular manslaughter or other felonies, shall be enforced. If a driver who is subject to enforcement action is admitted to a hospital, a supervisor shall be contacted to determine the best enforcement option.

501.8 REPORTS

Department members shall report traffic collisions as approved by the Minnesota Department of Public Safety (Minn. Stat. § 169.09, Subd. 9). All such reports shall be forwarded to the Records Unit.

501.8.1 REPORT MODIFICATION

A change or modification of a written report that alters a material fact in the report may be made only by the member who prepared the report.

Vehicle Towing

502.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Rochester Police Department and under the authority of Minn. Stat. § 168B.035.

502.2 STORAGE AND IMPOUNDS

Vehicles may be towed for violations of Minn. Stat. § 168B.035, including parking, registration and snow emergency violations.

Vehicles may be moved or removed from a highway when in violation of Minn. Stat. § 169.32(a) or when left unattended upon any street or highway or upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic (Minn. Stat. § 169.33).

The responsibilities of those employees storing or impounding a vehicle are as follows:

502.2.1 COMPLETION OF VEHICLE IMPOUND AND INVENTORY REPORT

Department members requesting towing of a vehicle shall complete a Vehicle Impound and Inventory Report, including a description of property within the vehicle. A copy is to be given to the tow truck operator and the original is to be submitted to the Records Unit as soon as practicable after the vehicle is stored.

502.2.2 REMOVAL OF VEHICLE DISABLED IN A TRAFFIC COLLISION

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall determine tow provider preference, if reasonably possible. If no preference is specified, the officer shall relay the request to the dispatcher. When there is no preferred company requested the department's contracted provider shall be dispatched.

If the owner is incapacitated or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call the contracted tow provider. The officer will then conduct an inventory and store the vehicle using a Vehicle Impound and Inventory Report.

502.2.3 DRIVING A NON-CITY VEHICLE

Vehicles that have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

502.2.4 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

When there is no preferred company requested, the dispatcher shall call the department's contracted tow provider.

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502.2.5 RECORDS UNIT RESPONSIBILITIES

Records Unit personnel shall promptly enter pertinent data from the completed Vehicle Impound and Inventory Report form into the stolen vehicle system. Approved forms shall be promptly filed so that they are immediately available for release or review should inquiries be made.

Within 48 hours of recovering a stolen vehicle or receiving notification that a vehicle reported stolen through this department has been recovered, the Records Unit shall make a reasonable and good faith effort to notify the victim of the recovery. The notice must specify when the recovering law enforcement agency expects to release the vehicle to the owner and where the owner may pick up the vehicle. Upon recovery of a vehicle reported stolen to another agency, the Records Unit is to promptly inform the agency that the vehicle is recovered, where it is located and when it can be released to the owner (Minn. Stat. § 169.042 Subd. 1).

502.3 TOWING SERVICES

The City of Rochester periodically selects one or more firms to act as official tow services and awards contracts to those firms. Those firms will be used in the following situations:

- (a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.
- (b) When a vehicle is being held as evidence in connection with an investigation.
- (c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles and the removal of vehicles obstructing traffic in violation of state or local regulations.

If more than one firm has been awarded contracts, they shall be placed on a rotation list. Nothing in this policy shall require the Department to tow a vehicle.

502.4 TOWING AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by towing the arrestee's vehicle subject to the exceptions described below. However, a vehicle shall be towed whenever it is needed for the furtherance of an investigation or prosecution of the case.

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of towing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the occupant was arrested nor may be subject to forfeiture proceedings.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene.

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In such cases, the handling employee shall note in the report that the owner was informed that the Department will not be responsible for theft or damages.

502.5 VEHICLE INVENTORY

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if they are closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practicable in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while the owner is in police custody, to provide for the safety of officers and the public, and to protect the Department against fraudulent claims of lost, stolen or damaged property.

502.6 PRESERVATION OF EVIDENCE

An officer who removes a vehicle pursuant to Minn. Stat. § 168B.035 is required to take reasonable and necessary steps to preserve evidence. If there is probable cause to believe that a vehicle or its contents constitute any evidence which tends to show that a criminal offense has been committed, or that a particular person has committed a criminal offense, officers shall ensure that all legally required and reasonably necessary efforts are taken to preserve the evidence. Such evidence is to be provided safe storage and preserved until released to the owner or otherwise disposed of according to law.

502.7 SECURITY OF VEHICLES AND PROPERTY

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officer should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cellular telephone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

Impaired Driving

503.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving while impaired (DWI).

503.2 POLICY

The Rochester Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of Minnesota's impaired driving laws.

503.3 INVESTIGATIONS

Officers should not enforce DWI laws to the exclusion of their other duties unless specifically assigned to DWI enforcement. All officers are expected to enforce these laws with due diligence.

During a DWI investigation, information that should be documented includes, at a minimum:

- (a) The field sobriety tests (FSTs) administered and the results.
- (b) The officer's observations that indicate impairment on the part of the individual, and the officer's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.
- (f) Any prior related convictions in Minnesota or another jurisdiction.

503.4 FIELD TESTS

Officers shall utilize standardized FSTs and any approved alternate tests for officers to use when investigating violations of DWI laws.

503.5 CHEMICAL TESTS

A person implies consent under Minnesota law to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Minn. Stat. § 169A.51, Subd. 1):

- (a) The arresting officer has probable cause to believe the person was driving, operating or in physical control of a vehicle while impaired as defined by Minn. Stat. § 169A.20.
- (b) The officer has probable cause to believe that the person is DWI and has been involved in a vehicle accident resulting in property damage, personal injury or death.
- (c) The officer has probable cause to believe that the person is DWI and the person has refused to take the preliminary screening test provided for by Minn. Stat. § 169A.41.

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- (d) The person was administered a preliminary screening test and the results indicated an alcohol concentration of 0.08 or more.
- (e) The officer has probable cause to believe the person was driving, operating or in physical control of a commercial motor vehicle with the presence of any alcohol in the person's body.

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

503.5.1 STATUTORY NOTIFICATIONS

At the time that the officer requests the person to submit to a breath test the officer must inform the person that (Minn. Stat. § 169A.51, Subd. 2):

- (a) Minnesota law requires that he/she take the test.
- (b) Refusal to take the test is a crime.
- (c) He/she has the right to consult with an attorney unless it would unreasonably delay administration of the test.

At the time that the officer directs a person to submit to a blood or urine test pursuant to a warrant, the person must be informed that a refusal to submit to a blood or urine test is a crime (Minn. Stat. § 171.177, Subd. 1 and Subd. 2).

503.5.2 BREATH SAMPLES

The Services Unit should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested, and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported.

503.5.3 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (Minn. Stat. § 169A.51, Subd. 7). The blood draw should be witnessed by the assigned officer.

Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

If an arrestee cannot submit to a blood test because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

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503.5.4 URINE SAMPLES

If a urine test will be performed, the arrestee should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the person giving the sample. The arrestee tested should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample.

The sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

503.6 REFUSALS

When an arrestee refuses to provide a chemical sample officers should:

- (a) Advise the arrestee of the requirement to provide a sample (Minn. Stat. § 169A.51; Minn. Stat. § 171.177, Subd. 1).
- (b) Audio- and/or video-record the admonishment and the response when it is legal and practicable.
- (c) Document the refusal in the appropriate report.

503.6.1 STATUTORY NOTIFICATIONS UPON REFUSAL

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of intention to revoke upon the person and invalidate the person's license in such a way that no identifying information is destroyed and immediately return the license to the person (Minn. Stat. § 169A.52, Subd. 7; Minn. Stat. § 171.177, Subd. 8).

503.6.2 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who does not consent to a chemical test when any of the following conditions exist (Minn. Stat. § 169A.51, Subd. 3):

- (a) A search warrant has been obtained.
- (b) The officer can articulate that exigent circumstances exist and the officer has probable cause to believe that the person has committed DWI, including vehicular homicide or injury (Minn. Stat. § 169A.52, Subd. 1; Minn. Stat. § 171.177, Subd. 13). Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts, such as a lengthy delay in obtaining a blood sample due to a collision investigation or medical treatment of the person.

503.6.3 WARRANTS FOR CONTROLLED SUBSTANCES OR INCAPACITATION

A blood or urine test may be required pursuant to a warrant if the officer has probable cause to believe that (Minn. Stat. § 169A.51, Subd. 4):

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- (a) The person's impairment is due to a controlled substance or an intoxicating substance that is not subject to testing by a breath test.
- (b) A controlled substance listed in Schedule I or II or its metabolite (other than marijuana or tetrahydrocannabinols), is present in the person's body.
- (c) The person is unconscious or incapacitated to the point that the officer providing the breath test advisory, administering the breath test, or serving the search warrant has a good faith belief that the person is mentally or physically unable to comprehend the advisory or otherwise voluntarily submit to the chemical tests.

If a person objects to the blood or urine test as directed by the warrant or officer, the officer should offer the other type of test if the person is conscious. Action may be taken against a person refusing to submit to a blood or urine test only if an alternate test of blood or urine, as applicable, was offered (Minn. Stat. § 169A.51, Subd. 4; Minn. Stat. § 171.177, Subd. 2).

503.6.4 FORCED BLOOD SAMPLE

A forced sample may not be taken except in DWI cases involving vehicular homicide or injury (Minn. Stat. § 171.177, Subd. 13). In those cases, if a person indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes, a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer), and attempt to persuade the person to submit to such a sample without physical resistance.
 - 1. This dialogue should be recorded on audio and/or video when reasonably practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure that the forced blood draw is recorded on audio and/or video when reasonably practicable.
- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:
 - 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
 - 2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
 - 3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.

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- (g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform the duties of a supervisor, as set forth above.

503.7 ARREST AND INVESTIGATION

503.7.1 RIGHT TO ATTORNEY CONTACTS

A person has a limited right to consult with an attorney prior to submitting to a chemical test. This right is limited to the extent that it cannot unreasonably delay administration of the test (Minn. Stat. § 169A.51, Subd. 2).

503.7.2 ARREST AUTHORITY

An officer may arrest a person without a warrant and without regard to whether the offense was committed in the officer's presence if there is probable cause to believe the person committed (Minn. Stat. § 169A.40):

- (a) A DWI offense (Minn. Stat. § 169A.20).
- (b) An alcohol-related driving offense involving a school bus or a Head Start bus (Minn. Stat. § 169A.31).
- (c) An underage drinking and driving offense (Minn. Stat. § 169A.33).

503.7.3 OFFICER RESPONSIBILITIES

If an officer requests that a person submit to a chemical test and the person refuses such request, the officer shall report such refusal to the Commissioner of the Department of Public Safety (DPS) and the appropriate prosecuting attorney (Minn. Stat. § 169A.52, Subd. 1; Minn. Stat. § 171.177, Subd. 3).

If a person refuses to submit to a test or in the alternative submits to a test and the results indicate a prohibited alcohol concentration, the officer shall immediately give notice to the person that his/her driving privilege will be revoked and shall (Minn. Stat. § 169A.52, Subd. 7; Minn. Stat. § 171.177, Subd. 8):

- (a) Issue the person a temporary license effective for only seven days.
 - 1. Officers are not required to issue a person a temporary license if the person's driving privilege is under withdrawal by DPS or if the person is unlicensed.
- (b) Send the notification of this action to the Commissioner of the DPS along with the certification that there was probable cause to believe the person had been driving, operating or in physical control of a motor vehicle while impaired, and that the person either refused to submit to a test or submitted to a test and the results indicated a prohibited alcohol concentration or drug presence.

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Test results of a person that indicate a prohibited alcohol concentration or drug presence shall be forwarded to the Commissioner of the DPS and the appropriate prosecuting attorney (Minn. Stat. § 169A.52, Subd. 2).

503.7.4 PRELIMINARY SCREENING TEST

An officer who has reason to believe the person was driving, operating or in physical control of a motor vehicle while impaired, may require the person to provide a sample of the person's breath for a preliminary screening test using a device approved by the DPS Commissioner (Minn. Stat. § 169A.41, Subd. 1).

The officer must use the results of the preliminary screening test for the purpose of deciding whether to arrest the person and require further chemical testing pursuant to Minn. Stat. § 169A.51 (Minn. Stat. § 169A.41, Subd. 2).

503.7.5 ADDITIONAL TESTING

An officer shall permit a person required to submit to a chemical test to have a qualified person of his/her own choosing administer a separate chemical test (Minn. Stat. § 169A.51, Subd. 7(b)). The separate chemical test shall:

- (a) Be conducted at the place where the person is in custody.
- (b) Be conducted after the officer has administered the statutorily mandated test.
- (c) Impose no expense to the state.

503.7.6 ADDITIONAL REQUIREMENTS FOR BREATH SAMPLES

All breath samples requested in accordance with this policy shall be obtained in accordance with Minn. Stat. § 169A.51, Subd. 5.

503.8 RECORDS UNIT RESPONSIBILITIES

The Records Manager will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

503.9 ADMINISTRATIVE HEARINGS

The Records Manager will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to the Driver and Vehicle Services Division (DVS) of the DPS.

Any officer who receives notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

503.10 TRAINING

The Training Unit should ensure that officers participating in the enforcement of DWI laws receive regular training. Training should include at minimum current laws on impaired driving, investigative techniques and rules of evidence pertaining to DWI investigations.

Traffic Citations

504.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the collection of data, the procedure for dismissal, correction and voiding of traffic citations.

504.2 RESPONSIBILITIES

The Services Unit shall be responsible for the development and design of all Departmental Directive traffic citations in compliance with state law (Minn. Stat. § 169.99 and Minn. Stat. § 169.999 Subd. 3).

504.2.1 DATA COLLECTION

The Records Unit should maintain information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops.

504.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this department do not have the authority to dismiss a citation once it has been issued and transmitted to the State. Only the court has the authority to dismiss a citation that has been issued. Any request from a recipient to dismiss a citation shall be referred to the prosecuting authority.

Should an officer determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate, the officer may request the prosecutor to dismiss the citation.

Members of the Department should provide a report or other verification to the owner of a stolen vehicle that may have received a citation during the time of the theft for the purpose of dismissing the citation (Minn. Stat. § 169.042 Subd. 2).

504.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur prior to transmission to the State.

504.5 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE

Disposition of notice of parking violation appeals is conducted pursuant to Minnesota state law and local regulations (Minn. Stat. § 169.04 (a) (1)).

504.6 JUVENILE CITATIONS

Completion of traffic citation for juveniles may vary slightly from the procedure for adults. The juvenile's age, place of residency and the type of offense should be considered before issuing the juvenile a citation.

- (a) When any juvenile is issued a citation for a drug or alcohol violation, or a juvenile 16 years of age or older is issued a citation for an adult court traffic offense, the officer shall follow the arrest procedures prescribed in Minn. Stat. § 169.91 and shall make

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reasonable effort to notify the child's parent or guardian of the violation and the nature of the charge. Notifications should be documented (Minn. Stat. § 260B.225 Subd. 3).

- (b) When any juvenile is issued a citation for a major traffic offense, the officer is required to electronically file a signed copy of the citation, as provided in Minn. Stat. § 169.91, with the juvenile court of the county in which the violation occurred. The citation serves as a petition providing the juvenile court jurisdiction (Minn. Stat. § 260B.225 Subd. 5).

Disabled Vehicles

505.1 PURPOSE AND SCOPE

Law enforcement and other public agencies may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

505.2 OFFICER RESPONSIBILITIES

When an on-duty officer observes a disabled vehicle on the roadway, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer to respond for assistance as soon as practicable.

505.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by Department personnel will be contingent on the time of day, the location, the availability of Department resources and the vulnerability of the disabled motorist.

505.3.1 MECHANICAL REPAIRS

Department personnel should not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

505.3.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

Abandoned Vehicle Violations

506.1 PURPOSE AND SCOPE

This policy provides procedures for the removal, recording and storage of vehicles abandoned in violation of abandoned vehicle laws, under the authority of Minn. Stat. § 168B.04.

506.1.1 DEFINITION

Pursuant to Minnesota statutes, a vehicle is abandoned if:

- (a) The motor vehicle has remained illegally for more than 48 hours on any government-owned or -controlled property, or for more than four hours on that property when properly posted (Minn. Stat. § 168B.011 Subd. 2 (1)).
- (b) The motor vehicle has been properly tagged by an officer and abandoned for four hours on any highway (Minn. Stat. § 168B.04, Subd. 2 (b) (1)).
- (c) The motor vehicle has been abandoned and located so as to constitute a collision or traffic hazard (Minn. Stat. § 168B.04 Subd. 2 (b) (1)).
- (d) The motor vehicle is unattended on private residential property, that is a single-family or duplex, without permission of the property caretaker (Minn. Stat. § 168B.04 Subd. 2 (b) (2)).
- (e) The motor vehicle can be immediately removed if on private non-residential property if properly posted or after 24 hours if not posted (Minn. Stat. § 168B.04 Subd. 2 (b) (2)).
- (f) The motor vehicle remains at a service, repair or maintenance establishment of motor vehicles five days after notifying the vehicle owner by certified mail, return receipt requested, of the property owner's intention to have the vehicle removed from the property (Minn. Stat. § 168B.04 Subd. 2 (b) (2)).

506.2 VEHICLE STORAGE

Any vehicle in violation shall be towed and stored in accordance with law.

Chapter 6 - Investigation Operations

Investigation and Prosecution

600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

600.2 POLICY

It is the policy of the Rochester Police Department to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

600.3 INITIAL INVESTIGATION

600.3.1 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following:

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
 - 1. An initial statement from any witnesses or complainants.
 - 2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the officer shall:
 - (a) Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
 - (b) Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
 - (c) If assistance is warranted, or if the incident is not routine, notify a supervisor.
 - (d) Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
 - (e) Collect any evidence.
 - (f) Take any appropriate law enforcement action.
 - (g) Complete and submit the appropriate reports and documentation.
- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the complainant of this information.

600.3.2 NON-SWORN MEMBER RESPONSIBILITIES

A non-sworn member assigned to any preliminary investigation is responsible for all investigative steps. Making an attempt to locate, contact or interview a suspect face-to-face or take any enforcement action is discouraged. Minor violations, such as the investigation and enforcement of city ordinances, are authorized under this policy. However, non-sworn employees shall request

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the assistance of a sworn officer for any investigation where there are safety concerns, a known risk of confrontation exists, or a physical arrest is possible.

600.4 CUSTODIAL INTERROGATION REQUIREMENTS

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

600.4.1 AUDIO/VIDEO RECORDINGS

Any custodial interrogation of a person who is suspected of having committed a criminal offense should be electronically recorded (audio/video or both as available) in its entirety, including any information or discussion about the person's rights and any waiver of those rights. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Consideration should also be given to recording a non-custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews.

600.5 DISCONTINUATION OF INVESTIGATIONS

The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

- (a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.
- (b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.
 1. In these cases, the investigator shall document that the person was warned and why prosecution was not sought.
 2. Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.
- (c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.
- (d) The case has been submitted to the appropriate prosecutor, charges have been filed, and further investigation is not reasonable, warranted or requested, and there is no need to take the suspect into custody.

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- (e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted or requested.
- (f) Investigation has proven that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

The Domestic Abuse, Child Abuse, Sexual Assault Investigations and Adult Abuse policies may also require an arrest or submittal of a case to a prosecutor.

600.6 COMPUTERS AND DIGITAL EVIDENCE

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

600.7 ELECTRONIC BENEFIT TRANSFER (EBT) CARDS

Officers shall make a report any time they arrest a person who possesses more than one welfare Electronic Benefit Transfer (EBT) card. The investigating officers shall forward this report to the Minnesota Department of Human Services within 30 days of the arrest. The report shall include all of the following (Minn. Stat. § 626.5533):

- (a) The name, address and driver's license or state identification card number of the suspect
- (b) The number on each EBT card and name, if any
- (c) The date and location of any alleged offense
- (d) Any other information the Minnesota Department of Human Services may require on related state forms

600.8 MODIFICATION OF CHARGES FILED

Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without consulting a supervisor. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.

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601.1 PURPOSE AND SCOPE

The purpose of this policy is to provide employees with guidelines for responding to reports of sexual assault. This agency will strive:

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

Mandatory notifications requirements are addressed in the Child Abuse and Adult Abuse policies.

601.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

Child or Minor - A person under the age of 18.

Medical Forensic Examiner - The health care provider conducting a sexual assault medical forensic examination.

Sexual assault - Any crime or attempted crime of a sexual nature, to include, but not limited to, offenses defined in Minn. Stat. § 609.293 and Minn. Stat. § 609.342 through Minn. Stat. § 609.3453.

Family and Household Member - As defined in Minn. Stat. 518.B.01 Subd.2.b. to include:

- (a) Spouses or former spouses
- (b) Parents and children
- (c) Persons related by blood
- (d) Persons who are presently residing together or who have resided together in the past
- (e) Persons who have a child in common regardless of whether they have been married or have lived together at any time

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- (f) A man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time
- (g) Persons involved in a significant romantic or sexual relationship

Sexual Assault Medical Forensic Examination - An examination of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients.

Victim Advocate - A Sexual Assault Counselor defined by Minn. Stat. 595.02, Subd. 1(k) and/or Domestic Abuse Advocate as defined by Minn. Stat. 595.02, Subd. 1(1) who provide confidential advocacy services to victims of sexual assault and domestic abuse. Victim advocates as defined provide coverage in all counties in Minnesota. Minnesota Office of Justice Programs (MN OJP) can assist departments in locating their local victim advocacy agency for the purposes outlined in this policy.

Victim Centered - A victim-centered approach prioritizes the safety, privacy and well-being of the victim and aims to create a supportive environment in which the victim's rights are respected and in which they are treated with dignity and respect. This approach acknowledges and respects a victims' input into the criminal justice response and recognizes victims are not responsible for the crimes committed against them. This approach also recommends that victims are not charged with underage consumption or other minor offenses when they report being the victim of a sexual assault.

Vulnerable Adult - Any person 18 years of age or older who:

- (a) Is a resident inpatient of a facility as defined in Minn. Stat. 626.5572, Subd. 6;
- (b) Receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);
- (c) Receives services from a home care provider required to be licensed under sections 144A.43 to 144A.482; or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654, and 256B.0659; or
- (d) Regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
 - 1. That impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and
 - 2. Because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

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601.2 POLICY

It is the policy of the Rochester Police Department to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring its peace officers understand the laws governing this area. Sexual assault crimes are under-reported to law enforcement and the goal of this policy is in part to improve victim experience in reporting so that more people are encouraged to report. The Rochester Police Department will receive reports of sexual assaults, regardless of the jurisdiction where the incident occurred.

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

Peace officers will utilize this policy in response to sexual assault reported to this agency. This agency will aggressively enforce the laws without bias and prejudice based on race, marital status, sexual orientation, economic status, age, disability, gender, religion, creed, or national origin.

The Rochester Police Department participates in the Olmsted County Sexual Assault Interagency Council (SAIC). The SAIC is a multi-disciplinary group formed to develop a victim-centered, culturally competent response to sexual assaults reported in Rochester and Olmsted County.

It is the policy of the Police Department to work in collaboration with other SAIC agencies to provide an appropriate law enforcement response to victims of sexual assault.

601.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

- (a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.
- (b) Conduct follow-up interviews and investigation.
- (c) Present appropriate cases of alleged sexual assault to the prosecutor for review.
- (d) Utilize Multidisciplinary Teams including, partner law enforcement agencies, prosecutors, social service agencies, Olmsted County Victim Services and medical personnel.

601.4 OFFICER RESPONSE

Upon receiving a report of a sexual assault, the dispatcher should assign the call a high priority. Depending upon the circumstances at the scene, at least one officer should be assigned to the incident as soon as possible.

Communications Unit personnel are expected to gather as much information as is necessary to provide a safe and appropriate response. In most cases, it is not necessary for Communications Unit personnel to gather great detail about the nature of the offense or the acts committed against

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the victim. In every case of a reported sexual assault, the dispatcher should attempt to gather as much of the following information as is possible:

- (a) Name, address and current location of the victim.
- (b) Name, address and phone number of the reporter, if other than the victim.
- (c) Determine if emergency medical care is needed.
- (d) Determine if the assailant is present.
- (e) Determine where and approximately when the assault took place.

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

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

Officers should respond directly and without unreasonable delay to the victim's location. If the victim is at a different location than the scene of the assault, consideration should be given to the need for assistance in securing and protecting the crime scene. In all cases, victim and officer safety are primary concerns.

Upon arriving at the victim's location, the responding officer should determine whether there is an immediate need for medical attention to physical injuries suffered by the victim. If the victim is already at the hospital or other medical facility, medical personnel shall determine the need for medical attention.

The responding officer should speak with the victim only enough to learn:

- (a) What type of crime has been committed,
- (b) By whom it was committed (to determine if there is a public safety risk),
- (c) Where the crime took place (to determine jurisdiction, potential crime scene(s), and/or evidence to be collected), and
- (d) Approximately how long ago the crime was committed.

When interacting with victims, officers shall do the following:

- (a) Recognize that the victim experienced a traumatic incident and may not be willing or able to assist with the criminal investigation.

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- (b) The officer shall attempt to determine the location/jurisdiction where the assault took place.
- (c) Explain the reporting process including the roles of the first responder, investigator, and anyone else with whom the victim will likely interact during the course of the investigation.
- (d) Officers are encouraged to connect the victim with local victim advocates as soon as possible. Inform the victim that there are confidential victim advocates available to address any needs they might have and to support them through the criminal justice system process. Provide the victim with contact information for the local victim advocate. Upon victim request the officer can offer to contact local victim advocate on behalf of the victim.
- (e) Ask about and document signs and symptoms of injury, to include strangulation. Officers shall attempt to obtain a signed medical release from the victim.
- (f) Ensure that the victim knows they can go to a designated facility for a forensic medical exam. Offer to arrange for transportation for the victim.
- (g) Identify and attempt to interview potential witnesses to the sexual assault and/or anyone the victim told about the sexual assault.
- (h) Request preferred contact information for the victim for follow-up.

If the Rochester Police Department learns that both the victim and the accused are members of the Minnesota National Guard, the Department shall provide a copy of the summary to the Bureau of Criminal Apprehension (Minn. Stat. § 609.3459).

601.4.1 VICTIM ADVOCACY RESPONSE COORDINATION

Victim Services Advocates often provide invaluable services to the victim of a sexual assault, and can act as a resource in the continued investigation of a case. In all cases, the responding officer should determine if the victim has been offered the services of a Victim Services Advocate. If services have not been offered, the responding officer should thoroughly explain the availability of and services provided by Victim Services. If desired by the victim, the responding officer should initiate contact with a Victim Services Advocate.

When it has been determined that a sexual assault was committed in Rochester, the responding officer should contact a Patrol Division Supervisor.

601.4.2 SUPERVISOR RESPONSE

The Patrol Division Supervisor will assess the information received from the responding officer to determine the appropriate Patrol Division response to the incident. In determining the appropriate Patrol Division response, the Supervisor should consider:

- (a) Officer's findings from the initial interview with the victim and/or reporter.
- (b) Witness statements.
- (c) Existence and location of crime scene(s).
- (d) Need for immediate apprehension of the suspect(s).

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Based on the above information, the Supervisor should determine whether his/her presence is needed at the victim location and/or the crime scene. In all cases, the Supervisor should notify the appropriate Investigative Division supervisor or the on-call Sergeant/Investigator. The Investigative Division response will be determined after consultation with the Patrol Division supervisor.

The Patrol Division Supervisor should determine whether the victim has been informed of the services provided by a Victim Services Advocate. If this has not been done, the Supervisor should inform the victim or direct the responding officer to inform the victim. If desired by the victim, the Supervisor or the responding officer should initiate contact with a Victim Services Advocate.

601.5 INTERVIEW CONSIDERATIONS

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

An Investigator normally should conduct interviews with sexual assault victims. Whenever possible, a one-on-one interview should be conducted. However, this should not be done at the expense of causing suffering/hardship on the part of the victim. If a victim has requested the services of a Victim Services Advocate, the assigned advocate normally should be allowed to be with the victim during any interview.

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

- (a) Offer to have a confidential victim advocate present (if possible) if the victim would benefit from additional support during the process.
- (b) Whenever possible, conduct victim interviews in person.
- (c) Make an effort to conduct the interview in a welcoming environment.
- (d) Let the victim share the details at their own pace.
- (e) Recognize victims of trauma may have difficulty remembering incidents in a linear fashion and may remember details in days and weeks following the assault.
- (f) After the initial interview, consider reaching out to the victim within a few days, after at least one sleep cycle to ask if they remember any additional details.
- (g) Depending on the victim, additional interviews might be needed to gather additional information. Offer support from a victim advocate to the victim to help facilitate engagement with the investigative process and healing.
- (h) Some victims do remember details vividly and might want to be interviewed immediately.

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- (i) During initial and subsequent victim interviews, officers should note the following information as victims share it, recognizing that a victim may not be able to recall all the details of the assault during a particular interview.
 - 1. Whether the suspect was known to the victim
 - 2. How long the victim knew the suspect
 - 3. The circumstances of their meeting and if there is any indication of the use of drugs or alcohol to facilitate the sexual assault
 - 4. The extent of their previous or current relationship
 - 5. Any behavioral changes that led the situation from one based on consent to one of submission, coercion, fear, or force
 - 6. Specific actions, statements, and/or thoughts of both victim and suspect immediately prior, during, and after assault
 - 7. Relevant communication through social media, email, text messages, or any other forms of communication

601.5.1 MINORS AND VULNERABLE ADULTS

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

- (a) Officers responding to reports of sexual assaults involving these sensitive population groups shall limit their actions to the following:
 - 1. Ensuring the safety of the victim;
 - 2. Ensuring the scene is safe;
 - 3. Safeguarding evidence where appropriate;
 - 4. Collecting any information necessary to identify the suspect; and
 - 5. Addressing the immediate medical needs of individuals at the scene.
- (b) Initial responding officers should not attempt to interview the victim in these situations, but should instead attempt to obtain basic information and facts about the situation, including the jurisdiction where the incident occurred and that a crime most likely occurred. Officers should seek to obtain this information from parents, caregivers, the reporting party, or other adult witnesses, unless those individuals are believed to be the perpetrators.

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- (c) Officers responding to victims with special considerations must comply with the mandated reporting requirements of Minn. Stat. 260E.06, 260E.22, and 626.557, as applicable. Officers investigating cases involving victims with special considerations should coordinate these investigations with the appropriate local human services agency where required. Any victim or witness interviews conducted with individuals having special considerations must be audio and video recorded whenever possible. All other interviews must be audio recorded whenever possible. Not all sexual assaults of minor victims require a mandatory report to social services. This policy recognizes that in certain cases, notifying and/or the involvement of a parent/guardian can cause harm to the minor and/or impede the investigation. Officers responding to the sexual assault of a minor victim that does not trigger a mandated report under Minn. Stat. 626.556 should assess for the impact on the victim and the investigation if parents/guardians were notified before making a decision to involve them.
- (d) Officers should obtain necessary contact information for the victim's caregiver, guardian or parents and where the victim may be located at a later time. Officers should advise the victim and/or any accompanying adult(s), guardians or caregivers that an investigating officer will follow up with information on a forensic interview.
- (e) The officer should advise the victim's caregiver, guardian or parent that if the victim starts to talk about the incident they should listen to them but not question them as this may influence any future statements.
- (f) If a forensic interview with a child or mentally challenged adult is appropriate, contact the relevant agencies (i.e. Social Services, County Attorney's Office) and conduct an interview as soon as possible. The forensic interview should be conducted by a specially trained Investigator from the appropriate agency. This normally will be a Police Investigator, but depending upon the circumstances of a case, may also be a Child Protection or Adult Protection Worker. The forensic interview should be audio and video recorded.
- (g) Officers should not bring charges for underage consumption or other minor offenses against victims of sexual assault.

601.5.2 VICTIMS OF DOMESTIC ABUSE

Officers responding to a report of sexual assault committed against a family and household member must also follow the requirements and guidelines in this agency's domestic abuse policy and protocol, in addition to the guidelines in this policy.

601.5.3 PROTECTING VICTIM RIGHTS

Officers should explain to victims the limitations of confidentiality in a criminal investigation and that the victim's identifying information is not accessible to the public, as specified in Minn. Stat. §13.82, Subd. 17(b). Officers must provide the following information to the victim:

- (a) Crime victim rights and resource information required to be provided to all victims as specified by Minn. Stat. § 611A.02, Subd. 2(b).
- (b) If the suspect is a family or household member to the victim, crime victim rights and resource information required to be provided to domestic abuse victims, as specified by Minn. Stat. §629.341, Subd. 3.

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- (c) The victim's right to be informed of the status of a sexual assault examination kit upon request as provided for under Minn. Stat. § 611A.27, Subd. 1.
- (d) Pursuant to Minn. Stat. § 611A.26, Subd. 1, no law enforcement agency or prosecutor shall require that a complainant of a criminal sexual conduct or sex trafficking offense submit to a polygraph examination as part of or a condition to proceeding with the investigation, charging or prosecution of such offense.

The Department shall ensure that the victim of a sexual assault who reports an incident is provided with a copy of the written summary of the allegation. If the incident occurred outside the jurisdiction of the Rochester Police Department, a copy of the written summary shall also be provided to the law enforcement agency where the incident occurred (Minn. Stat. § 609.3459).

601.5.4 SUSPECTS

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

- (a) Conduct a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.
- (b) Consider conducting a pretext or confrontational call or messaging depending on jurisdictional statutes. Involvement of a victim should be based on strong consideration of the victim's emotional and physical state. A victim advocate should be present whenever possible to offer support.
- (c) When possible, an attempt should be made to interview the suspect in person.
- (d) In situations where suspects do not deny that a sexual act occurred, but rather assert that it was with the consent of the victim, officers should do the following:
 1. Collect evidence of past communication, including but not limited to all relevant interaction (including social media) between the suspect and victim.
 2. Identify events that transpired prior to, during, and after the assault in an effort to locate additional witnesses and physical locations that might lead to additional evidence.
- (e) For sexual assaults involving strangers, officers should focus investigative efforts on the collection of video, DNA, and other trace evidence used for analysis to identify the perpetrator (handle evidence collection per agency policy).

The forensic examination of a suspect and/or the collection of evidence may be done by either an investigating officer/investigator, Forensic Medical Examiner, or the agency Crime Scene Team personnel.

The following should be considered:

- (a) Prior to or immediately after the preliminary suspect interview, photograph any injuries.
- (b) Determine whether a sexual assault medical forensic examination should be conducted.
- (c) Ask for the suspect's consent to collect evidence from their body and clothing. However, officers/investigators should consider obtaining a search warrant, with

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specific details about what evidence will be collected, and should be prepared in advance to eliminate the opportunity for the suspect to destroy or alter evidence if consent is denied.

- (d) During the suspect's sexual assault medical forensic examination, the investigator, evidence technician, or forensic examiner should do the following:
 - 1. Strongly consider penile swabbing, pubic hair combings, and collection of other potential DNA evidence;
 - 2. Collect biological and trace evidence from the suspect's body;
 - 3. Document information about the suspect's clothing, appearance, scars, tattoos, piercings, and other identifiable marks;
 - 4. Seize all clothing worn by the suspect during the assault, particularly any clothing touching the genital area;
 - 5. Document the suspect's relevant medical condition and injuries.

601.6 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

Officers shall follow this agency's policy on crime scene response. In addition, officers may do the following:

- (a) Collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing. The agency should consider utilizing their agency or state crime lab in obtaining or processing the scene where the assault took place. This should be in accordance to any/all other policies and procedures relating to evidence collections.
- (b) Document any evidence of threats or any communications made by the suspect, or made on behalf of the suspect, to include those made to individuals other than the victim.
- (c) In situations where it is suspected that drugs or alcohol may have facilitated the assault, officers should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, or other related items.
- (d) The assigned Investigator is responsible for ensuring that the crime scene is properly processed and evidence collected. If no investigator has been assigned the case when the crime scene is processed a Patrol Supervisor is responsible for ensuring that the crime scene is properly processed and evidence collected.
- (e) If the victim has declined or a medical forensic exam will not be conducted, the officer should obtain victim consent and attempt to take photographs of visible physical injuries, including any healing or old injuries. Victim should be given directions about how to document any bruising or injury that becomes evidence later after these photographs are taken.

601.6.1 SEXUAL ASSAULT MEDICAL FORENSIC EXAMINATIONS

Prior to the sexual assault medical forensic examination the investigating officer should do the following:

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

601.6.2 SEXUAL ASSAULT NURSE EXAMINATION (SANE) KIT HANDLING PROCEDURES

The law requires that there be effective collection, testing, and tracking of all Sexual Assault Nurse Examination Kits (hereinafter referred to as SANE Kits). The Special Victims Unit in coordination with the Records division is primarily responsible for the collection, testing, and tracking of all SANE Kits.

All unrestricted SANE kits that are recovered by the Rochester Police Department must be collected and sent to a forensic laboratory for testing. SANE kits that hospitals collect in cases involving a victim who does not want to involve the police will remain at the hospital.

The assigned investigator or other department employee designated to retrieve the unrestricted SANE kit, must do so as soon as reasonably possible and in compliance with the law. The SANE kit must be retrieved from the health care professional within ten days of receiving notice that the kit is available for transfer. The documentation of notice received and pickup must be documented to ensure compliance with Minnesota Statutes. Notification from the health care professional may be received in writing, by telephone, or by electronic communication.

The Investigative Division Captain in coordination with the Records Supervisor will establish procedures to ensure legal obligations for SANE kit handling are followed.

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As soon as reasonably possible and within 60 days of receiving an unrestricted sexual assault examination kit, the assigned investigator will submit the SANE kit for testing to a forensic laboratory. Restricted sexual assault examination kits shall not be submitted for testing.

Failure to meet a deadline established in this section is not a basis for dismissal or bar to the admissibility of the evidence in a criminal action.

601.6.3 VICTIM'S RIGHTS TO SEXUAL ASSAULT EVIDENCE INFORMATION

Upon written request from the victim or the victim's written designee for investigative data, the member investigating the sexual assault should release the following information if doing so would not interfere with the investigation (Minn. Stat. § 611A.27):

- (a) The date that a sexual assault examination kit was submitted to a forensic laboratory.
- (b) The date that the agency received notice of the results of that testing.
- (c) Whether a DNA profile was obtained from the testing.

The police department may refuse the request if the release of the data will interfere with the investigation. The department must respond to victim inquiries and requests within 30 days of receipt, unless the department declines to provide the information because it has determined the release of the data will interfere with the investigation.

A sexual assault victim can designate another person to request information on the victim's behalf by providing written authorization to the department except that the department can decline to provide the information if the release of the data will interfere with the investigation.

The Records Supervisor will be the representative assigned to respond to requests for data from sexual assault victims. The Records Supervisor will serve as the liaison between the department and the forensic laboratory.

A sexual assault victim may contact the Investigator assigned to the case, to request that a restricted kit be reclassified as an unrestricted kit, if the restricted kit is in the possession of the department. The request and process shall be documented.

601.7 CASE MANAGEMENT

Short of an active homicide investigation or the immediate need to take effective investigative/intervention measures to protect a person from imminent harm, sexual assault cases should be a priority in an investigator's case file. All cases that establish probable cause that a sexual assault occurred and that a specific person committed the sexual assault should be referred to the prosecutor for prosecution.

Case management responsibilities of supervisors should include the following:

- (a) Assist officers investigating incidents of sexual assault when possible or if requested by an officer.
- (b) Provide guidance and direction as needed.

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- (c) Review sexual assault reports to ensure that necessary steps were taken during the initial response and subsequent investigation.

601.8 CASE REVIEW

A supervisor should ensure cases are reviewed on an on-going basis. The review process should include an analysis of:

- (a) Case dispositions.
- (b) Decisions to collect biological evidence.
- (c) Submissions of biological evidence for lab testing.
- (d) Interviewing Decisions.

601.9 RELEASING INFORMATION TO THE PUBLIC

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Investigative Division supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

601.10 TRAINING

Subject to available resources, periodic training should be provided to:

- (a) Members who are first responders. Training should include:
 1. Initial response to sexual assaults.
 2. Legal issues.
 3. Victim advocacy.
 4. Victim's response to trauma.
- (b) Investigators assigned to Person Crimes, who should receive advanced training on additional topics. Advanced training should include:
 1. Interviewing sexual assault victims.
 2. Medical and legal aspects of sexual assault investigations.
 3. Serial crimes investigations.
 4. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
 5. Techniques for communicating with victims to minimize trauma.

Asset Forfeiture

602.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with specified designated offenses and controlled substance offenses (Minn. Stat. § 609.531 to Minn. Stat. § 609.5318).

602.2 POLICY

The Rochester Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential of revenue shall not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations or the due process rights of citizens.

It is the policy of the Rochester Police Department that all employees of the agency, all employees assigned to another law enforcement agency's task force and all employees assigned to a task force from an outside law enforcement agency, in which this agency serves as the Fiscal Agent, follow all state and federal laws pertaining to forfeiture.

602.3 DEFINITIONS

Definitions related to this policy include:

Cash - Money in the form of bills or coins, traveler's checks, money orders, checks, or other forms of electronic money or stored value cards, including but not limited to gift cards, debit cards, gift cards/certificates, or other negotiable financial instruments.

Conveyance device - A device used for transportation. It includes but is not limited to a motor vehicle, trailer, snowmobile, airplane, and vessel, and any equipment attached to it. The term "conveyance device" does not include property which has been stolen or taken in violation of the law.

Firearms/ammunition/firearm accessories - A device that projects either single or multiple projectiles at high velocity. Ammunition is a term meaning the assembly of a projectile and its propellant. Accessories include but are not limited to holsters, gun cases, firearm optics, suppression devices, and cleaning supplies.

Fiscal Agent - The person designated by the Rochester Police Department to be responsible for securing and maintaining seized assets and distributing any proceeds as a result of any forfeiture proceedings. This includes anytime the Rochester Police Department seizes property for forfeiture or when the Rochester Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

Forfeiture - The process by which legal ownership of an asset is transferred to a government or other authority.

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Forfeiture Reviewer - The Rochester Police Department employee assigned by the Rochester Police Department responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the prosecutor's office.

Jewelry/precious metals/precious stones - The term includes items of jewelry, such as rings, necklaces, and watches that reasonably appear to be made of precious metals or precious stones. Precious metals include but are not limited to gold, silver, platinum, iridium, and palladium. Precious stones, often referred to as gemstones, include but are not limited to diamonds, emeralds, and rubies.

Property subject to administrative forfeiture - The following property is subject to administrative forfeiture under Minnesota Law (Minn. Stat. § 609.5314):

- (a) All cash totaling \$1500 or more, precious metals, and precious stones that there is probable cause to believe represent the proceeds of a controlled substance offense, and all cash found in proximity to controlled substances when there is probable cause to believe that the cash was exchanged for the purchase of a controlled substance.
- (b) All conveyance devices containing controlled substances with a retail value of \$100 or more if there is probable cause to believe that the conveyance device was used in the transportation or exchange of a controlled substance intended for distribution or sale.
- (c) All firearms, ammunition, and firearm accessories found:
 1. In a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance.
 2. On or in proximity to a person from whom a felony amount of controlled substance is seized.
 3. On the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under Minnesota Statutes, Chapter 152.

Seizure - The act of law enforcement officials taking property, including cash and conveyance devices that have been used in connection with or acquired by illegal activities.

602.4 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy.

602.4.1 PROPERTY SUBJECT TO SEIZURE

The following property is subject to seizure.

- (a) The following property may be seized upon review and approval of a supervisor and in coordination with the Forfeiture Reviewer:
 1. Controlled substances and associated property as described in Minn. Stat. § 609.5311.
 2. Property intended for use to commit or facilitate the commission of a designated offense, as listed in Minn. Stat. § 169A.63, Subd. 6 and limited by Minn. Stat. §

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169A.63, Subd. 7, and as listed in Minn. Stat. § 609.531, Subd. 1(f) and limited by Minn. Stat. § 609.5312.

- (b) Property subject to administrative forfeiture may be seized without prior supervisor approval if the item has a retail value of \$50,000 or less (Minn. Stat. § 609.5314).

602.4.2 PROPERTY NOT SUBJECT TO SEIZURE

The following property should not be seized for forfeiture:

- (a) Cash and property that does not meet the prosecuting agency's current minimum forfeiture thresholds.
- (b) Cash totaling less than \$1,500, unless prerecorded buy funds are included in the cash seized.

602.4.3 SEIZURE OF PROPERTY TO BE FORFEITED

An officer may seize property subject to forfeiture based on a court order. An officer may also seize property without a court order under any of the following conditions (Minn. Stat. § 609.531, Subd. 4; Minn. Stat. § 169A.63, Subd. 2):

- (a) The seizure is incident to a lawful arrest or a lawful search.
- (b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding.
- (c) The officer has probable cause to believe that a delay to obtain a warrant or other process would result in the removal or destruction of the property and that either of the following apply:
 1. The property was used or is intended to be used in commission of a felony.
 2. The property is dangerous to health or safety.

602.5 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

- (a) If the retail value of the asset to be seized is \$50,000 or less, completely and accurately prepare the Notice of Seizure and Intent to Forfeit Property Form (seizure form) and present it to the person from whom the property is to be seized for that person's signature. If the person refuses to sign, the officer shall indicate on the seizure form that the person refused. The seizure form is not used when the value of the seized property exceeds \$50,000.
- (b) Prepare and provide a receipt for the items seized to the person from whom the property is being seized.
 1. If cash or property is seized from more than one person, a separate property inventory receipt must be completed for each person specifying the amount of cash seized. The receipt shall include a detailed description of all property, checks, money orders, traveler's checks or other financial instruments.

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- (c) Complete and submit a report within 24 hours of the seizure if practicable. The report must include, at minimum, the following:
 - 1. A description of the items seized
 - 2. The location where the property was turned in or stored
 - 3. The name of the individual who was served with the seizure form
 - 4. The date that the seizure form was served
 - 5. The name of the officer making the seizure
 - 6. Whether the individual signed the seizure form
- (d) If property is seized from multiple individuals, a separate seizure form will be completed for each individual. A copy of the receipt and seizure form must be given to the individual from whom the property was seized.
- (e) When property is seized and no one claims possession of the property, the officer must leave a receipt in the place where the property was found if it is reasonably possible to do so.
- (f) The officer will book seized property into the Property and Evidence as evidence, with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.
- (g) Forward the original and the pink copy of the seizure form, and any seized property processing worksheets, property receipts and reports to the Forfeiture Reviewer within 10 days of seizure.
- (h) Inform the Forfeiture Reviewer of the estimated retail value of drugs found in proximity to the asset seized.

602.5.1 CASH HANDLING

It is the responsibility of the seizing officer to secure and count cash consistent with this policy and the Cash Handling, Security and Management Policy. All cash shall be counted in the presence of another officer and the envelope initialed by both officers. A supervisor shall be contacted for cash in excess of \$1,000. The supervisor shall also witness the count, and will initial and date the property documentation and specify any additional security procedures to be used.

All forfeitable cash seized will be turned over to the Forfeiture Reviewer or property/evidence room as soon as practicable.

Prior to deposit with the Forfeiture Reviewer, officers shall examine all cash seized to determine whether it contains any prerecorded buy funds. Officers shall document the recovery of all buy funds and deposit those funds with the Forfeiture Reviewer to be returned to the appropriate buy fund account.

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602.5.2 JEWELRY/PRECIOUS METALS/PRECIOUS STONES

Officers seizing jewelry, precious metals and/or precious stones will write a detailed description of each item on the property inventory receipt. A copy of the property inventory receipt and any photographs of the jewelry, precious metals and/or precious stones shall be delivered to the Forfeiture Reviewer.

Officers seizing jewelry, precious metals and/or precious stones shall book those items according to current property and evidence procedures as soon as practicable.

602.5.3 VEHICLES

Any conveyance device seized for forfeiture shall be taken to a secure designated area or to a department-approved impound facility as soon as practicable.

Officers shall inventory the conveyance device and its contents in accordance with the Vehicle Towing Policy. Officers shall also complete applicable report forms and distribute them appropriately. A copy of the vehicle storage report shall be included with the seizure documentation that is submitted to the Forfeiture Reviewer.

602.5.4 FIREARMS/AMMUNITION/FIREARM ACCESSORIES

When firearms, ammunition or firearms accessories are seized, they shall be inventoried and delivered to the Property and Evidence in accordance with the current booking procedures and the Property and Evidence Policy.

602.6 MAINTAINING SEIZED PROPERTY

The Property and Evidence supervisor is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition (Minn. Stat. § 609.531 Subd. 5).
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or returned to the claimant or person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.

602.7 FORFEITURE REVIEWER

The Chief of Police will appoint an officer as the Forfeiture Reviewer. Prior to assuming duties, or as soon as practicable thereafter, the Forfeiture Reviewer should attend a department-approved course on asset forfeiture.

The responsibilities of Forfeiture Reviewer include the following:

- (a) Confer regularly with the prosecuting attorney's office to remain familiar with forfeiture laws, particularly Minn. Stat. § 609.531 through Minn. Stat. § 609.5318, Minn. Stat. § 169A.63, and the forfeiture policies of the prosecuting agency.

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- (b) Make reasonable efforts to obtain annual training that includes best practices in pursuing, seizing, and tracking forfeitures.
- (c) Ensure responsibilities, including designation of a Fiscal Agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (d) Ensure that a seizure form, property inventory receipt, and a forfeited property processing worksheet is available and appropriate for department use. The seizure form will minimally include the following (Minn. Stat. § 609.5314):
 - 1. Space for an itemized list of items seized
 - 2. The location and date of the seizure
 - 3. A place for the name of the individual served with the seizure form
 - 4. The date and signature of the officer conducting the seizure
 - 5. The agency case number
 - 6. A space for the signature of the person from whom property is seized or an appropriate space or check box for the officer to indicate that the person refused to sign
 - 7. At least an original and the pink copy
 - 8. Information in English, Hmong, Somali and Spanish explaining the right to obtain judicial review and the procedure provided by Minn. Stat. § 609.5314.
- (e) Ensure that officers who may be involved in asset forfeiture receive training in the proper use of the seizure form and the forfeiture process. The training should be developed in consultation with the prosecuting attorney and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins, or department directives. The training should be based on this policy and address any relevant statutory changes and court decisions.
- (f) Review each asset forfeiture case to ensure the following:
 - 1. Written documentation of the seizure and items seized is present in the case file.
 - 2. Independent prosecutorial review of the circumstances and propriety of the seizure is made in a timely manner.
 - 3. A timely notice of seizure has been given to interest holders of seized property.
 - 4. Property is promptly released to those entitled to its return.
- (g) Forward all changes to forfeiture status to any supervisor who initiates a forfeiture case.
- (h) Deposit any cash received with the Fiscal Agent.
- (i) Ensure the current minimum forfeiture thresholds are communicated appropriately to officers.
- (j) Annually review and update this policy and any related policies to reflect current federal and state statutes and case law.

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- (k) Prepare a written plan for the Chief of Police to address any extended absence of the Forfeiture Reviewer to ensure that contact information for other law enforcement officers and attorneys who may assist in these matters is available.
- (l) Ensure the Department disposes of property as provided by law following any forfeiture (Minn. Stat. § 609.5315).
- (m) Ensure that any forfeited property used in an undercover capacity, or that is sold or added to the department inventory is done so according to Minnesota law.
- (n) Ensure that all forfeited property is used or disposed of in a manner consistent with the use and disposition of similar property by this department.
- (o) Upon completion of any forfeiture process, ensure that no property is retained by the Rochester Police Department unless the Rochester Police Department authorizes in writing the retention of the property for official use.
- (p) Ensure that forfeiture proceeds are maintained in a separate fund or account subject to appropriate accounting control with regular reviews or audits of all deposits and expenditures (Minn. Stat. § 609.5315).
- (q) Ensure that records of forfeiture are retained for a minimum of six years.
- (r) Ensure forfeiture reporting is made to the state auditor in the manner prescribed by the auditor (Minn. Stat. § 609.5315, Subd. 6).

602.8 DISPOSITION OF FORFEITED PROPERTY

Legal disposition may include (Minn. Stat. § 609.5315; Minn. Stat. § 169A.63, Subd. 10):

- (a) Retention by the Department and/or prosecuting agency.
 - 1. If a forfeited motor vehicle is kept for Department use, the Department will make a reasonable effort to ensure the vehicle is available for use and adaptation by officers who participate in the Department's Drug Abuse Resistance Education program (Minn. Stat. §609.5315).
- (b) Destruction.
- (c) Sale performed in a commercially reasonable manner.
- (d) Other disposition pursuant to applicable provisions of Minnesota Statutes.

No member of this department may use property that has been seized for forfeiture until the forfeiture action has been completed and the Rochester Police Department has given written authorization to retain the property for official use.

Members of this department or persons related to members of this department by blood or marriage are prohibited from purchasing forfeited items sold by this department (Minn. Stat. § 609.5315, Subd. 1(c)).

Confidential Informants

603.1 POLICY

It is the policy of the Rochester Police Department to establish procedures and protocols that take necessary precautions concerning the recruitment, control and use of confidential informants.

603.2 DEFINITIONS

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

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- H. Compelling Public Interest: means, for purposes of this policy, situations in which failure to act would result or likely result in loss of life, serious injury, or have some serious negative consequence for persons, property, or public safety and therefore demand action.
- I. Overseeing agent: means the officer primarily responsible for supervision and management of a confidential informant.

603.3 PROCEDURES

603.3.1 INITIAL SUITABILITY DETERMINATION

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

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

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- (o) Risk of physical harm to the potential CI or their immediate family or relatives for cooperating with law enforcement
 - (p) Prior or current service as a CI with this or another law enforcement organization
- 2. Prior to an individual's use as a CI, a supervisor or other designated authority must review the Initial Suitability Report and determine if the individual is authorized to serve as a CI
- 3. Any prospective or current CI must be excluded from engaging in a controlled buy or sale of a controlled substance if the prospective or current CI:
 - (a) is receiving in-patient treatment or partial-hospitalization treatment administered by a licensed service provider for a substance use disorder or mental illness; or
 - (b) is participating in a treatment-based drug court program or treatment court; except that
 - (c) the prospective or current CI may provide confidential information while receiving treatment, participating in a treatment-based drug court program or treatment court.
- 4. Documentation and special consideration must be made of the risks involved in engaging a prospective or current CI in the controlled buy or sale of a controlled substance if the individual is known, or has reported, to have experienced a drug overdose in the previous 12 months.
- 5. Any prospective or current CI who is known to abuse substances, or is at risk for abusing substances, should be provided referral to prevention or treatment services.
- 6. Any prospective or current CI that has a physical or mental illness that impairs the ability of the individual to understand instructions and make informed decisions should be referred to a mental health professional or other appropriate medical professional, or a case manager/social worker from the county social services agency, or other substance abuse and mental health services.
- 7. Each CI's suitability must be reviewed every 6 months, at a minimum, during which time the CI's overseeing agent must submit a Continuing Suitability Report addressing the foregoing issues in III.A.1.a–p, and III.A.3-6, where applicable. An initial suitability determination must be conducted on a reactivated CI regardless of the length of inactivity.
- 8. Any information that may negatively affect a CI's suitability during the course of their use must be documented in the CI's file and forwarded to the appropriate authorized personnel as soon as possible.
- 9. Supervisors must review informant files regularly with the overseeing agent and must attend debriefings of CIs periodically as part of the informant management process. If a CI is active for more than 12 months, a supervisory meeting with the CI must be conducted without the overseeing agent.
- 10. CI contracts must be terminated, and the CI file placed in inactive status when the CI has not been utilized for 6 months or more.

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603.3.2 EXIGENT CONFIDENTIAL INFORMANTS

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

603.3.3 SPECIAL CI APPROVAL REQUIREMENTS

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

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

603.3.4 GENERAL GUIDELINES FOR OVERSEEING CIs

General guidelines for overseeing CIs are as follows:

1. CIs must be treated as assets of the agency, not the individual overseeing agent.
2. No promises or guarantees of preferential treatment within the criminal justice system will be made to any informant without prior approval from the prosecuting authority.
3. CIs must not be used without authorization of the agency through procedures identified in this policy.

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

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- (b) Any decision to defer or delay notice to or coordinate with an outside agency having jurisdiction in the area where a CI has or may operate must be documented, reviewed, and approved by the agency's chief executive or their designee.
- 10. Officers must take the utmost care to avoid conveying any confidential investigative information to a CI, such as the identity of other CIs, surveillance activities, or search warrants, other than what is necessary and appropriate for operational purposes.
- 11. No member of this agency must knowingly maintain a social relationship with a CI, or otherwise become personally involved with a CI beyond actions required in the performance of duty.
- 12. Members of this agency must not solicit, accept gratuities from, or engage in any private business transaction with a CI.
- 13. Meetings with a CI must be conducted in private with another officer or agent present and with at least one officer or agent of the same sex, except when not practical. The meeting location should minimize the potential for discovery of the informant's cooperation and provide sufficient space to complete necessary administrative duties. The meetings must be documented and subsequently entered into the individual's CI file.
- 14. Overseeing agents must develop and follow a communications strategy and plan with the CI that minimizes, to the greatest extent possible, the risk of discovery or compromise of the relationship between the agency and the CI. This plan should also aim to prevent the detection, compromise, or interception of communications between the overseeing agent and the CI.
- 15. Procedures must be instituted to assist CIs with concealing their identity and maintaining their safety. Care should be given not to expose CIs to unnecessary safety risks.
- 16. Preceding or following every buy or sale of controlled substances, overseeing agents must screen the CI for any personal safety or mental health concerns, risk of substance abuse, and/or potential relapse in any substance abuse recovery.
 - (a) At the request of the CI, or if the overseeing agent deems it necessary, reasonable efforts should be taken to provide the CI with referral to substance abuse and/or mental health services.
 - (b) Overseeing agents must document:
 - i. the screening,
 - ii. any referral to services provided to, or requested by, the CI, and
 - iii. any refusal by the CI to participate in the screening and/or any refusal by the CI to accept referral to services. Reasons for the CI's refusal must be documented, where applicable.
 - (c) No part of this subsection supersedes MN Stat. 253B.05, sub.2.

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17. Reasonable protective measures must be provided for a CI when any member of this agency knows or should have known of a risk or threat of harm to a person serving as a CI and the risk or threat of harm is a result of the informant's service to this agency.
18. Overseeing agents must:
 - (a) evaluate and document the criminal history and propensity for violence of target offenders; and
 - (b) to the extent allowed, provide this information to the CI if there is a reasonable risk or threat of harm to the CI as a result of the CI's interaction with the target offender.
19. Reasonable efforts and precautions must be made to help protect the identity of a CI during the time the person is acting as an informant.
20. Whenever possible, officers must corroborate information provided by a CI and document efforts to do so.
21. The name of a CI must not be included in an affidavit for a warrant unless judicial authority is obtained to seal the document from the public record or the CI is a subject of the investigation upon which the affidavit is based.
22. Overseeing agents are responsible for ensuring that information of potential value to other elements of the agency is provided promptly to authorized supervisory personnel and/or other law enforcement agencies as appropriate.
23. Individuals leaving employment with the agency have a continuing obligation to maintain as confidential the identity of any CI and the information he or she provided unless obligated to reveal such identity or information by law or court order.

603.3.5 ESTABLISHMENT OF AN INFORMANT FILE SYSTEM

An informant file system must be established as follows:

1. The agency chief executive must designate a file supervisor who must be responsible for developing and maintaining master CI files and an indexing system.
2. A file must be maintained on each CI deemed suitable by the agency.
3. An additional Unreliable Informant File must be established for CIs deemed unsuitable during initial suitability determinations or at a later time.
4. Each file must be coded with an assigned informant control number for identification within the indexing system and must include the following information, where applicable:
 - (a) Name, aliases, and date of birth
 - (b) Height, weight, hair color, eye color, race, sex, scars, tattoos, or other distinguishing features
 - (c) Emergency contact information
 - (d) Name of the officer initiating use of the informant and any subsequent overseeing agents

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- (e) Photograph and criminal history record
 - (f) Current home address and telephone number(s)
 - (g) Residential addresses in the last five years
 - (h) Current employer, position, address, and telephone number
 - (i) Social media accounts
 - (j) Marital status and number of children
 - (k) Vehicles owned and their registration numbers
 - (l) Places frequented
 - (m) Gang affiliations or other organizational affiliations
 - (n) Briefs of information provided by the CI and the CI's subsequent reliability
 - (o) Special skills and hobbies
 - (p) Special areas of criminal expertise or knowledge
 - (q) A copy of the signed informant agreement
5. CI files must be maintained in a separate and secured area.
6. The file supervisor must ensure that information concerning CIs is strictly controlled and distributed only to officers and other authorities who have a need and a right to such information.
7. CI File Review
- (a) Sworn personnel may review an individual's CI file only upon the approval of the agency's chief executive or their designee.
 - (b) The requesting officer must submit a written request explaining the need for review. A copy of this request, with the officer's name, must be maintained in the individual's CI file.
 - (c) Officers must not remove, copy, or disseminate information from the CI file.
 - (d) CI files must be reviewed only in designated areas of the law enforcement facility and returned as soon as possible to their secure file location.
 - (e) All disclosures or access to CI files must be recorded by the file supervisor, to include information such as the requesting officer or agency, the purpose of access or disclosure, the information conveyed, and the date and time of access or dissemination.
 - (f) No portion of an individual's CI file must be entered into any other electronic or related database without controls sufficient to exclude access to all but authorized personnel with a need and a right to know.

603.3.6 DEACTIVATION OF CONFIDENTIAL INFORMANTS

A CI deactivation procedure must be established as follows:

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

603.3.7 MONETARY PAYMENTS

Monetary payments must be managed as follows:

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

Eyewitness Identification

604.1 PURPOSE AND SCOPE

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

604.1.1 DEFINITIONS

Definitions related to the policy include:

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

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

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

Administrator - The law enforcement official conducting the identification procedure.

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

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

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

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

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

Eyewitness Identification

604.2 POLICY

The Rochester Police Department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

604.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating officer should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

604.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Investigative Division supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide:

- (a) The date, time, and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.
- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
- (j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.
- (k) Any other direction to meet the requirements of the POST model policy.

The process and related forms should be reviewed at least annually and modified when necessary.

Eyewitness Identification

604.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case. Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified, or failed to identify, the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded and the recording should be retained according to current evidence procedures.

604.5.1 LINEUP AND PHOTO ARRAY PROCEDURES

Basic procedures for conducting a Line-up or Photo Array:

- (a) Line-ups will not typically be utilized for investigations, unless conducting a photo array is not possible.
- (b) Whenever possible, a blind presentation shall be utilized. In cases where a blind presentation is not feasible for a photo array, a blinded presentation should be used. Live line-ups must be conducted using a blind presentation.
- (c) The line-up or photo array should consist of a minimum of six individuals or photographs. Use a minimum of five fillers and only one suspect.
- (d) Fillers should be reasonably similar in age, height, weight, and general appearance and be of the same sex and race, in accordance with the witness's description of the offender.
- (e) Avoid the use of fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the filler
- (f) Create a consistent appearance between the suspect and the fillers with respect to any unique or unusual feature (e.g., scars, tattoos, facial hair) used to describe the perpetrator by artificially adding or concealing that feature on the fillers.
- (g) If there is more than one suspect, include only one in each line-up or photo array.
- (h) During a blind presentation, no one who is aware of the suspect's identity should be present during the administration of the photo array. However, during a line-up, the suspect's attorney should be present.
- (i) Place suspects in different positions in each line-up or photo array, both across cases and with multiple witnesses in the same case.
- (j) Witnesses should not be permitted to see or be shown any photos of the suspect prior to the line-up or photo array.

Eyewitness Identification

- (k) The witness shall be given a copy of the following instructions prior to viewing the line-up or photo array and the administrator shall read the instructions aloud before the identification procedure:

You will be asked to look at a series of individuals

The perpetrator may or may not be present in the identification procedure.

It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.

I don't know whether the person being investigated is included in this series.

Sometimes a person may look different in a photograph than in real life because of different hair styles, facial hair, glasses, a hat or other changes in appearance. Keep in mind that how a photograph was taken or developed may make a person's complexion look lighter or darker than in real life.

You should not feel that you have to make an identification. If you do identify someone, I will ask you to describe in your own words how certain you are.

The individuals are not configured in any particular order.

If you make an identification, I will continue to show you the remaining individuals or photos in the series.

Regardless of whether you make an identification, we will continue to investigate the incident.

Since this is an ongoing investigation, you should not discuss the identification procedures or results

- l. The line-up or photo array should be shown to only one witness at a time; officers should separate witnesses so they will not be aware of the responses of other witnesses.
- m. Multiple identification procedures should not be conducted in which the same witness views the same suspect more than once.
- n. Officers should scrupulously avoid the use of statements, cues, casual comments, or providing unnecessary or irrelevant information that in any manner may influence the witnesses' decision-making process or perception.
- o. Following an identification, the administrator shall ask the witness to provide a confidence statement and document the witness's response.
- p. The administrator shall ask the witness to complete and sign an Eyewitness Identification Procedure Form.
- q. Line-up and photo array procedures should be video or audio recorded whenever possible. If a procedure is not recorded, a written record shall be created and the reason for not

Eyewitness Identification

recording shall be documented. In the case of line-ups that are not recorded, agents shall take and preserve a still photograph of each individual in the line-up.

Photographic-Array

a. Creating a Photo Array

- (a) Use contemporary photos.
- (b) Do not mix color and black and white photos.
- (c) Use photos of similar size, physical characteristics, and basic composition.
- (d) Do not include more than one photo of the same suspect.
- (e) Cover any portions of mug shots or other photos that provide identifying information on the subject – and similarly cover other photos used in the array.
- (f) Where the suspect has a unique feature, such as a scar, tattoo, or mole or distinctive clothing that would make him or her stand out in the photo array, filler photographs should include that unique feature either by selecting fillers who have the same features themselves or by altering the photographs of fillers to the extent necessary to achieve a consistent appearance.
- (g) Fillers should not be reused in arrays for different suspects shown to the same witness.

b. Conducting the Photo Array

The photo array should be preserved, together with full information about the identification process as part of the case file and documented in a report. If a blind administrator is not available, the administrator shall ensure that a blinded presentation is conducted using the following procedures:

1. Place the suspect and at least five filler photos in separate folders for a total of six (or more depending on the number of fillers used).
2. The administrator will take one folder containing a known filler and place it to the side. This will be the first photo in the series. The administrator should then shuffle the remaining folders (containing one suspect and the remainder of fillers) such that he or she cannot see how the line-up members are ordered. These shuffled folders will follow the first filler photo. The stack of photos is now ready to be shown to the witness.
3. The administrator should position himself or herself so that he or she cannot see inside the folders as they are viewed by the witness.
4. The witness should be asked if he or she recognizes the person in the photo before moving onto the next photo. If an identification is made before all of the photos are shown, the administrator should tell the witness that he or she must show the witness all of the photos and finish showing the sequence to the witness, still asking after each photo if the witness recognizes the person in the photo.
5. If possible, the array should be shown to the witness only once. If, upon viewing the entire array the witness asks to see a particular photo or the entire array again, the witness should be instructed that he or she may view the entire array only one additional time. If a second viewing is permitted, it must be documented.

Eyewitness Identification

[See attachment: Photo Display Administrator_2.pdf](#)

[See attachment: Photo Display Witness Instructions.pdf](#)

[See attachment: Photo Display Form Witness_2.pdf](#)

Line-ups

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

604.5.2 SHOW UP

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

- (a) Document the witness's description of the perpetrator prior to conducting the show up.
- (b) Conduct a show-up only when the suspect is detained within a reasonably time frame after the commission of the offense and within a close physical proximity to the location of the crime.
- (c) Do not use a show-up procedure if probable cause to arrest the suspect has already been established.

Eyewitness Identification

- (d) If possible, avoid conducting a show-up when the suspect is in a patrol car, handcuffed, or physically restrained by officers, unless safety concerns make this impractical.
- (e) Caution the witness that the person he or she is about to see may or may not be the perpetrator—and it is equally important to clear an innocent person. The witness should also be advised that the investigation will continue regardless of the outcome of the show-up.
- (f) Do not conduct the show-up with more than one witness present at a time.
- (g) Separate witnesses and do not allow communication between them before or after conducting a show-up.
- (h) If one witness identifies the suspect, use a line-up or photo array for remaining witnesses.
- (i) Do not present the same suspect to the same witness more than once.
- (j) Do not require show-up suspects to put on clothing worn by, speak words uttered by, or perform other actions of the perpetrator.
- (k) Officers should scrupulously avoid words or conduct of any type that may suggest to the witness that the individual is or may be the perpetrator.
- (l) Ask the witness to provide a confidence statement.
- (m) Remind the witness not to talk about the show-up to other witnesses until police or prosecutors deem it permissible.
- (n) Videotape the identification process using an in-car camera or other recording device when feasible.
- (o) Document the time and location of the show-up, the officers present, the result of the procedure, and any other relevant information.

604.6 DOCUMENTATION

A thorough description of the eyewitness process and the results of any eyewitness identification should be documented in the case report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

604.6.1 DOCUMENTATION RELATED TO RECORDINGS

The member conducting the lineup should document the reason that an audio and/or video recording was not obtained, if applicable.

Brady Material Disclosure

605.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment “*Brady* information” to a prosecuting attorney.

605.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** - Information known or possessed by the Rochester Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

605.2 POLICY

The Rochester Police Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Rochester Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information as provided in this policy.

605.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor’s office.

If information is believed to be privileged or confidential (e.g., informant or attorney-client information, attorney work product), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an officer is unsure whether evidence or facts are material, the officer should address the issue with a supervisor.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the Department case file.

605.4 DISCLOSURE OF REQUESTED INFORMATION

If *Brady* information is located, the following procedure shall apply:

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Brady Material Disclosure

- (a) In the event that a motion has not already been filed by the criminal defendant or other party, the prosecuting attorney and department member shall be notified of the potential presence of *Brady* material in the member's personnel file.
- (b) The prosecuting attorney should then be requested to file a motion in order to initiate an in-camera review by the court.
 - 1. If no motion is filed, the Administrative Services Manager should work with the appropriate counsel to determine whether the records should be disclosed to the prosecutor.
- (c) The Administrative Services Manager shall accompany all relevant personnel files during any in-camera inspection to address any issues or questions raised by the court.
- (d) If the court determines that there is relevant *Brady* material contained in the files, only that data ordered released will be copied and released.
 - 1. Prior to the release of any materials pursuant to this process, the Administrative Services Manager should request a protective order limiting the use and further dissemination of such materials to the involved case and requiring the return of all copies upon completion of the case.
- (e) If a court has determined that relevant *Brady* information is contained in the member's file in any case, the prosecutor should be notified.

605.5 INVESTIGATING BRADY ISSUES

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be processed in accordance with the Personnel Complaints Policy.

605.6 TRAINING

Department personnel should receive periodic training on the requirements of this policy.

605.7 BRADY PROCESS

The Chief of Police shall select a member of the Department to coordinate requests for *Brady* information.

The responsibilities of the coordinator include:

- (a) Working with the prosecutors' offices to establish systems and processes to determine what constitutes *Brady* information and the method for notification and disclosure.

Unmanned Aerial System (UAS) Operations

606.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval, and dissemination of images and data captured by the UAS (Minn. Stat. § 626.19).

606.1.1 DEFINITIONS

Definitions related to this policy include:

Unmanned Aerial System (UAS) - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled without the possibility of direct human intervention from within or on the aircraft (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording, or any other means (Minn. Stat. § 626.19).

606.2 POLICY

Unmanned aerial systems may be utilized to enhance the department's mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

606.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

606.4 PROGRAM COORDINATOR

The Chief of Police will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations, and best practices and will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.
- Ensuring that all authorized operators have completed all required FAA and department-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.
- Developing uniform protocol for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents. For

Unmanned Aerial System (UAS) Operations

the purpose of this policy, training and public demonstrations are not considered deployments.

- Developing protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Implementing a system for public reporting of UAS deployment.
- Developing an operational protocol governing the deployment and operation of a UAS, including but not limited to safety oversight, use of visual observers, the establishment of lost link procedures, and secure communication with air traffic control facilities.
- Developing a protocol for fully documenting all missions.
- Developing a UAS inspection, maintenance, and record-keeping protocol to ensure the continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored, and retrieved in a manner that ensures its integrity as evidence, including strict adherence to the chain of custody requirements. Electronic trails, including encryption, authenticity certificates, and the date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Developing protocols for reviewing and approving requests for use of the department UAS by government entities (Minn. Stat. § 626.19).
- Preparing and submitting the required annual report to the Commissioner of Public Safety (Minn. Stat. § 626.19).
- Posting the department policies and procedures regarding the use of UAV on the department website, as applicable (Minn. Stat. § 626.19).
- Reviewing the program and UAS use for compliance with Minn. Stat. § 626.19.

606.5 USE OF UAS

Only authorized operators who have completed the required training shall be permitted to operate the UAS.

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

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Unmanned Aerial System (UAS) Operations

UAS operations should only be conducted during daylight hours, and a UAS should not be flown over populated areas without FAA approval.

Members shall not use a UAS without a search warrant, except (Minn. Stat. § 626.19):

- (a) During or in the aftermath of an emergency situation or disaster that involves the risk of death or bodily harm to a person.
- (b) Over a public event where there is a heightened risk to the safety of participants or bystanders.
- (c) To counter the risk of a terrorist attack by a specific individual or organization if the agency determines that credible intelligence indicates a risk.
- (d) To prevent the loss of life or property in natural or man-made disasters and to facilitate operation planning, rescue, and recovery operations.
- (e) To conduct a threat assessment in anticipation of a specific event.
- (f) To collect information from a public area if there is reasonable suspicion of criminal activity.
- (g) To collect information for crash reconstruction purposes after a serious or deadly collision occurring on a public road.
- (h) Over a public area for officer training or public relations purposes.
- (i) For purposes unrelated to law enforcement at the request of a government entity, provided the request is in writing and specifies the reason for the request and a proposed period of use.

606.5.1 DOCUMENTATION REQUIRED

Each use of a UAS should be properly documented by providing the following (Minn. Stat. § 626.19):

- (a) A unique case number
- (b) A factual basis for the use of a UAS
- (c) The applicable exception, unless a warrant was obtained

606.6 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized (Minn. Stat. § 626.19).

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Unmanned Aerial System (UAS) Operations

606.6.1 ADDITIONAL PROHIBITIONS

Unless authorized by a warrant, a UAS shall not be deployed with facial recognition or biometric-matching technology (Minn. Stat. § 626.19).

Unless authorized by a warrant or for purposes of a permitted use outlined in this policy, a UAS shall not be used to collect data on public protests or demonstrations (Minn. Stat. § 626.19).

606.7 DEPLOYMENT PROTOCOL

When a request is issued to utilize the UAS, a supervisor should first attempt to contact an authorized operator directly who is currently on shift, or in the event one is not immediately available, the request should then be sent through Dispatch. Dispatch will send a page to all authorized operators in order to locate an available operator, and a subsequent page notifying when an available operator has responded to the page.

606.7.1 DEPLOYMENT PROTOCOL AFTER CONTACTING AUTHORIZED OPERATOR

Prior to the use of any UAS, the authorized operator should carefully consider all pertinent information reasonably available at the time. The information considered should include but is not limited to:

- (a) Whether the circumstances fall within one or more of the applicable warrantless exceptions for UAV use under MN Statute - 626.19.3
- (b) The nature and seriousness of the suspected offense.
- (c) Whether violence or weapons were used or are anticipated.
- (d) The degree of resistance or threatened resistance, if any, the suspect has shown.
- (e) The suspect's known or perceived age.
- (f) The potential for injury to officers or the public caused by the suspect if the UAS is not utilized.
- (g) Any potential danger to the public and/or other officers at the scene if the UAS is utilized.
- (h) The potential for the suspect to escape or flee if the UAS is not utilized.

A supervisor who is sufficiently apprised of the situation may prohibit deploying the UAS.

The authorized operator is responsible for gathering the necessary information about the incident for which the UAS was requested and determining if the request falls within policy, MN State Statute, and FAA regulations. The operator is also responsible for reviewing any relevant weather information to ensure it falls within the recommended UAS manufacturer safety limitations for factors such as wind speed, precipitation, temperature, etc. for the specific UAS utilized. If the deployment falls within these parameters, the operator is also responsible for continually monitoring weather conditions during the deployment as well as the incident details at hand to determine if the use of the UAS is or is no longer appropriate under this policy, MN Statute, and/or FAA regulations. The authorized operator maintains the ability to refuse to fly the UAS for any reason depending on this policy, MN State Statute, and/or FAA regulations.

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Unmanned Aerial System (UAS) Operations

Assisting members should take direction from the authorized operator, and notify of any new information that may affect the authorized use of the UAS.

Following the deployment of the UAS, the operator is responsible for filling any required documentation with the FAA (when necessary), and within the police department to ensure proper incident tracking needed for the annual reporting requirements.

If the UAS operator records or photographs at any time during the deployment, the operator shall complete a written narrative report under the incident number the UAS was utilized for. If no such media is recorded, the UAS operator shall document in the call notes the applicable warrantless exception in MN Statute MN 626.19.3. The UAS operator should also complete any necessary follow-up waiver paperwork (when required) with the FAA.

606.8 RETENTION OF UAS DATA

The UAS program coordinator along with the Records Unit supervisor shall ensure that data collected by the UAS is disclosed or deleted as required by Minn. Stat. § 626.19, including the deletion of collected data as soon as possible, and in no event later than seven days after collection, unless the data is part of an active criminal investigation (Minn. Stat. § 626.19).

Warrant Service

607.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this department. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol officers.

607.2 POLICY

It is the policy of the Rochester Police Department to balance the safety needs of the public, the safety of department members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

607.3 OPERATIONS DIRECTOR

The operations director (see the Operations Planning and Deconfliction Policy) shall review all risk assessment forms with the involved supervisor to determine the risk level of the warrant service.

The operations director will also have the responsibility to coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow guidelines in the Operations Planning and Deconfliction Policy.

607.4 SEARCH WARRANTS

Officers should receive authorization from a supervisor before preparing a search warrant application. Once authorization is received, the officer will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. He/she will also complete the risk assessment form and submit it, along with the warrant affidavit, to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

607.5 ARREST WARRANTS

An officer should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations director. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence

Warrant Service

to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

607.6 WARRANT PREPARATION

An officer who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

- (a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime or no-knock warrant execution.
 - 1. No-knock search warrant applications shall comply with the requirements, including the reporting requirements to the Commissioner of Public Safety, as provided by Minn. Stat. § 626.14.
 - 2. No-knock search warrants must be reviewed and approved by an Investigative Supervisor and the Chief or his designee.
- (b) A clear explanation of the affiant's training, experience, and relevant education.
- (c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.
- (d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.
- (e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.
- (f) A specific description of the location to be searched, including photographs of the location, if reasonably available.
- (g) A sufficient description of the items to be seized.
- (h) Full disclosure of any known exculpatory information relevant to the warrant application (refer to the *Brady* Material Disclosure Policy).
- (i) Officers should consult with the City or County Attorney's Office when necessary.

607.7 HIGH-RISK WARRANT SERVICE

The operations director or the authorized designee shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of officers deployed.

The member responsible for directing the service should ensure the following as applicable:

- (a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution

Warrant Service

of a search warrant. The images should include the surrounding area and persons present.

- (b) The warrant service is audio- and video-recorded.
- (c) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.
- (d) Reasonable efforts are made during the search to maintain or restore the condition of the location.
- (e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.
- (f) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).
- (g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.
- (h) A copy of the search warrant is left at the location.
- (i) The condition of the property is documented with video recording or photographs after the search.

607.7.1 SEARCH CONDUCT

The search of a person or property is a privilege granted through judicial warrant or recognized exception to the warrant requirement. Searches are intrusive law enforcement actions that require officers to act professionally and with great responsibility. While conducting searches, officers shall at all times be respectful of and take steps to avoid damaging personal property. Damage to property shall be photographed, documented in a police report, and reported to a supervisor.

607.8 DETENTIONS DURING WARRANT SERVICE

Officers must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, officers must be mindful that only reasonable force may be used and weapons should be displayed no longer than the officer reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Officers should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

Warrant Service

607.9 ACTIONS AFTER WARRANT SERVICE

The supervisor shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the court as soon as reasonably possible, but in any event no later than any date specified on the warrant.

607.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The operations director will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the operations director. The director should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The director should ensure that members of the Rochester Police Department are utilized appropriately. Any concerns regarding the requested use of Rochester Police Department members should be brought to the attention of the Chief of Police or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If the operations director is unavailable, the Shift Commander should assume this role.

If officers intend to serve a warrant outside Rochester Police Department jurisdiction, the operations director should provide reasonable advance notice to the applicable agency, request assistance as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

Officers will remain subject to the policies of the Rochester Police Department when assisting outside agencies or serving a warrant outside Rochester Police Department jurisdiction.

607.11 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

607.12 TRAINING

The Training Unit should ensure officers receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

Operations Planning and Deconfliction

608.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction and execution of high-risk operations.

Additional guidance on planning and serving high-risk warrants is provided in the Warrant Service Policy.

608.1.1 DEFINITIONS

Definitions related to this policy include:

High-risk operations - Operations, including service of search and arrest warrants and sting operations, that are likely to present higher risks than are commonly faced by officers on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

608.2 POLICY

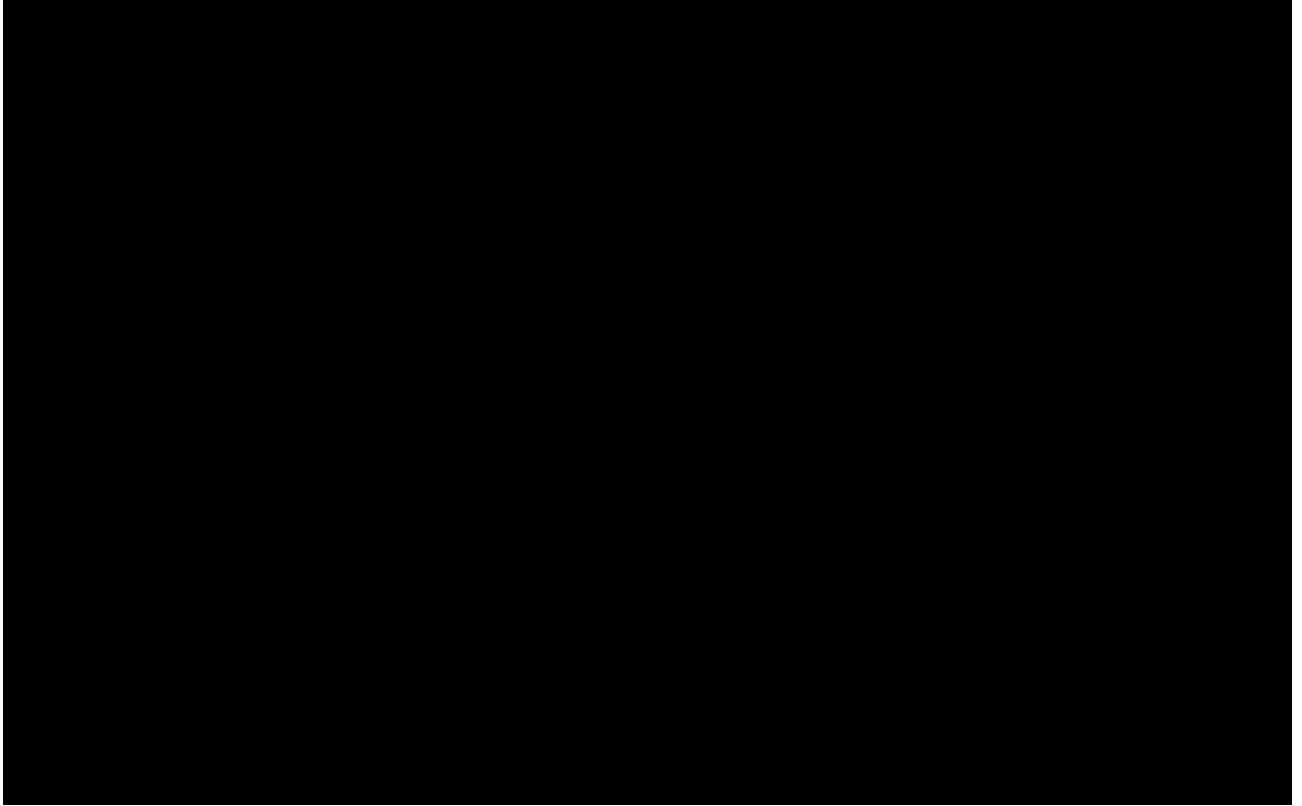
It is the policy of the Rochester Police Department to properly plan and carry out high-risk operations, including participation in a regional deconfliction system, in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

608.3 OPERATIONS DIRECTOR

608.4 RISK ASSESSMENT

608.4.1 RISK ASSESSMENT FORM PREPARATION

Operations Planning and Deconfliction

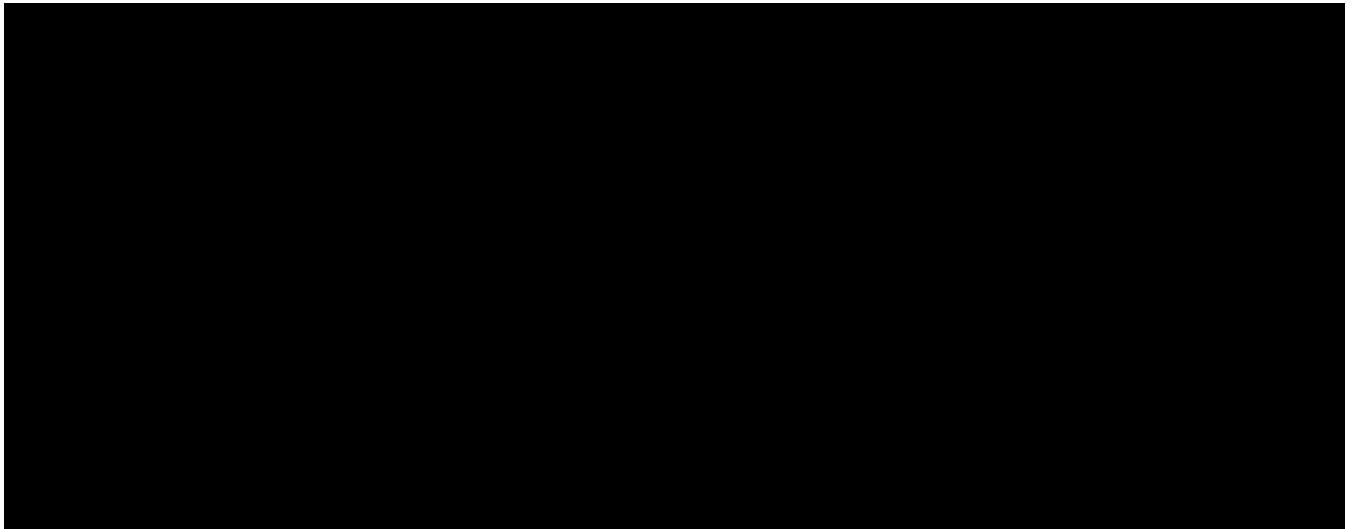


608.4.2 RISK ASSESSMENT REVIEW

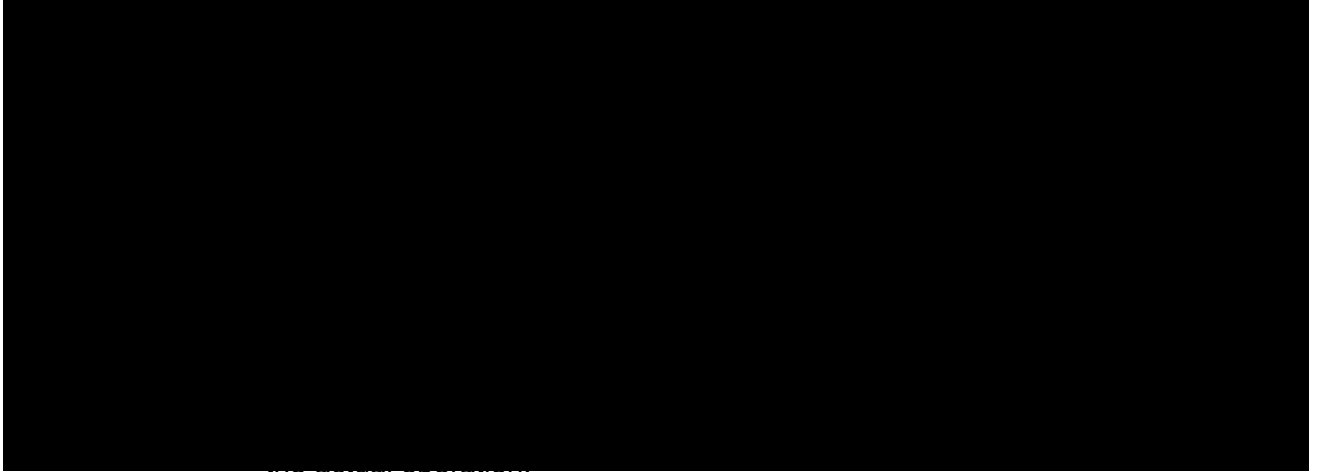
Officers will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the operations director.

The supervisor and operations director shall confer and determine the level of risk. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

608.4.3 HIGH-RISK OPERATIONS



Operations Planning and Deconfliction



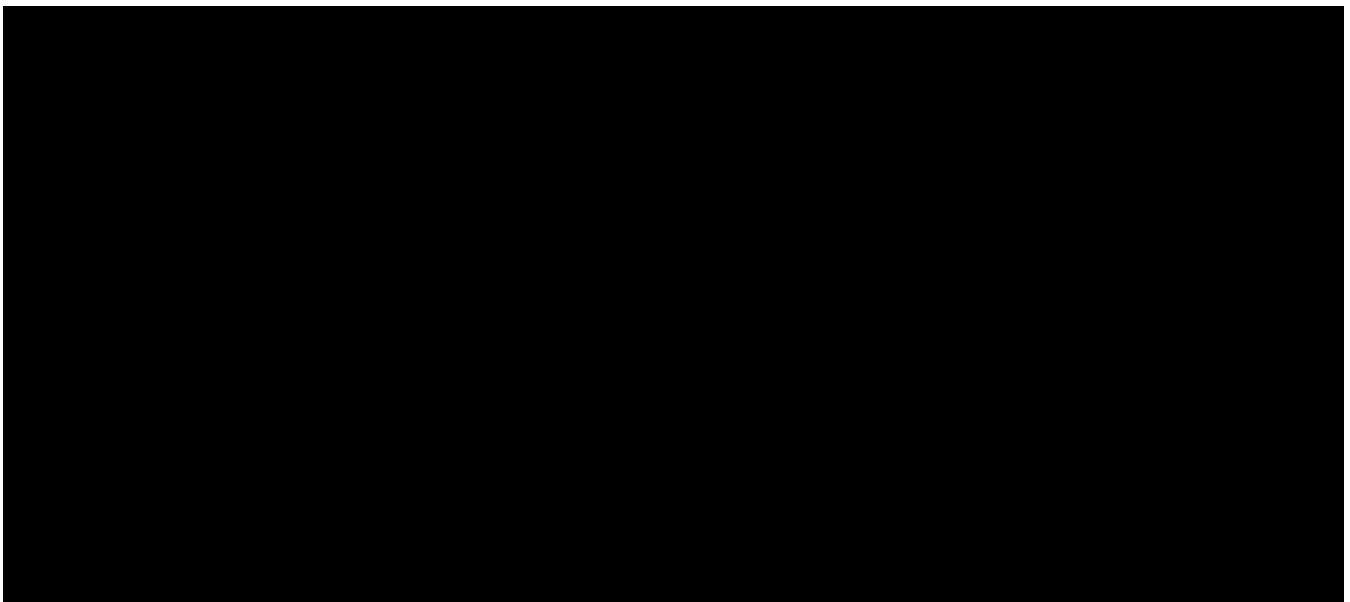
608.5 DECONFLICTION

Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations.

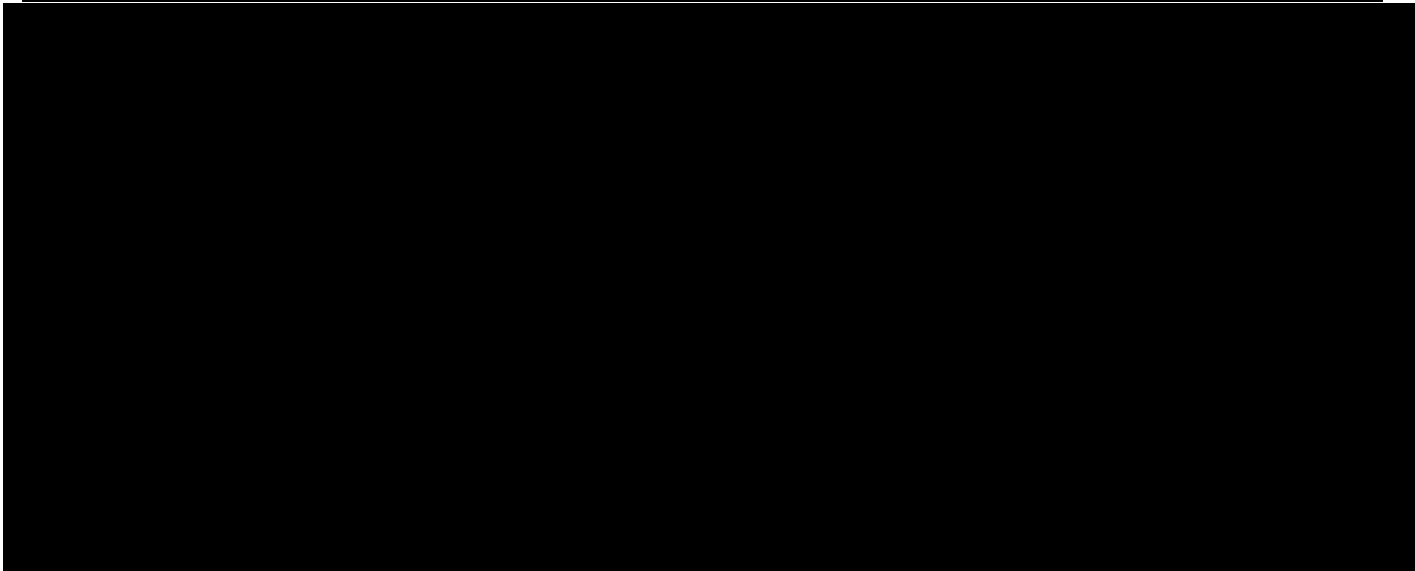
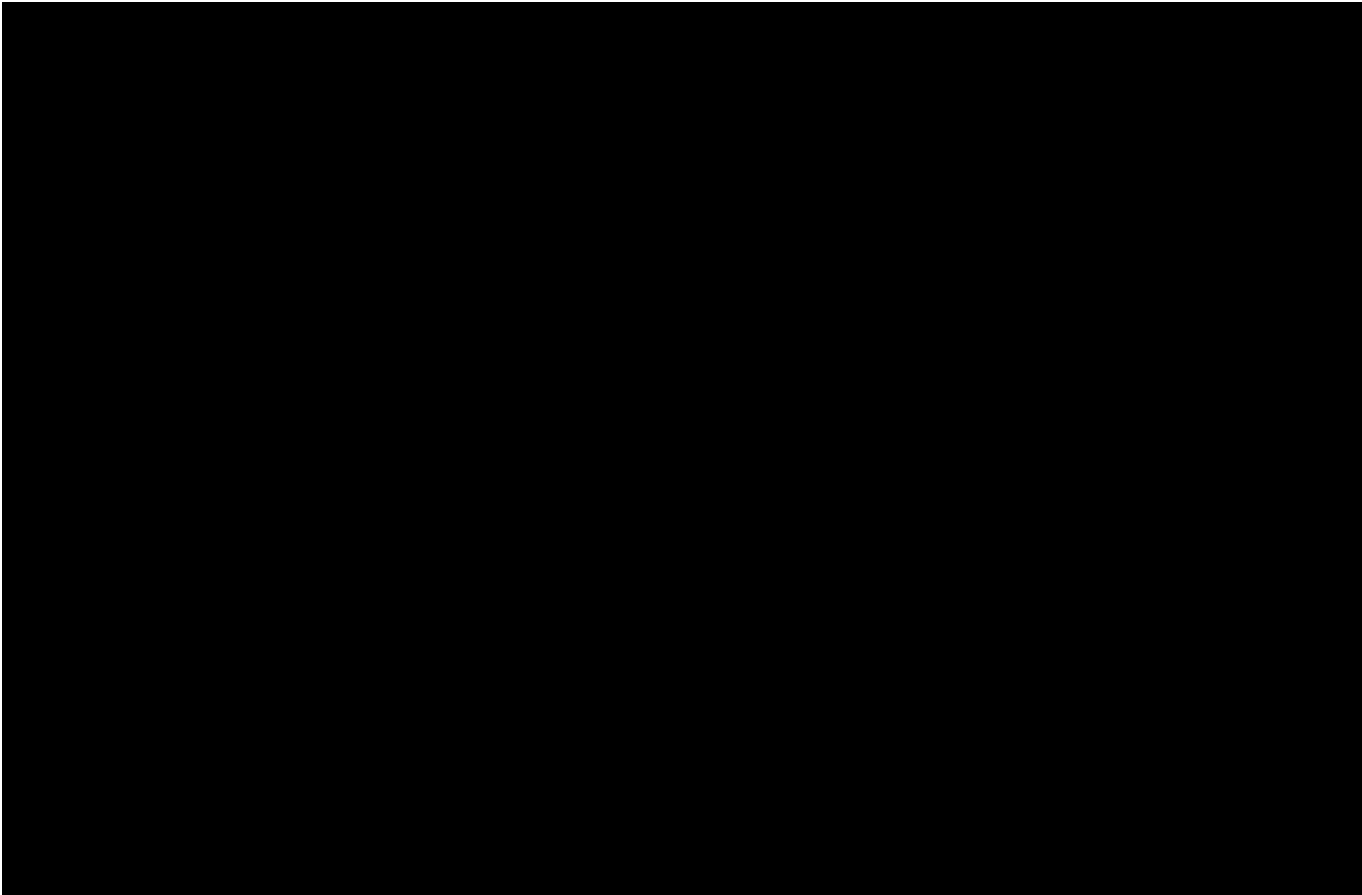
The officer who is the operations lead shall vet the subject of investigation and operations information to determine if there is reported conflicting activity. This should occur as early in the process as practicable, but no later than two hours prior to the commencement of the operation. The officer should also enter relevant updated information when it is received.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

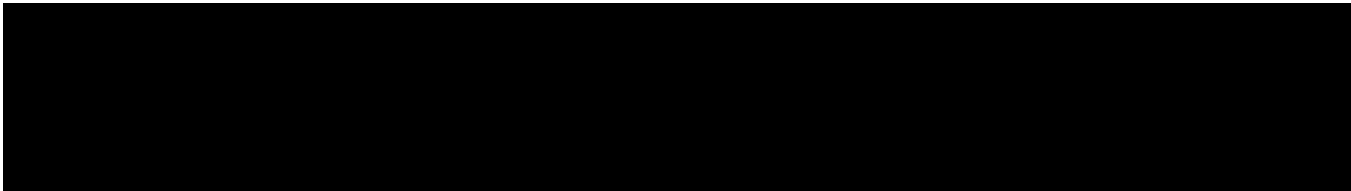
608.6 OPERATIONS PLAN



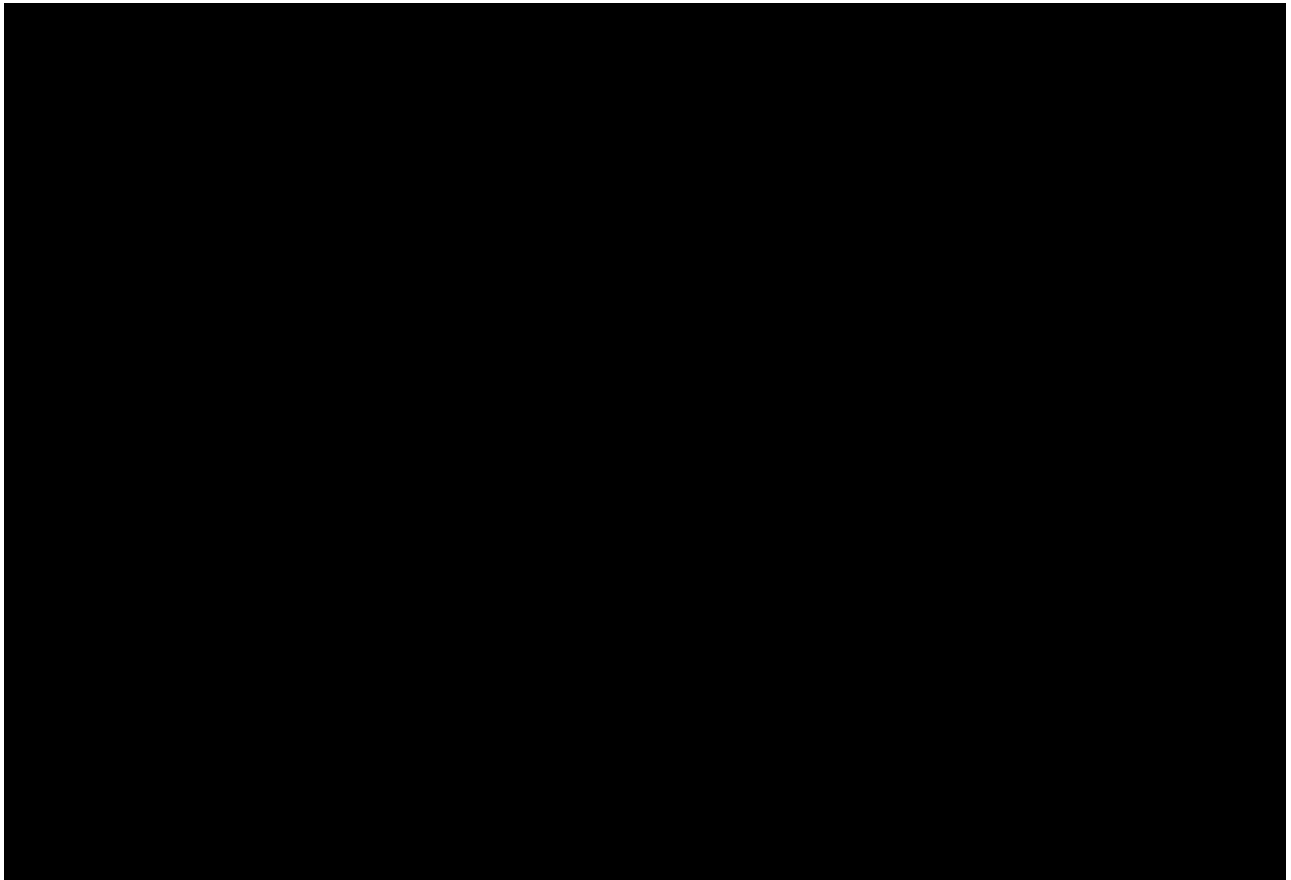
Operations Planning and Deconfliction



608.7 OPERATIONS BRIEFING



Operations Planning and Deconfliction



608.8 ERU PARTICIPATION

The operations director shall determine if ERU participation is appropriate.

608.9 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

608.10 OPERATIONS DEBRIEFING



608.11 TRAINING

The Training Unit should ensure officers and ERU team members who participate in operations subject to this policy should receive periodic training including, but not limited to, topics such as legal issues, deconfliction practices, operations planning concepts and reporting requirements.

Scrap Metal Theft Investigation

609.1 PURPOSE AND SCOPE

This policy provides guidance regarding scrap metal theft investigations.

609.1.1 DEFINITIONS

Definitions related to this policy include:

Scrap vehicle operator or operator - A person described in Minn. Stat. § 168A.1501 who engages in a transaction involving the purchase or acquisition of a scrap vehicle.

Scrap metal dealer or dealer - A person engaged in the business of buying or selling scrap metal, or both, as defined in Minn. Stat. § 325E.21.

609.2 POLICY

The Rochester Police Department recognizes the difficulty in preventing scrap metal theft and may investigate, place holds on or confiscate items as provided in this policy.

609.3 INSPECTIONS

An officer engaged in scrap metal theft investigations may (Minn. Stat. § 168A.1501; Minn. Stat. § 325E.21):

- (a) Conduct inspections of any purchase and acquisition records maintained by scrap vehicle operators or scrap metal dealers.
- (b) Inspect scrap vehicle or scrap metal received by an operator or dealer at any reasonable time.
- (c) Inspect any video or still camera and any recordings or images required to be maintained by an operator or dealer.

Any refusal to allow such inspections should be referred to the City attorney for criminal prosecution.

609.4 INVESTIGATIVE HOLDS

An officer who has probable cause to believe that a scrap vehicle or motor vehicle parts in the possession of a scrap vehicle operator, or that scrap metal in the possession of a scrap metal dealer, is stolen or is evidence of a crime may verbally order the operator or dealer not to process, sell, remove or allow the removal of the item for 30 days (Minn. Stat. § 168A.1501; Minn. Stat. § 325E.21).

The officer issuing the order is responsible for ensuring that the order to hold the item is confirmed in writing within 72 hours. If the item is identified as evidence in an active criminal case, the officer may extend the hold in writing. This extension must occur within 30 days of the original order and may remain in effect for as long as the investigation or prosecution is active.

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Scrap Metal Theft Investigation

609.5 SEIZING ITEMS

The investigating officer should confer with the prosecuting attorney to determine whether the item should be confiscated. If the item is evidence or otherwise needed for an investigation or prosecution, the officer may issue a written notice to confiscate any time during the investigative hold. The officer shall take custody of the item within 15 days of the notice to confiscate (Minn. Stat. § 168A.1501; Minn. Stat. § 325E.21).

When an item is confiscated, the officer shall:

- (a) Provide the operator or dealer a property receipt that includes at least the following:
 1. The name and telephone number of the Department.
 2. The name and telephone number of the officer.
 3. The case number related to the confiscation.
- (b) Deliver the item to the Property and Evidence.

When a confiscated item is no longer needed for an investigation or prosecution, it may be returned to a registered owner only after giving the operator or dealer from whom the item was seized written notice of intent to do so. The written notice should include notice of the right of the operator or dealer to make a written request for return of the item and that if the Department does not return the item within 48 hours of the request, excluding Saturday, Sunday or legal holidays, the operator or dealer may file a petition for the return of the item in the district court in the district in which the property was seized (Minn. Stat. § 626.04).

609.6 TERMINATION OF HOLD OR NOTICE TO CONFISCATE

At the conclusion of any investigation and prosecution, the officer who issued the investigative hold or a notice to confiscate property not yet confiscated shall notify the operator or dealer in writing that the hold or notice is no longer in effect (Minn. Stat. § 168A.1501; Minn. Stat. § 325E.21).

Investigative and Undercover Use of Social Media

610.1 PURPOSE AND SCOPE

The purpose of this policy is to clarify the department's understanding, access, use, and retention of information gathered from social media sites for the purposes of investigation of criminal activity and threats to the public safety. Employees must adhere to this policy to protect individuals' privacy, civil rights, and civil liberties and to prevent employee misconduct.

610.2 DEFINITIONS

Definitions related to this policy include:

Criminal Intelligence Information - Data which meets criminal intelligence collection criteria and which has been evaluated and determined to be relevant to the identification of criminal activity engaged in by individuals who or organizations which are reasonably suspected of involvement in criminal activity.

Criminal Nexus - Established when behavior or circumstances are related to an individual or organization's involvement or planned involvement in criminal activity or enterprise.

Online Alias - An online identity encompassing identifiers, such as name and date of birth, differing from the employee's actual identifiers.

Online Undercover Activity- The use of an online alias to engage in interactions with a person through social media apps or online sites that may or may not be in the public domain.

Page- The specific portion of a social media website where content is displayed and managed by an individual or individuals.

Post- Content an individual shares on a social media site or the act of publishing content to a site.

Public Domain- Any internet resource that is open and available to anyone.

Social Media-Forms of electronic communication (such as websites for social networking and microblogging) through which users create online communities to share information, ideas, personal messages, and other content. Further categorized by internet based resources that integrate user generated content and user participations. This includes, but is not limited to, social networking sites (Facebook, LinkedIn), micro blogging sites (Twitter, Instagram, Nixle), photo-and video-sharing sites (Flickr, YouTube, Snapchat), wikis (Wikipedia), blogs, and news sites (Digg, Reddit).

Social Media Monitoring Tool - A tool used to capture data and monitor social media sites by utilizing automated tools such as web crawlers and word search functions to make predictive analysis, develop trends, or collect information.

Valid Law Enforcement Purpose—A purpose for information/intelligence gathering development, or collection, use, retention, or sharing that furthers the authorized functions and

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Investigative and Undercover Use of Social Media

activities of a law enforcement agency, which may include the prevention of crime, ensuring the safety of the public, and furthering officer safety, while adhering to law and agency policy designed to protect the privacy, civil rights, and civil liberties of Americans.

610.3 UTILIZATION OF SOCIAL MEDIA FOR INVESTIGATIVE PURPOSES

Social media may be used by department personnel for a valid law enforcement purpose. The following are valid law enforcement purposes:

- (a) Crime analysis and situational assessment reports.
- (b) Criminal intelligence development.
- (c) Criminal investigations.

The utilization of an investigative online alias or social media monitoring tool for personal use is prohibited.

Employees will only utilize social media to seek or retain information that:

- (a) Is based upon a criminal predicate or threat to public safety.
- (b) Is based upon reasonable suspicion that an identifiable individual or organization has committed a criminal offense or is involved in or planning criminal conduct or activity that presents a threat.
- (c) Is relevant to the investigation and prosecution of suspected criminal incidents and the resulting justice system response.
- (d) Is useful in crime analysis or situational assessment reports for the administration of criminal justice and public safety.
- (e) Is relevant to pre-employment background investigations.

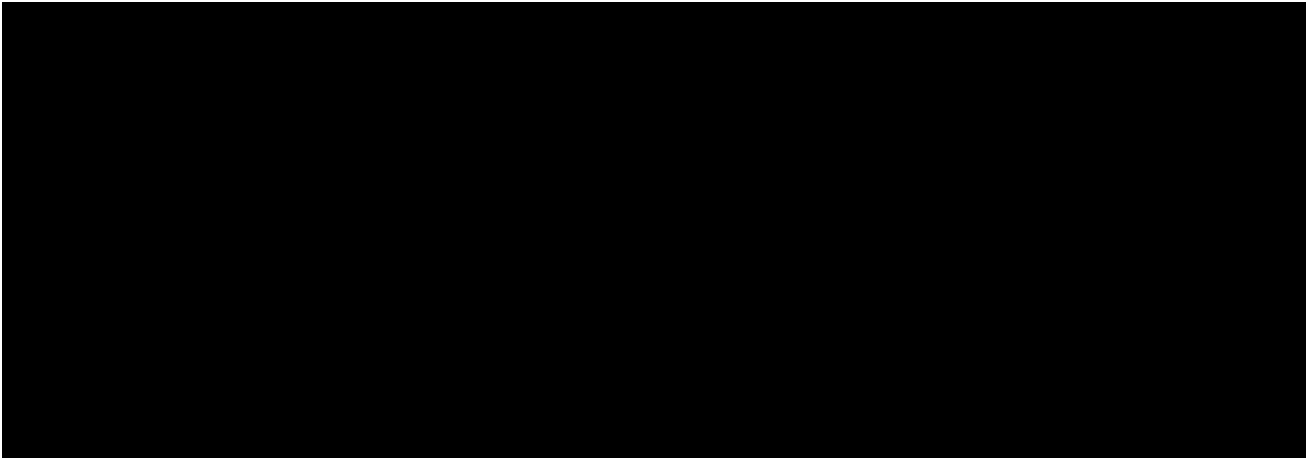
Rochester PD will not utilize social media to seek or retain information about:

- (a) Individuals or organizations solely on the basis of their religious, political, social views or activities.
- (b) An individual's participation in a particular non-criminal organization or lawful event.
- (c) An individual's race, ethnicity, citizenship, place of origin, disability, gender, or sexual orientation unless such information is relevant to the individual's criminal conduct or activity or if required to identify the individual.
- (d) An individual's age other than to determine if someone is a minor.

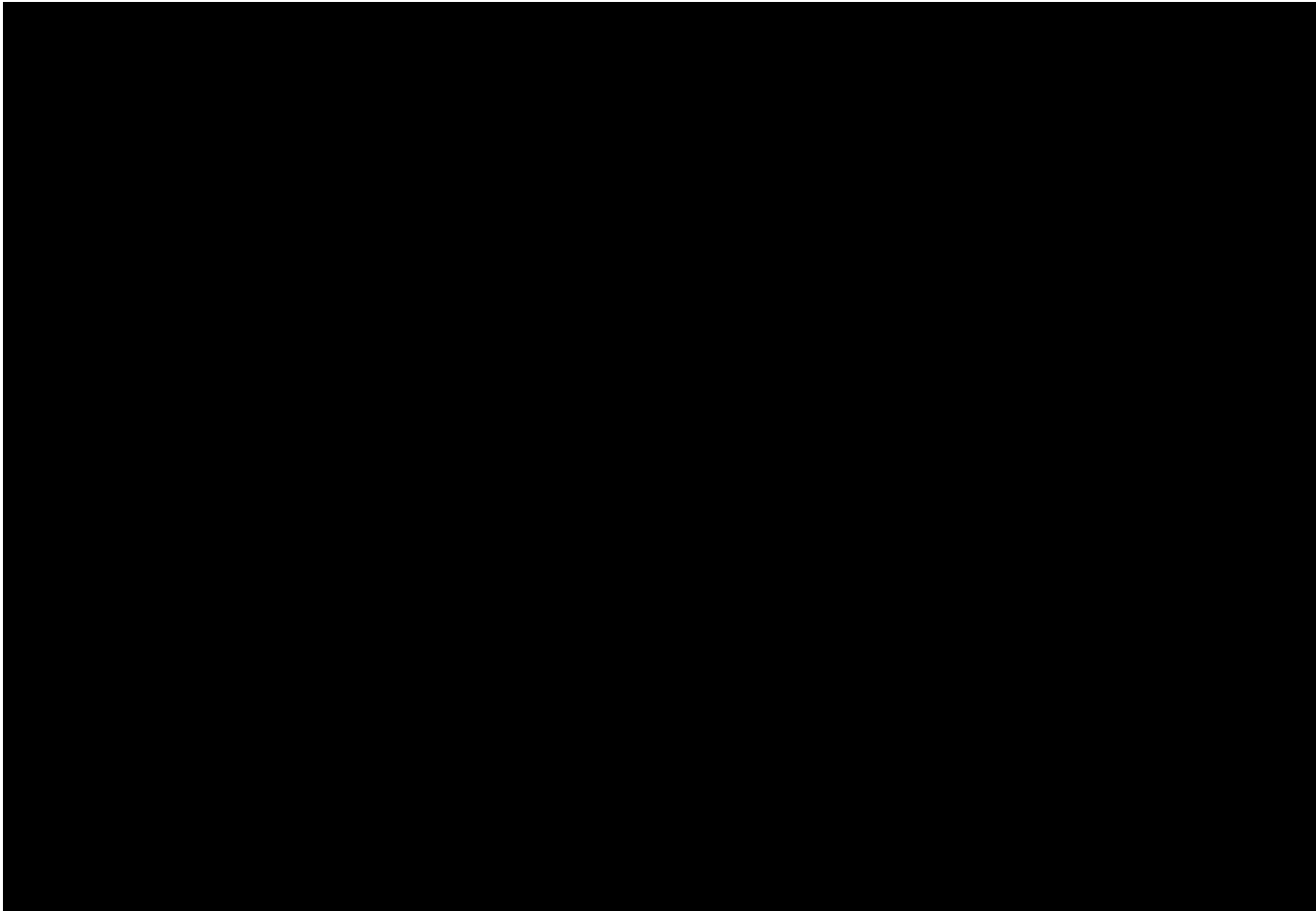
610.4 UNDERCOVER SOCIAL MEDIA ACCESS



Investigative and Undercover Use of Social Media



610.4.1 AUTHORIZATION FOR ONLINE UNDERCOVER ACTIVITY



610.5 NETWORK CONSIDERATIONS

Officers utilizing a city network computer to access social media shall consider the risk the department can be linked to the user of the social media account. When doing Undercover social media operations Officers should consider using a network that does not resolve to City of Rochester. Employees should not use their home or personal network to access social media for Law Enforcement purposes.

Chapter 7 - Equipment

Department-Owned and Personal Property

700.1 PURPOSE AND SCOPE

Department employees are expected to properly care for Department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or department property while performing their assigned duties. Certain procedures are required depending on the loss and ownership of the item.

700.2 DOCUMENTATION OF ISSUED PROPERTY

All property issued shall be documented in the appropriate equipment management system. Upon an employee's separation from the Department, all issued equipment shall be returned and documented by the Training Unit.

700.2.1 CARE OF DEPARTMENT PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to, the cost of repair or replacement.

- (a) Employees shall promptly report through the chain of command, any loss, damage to or unserviceable condition of any department-issued property or equipment assigned for their use.
 1. A supervisor receiving such a report shall conduct an appropriate investigation as necessary to determine the circumstances of any loss or damage.
 2. A review to determine whether misconduct or negligence was involved should be completed.
- (b) The use of damaged or unserviceable department property should be discontinued as soon as practicable and, if appropriate and approved, replaced with comparable Department property as soon as available and following notice to a supervisor.
- (c) Department property shall only be used by those to whom it was assigned, unless directed by a Supervisor or during exigent circumstances. Use should be limited to official purposes and in the capacity for which it was designed.
- (d) Department property shall not be thrown away, sold, traded, donated, destroyed or otherwise disposed of without proper authority.
- (e) In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

700.3 USE OF PERSONAL PROPERTY

The carrying of personal equipment on-duty comprising a weapon (such as a back-up firearm) requires prior approval by the Chief of Police or authorized designee. The employee should submit for approval the description of weapon the employee has requested to carry, the reason for its use

Department-Owned and Personal Property

and the term of its use. Personal property of the type routinely carried by persons not performing law enforcement duties nor comprising a weapon may be carried by employees for on-duty use.

700.3.1 DEFINITIONS

Personal Property - Items or equipment owned by, provided by or purchased totally at the expense of the employee.

700.3.2 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property shall be formally submitted to a supervisor through the chain of command. The supervisor may require a separate written report of the loss or damage.

The Department will not replace or repair costly items (e.g., jewelry, exotic equipment) that are not reasonably required as a part of work.

700.3.3 REPORTING REQUIREMENT

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off-duty or within the time frame directed by the supervisor to whom the verbal report is made.

700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement function shall report it as provided below.

- (a) A verbal report shall be made to the employee's immediate supervisor as reasonably soon as circumstances permit.
- (b) A written report shall be submitted before the employee goes off-duty or within the time frame directed by the supervisor to whom the verbal report was made.
- (c) Notification should be made to City Finance, including date, time, location, damaged item, and case number.

700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY

If employees of another jurisdiction cause damage to personal property or property belonging to the City, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as reasonably soon as circumstances permit. The employee shall submit a written report before going off-duty or as otherwise directed by the supervisor.

Personal Communication Devices

701.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices whether issued or funded by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCD) but is intended to include all mobile telephones, personal digital assistants (PDA) and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, e-mailing, using video or camera features, playing games and accessing sites or services on the Internet. For Mobile Computer Terminal Use, see the Mobile Computer Terminal Use policy in this manual.

701.2 POLICY

The Rochester Police Department allows employees to utilize department-issued or funded PCDs and to possess personally owned PCDs in the workplace subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally employees are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the employee and the employee's PCD records to civil or criminal discovery or disclosure under applicable data practices laws and rules of civil or criminal procedures.

Employees who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

701.3 PRIVACY POLICY

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities. The use of any department-provided or -funded PCD, computer, Internet service, telephone service or other wireless service while on-duty is without any expectation of privacy that the employee might otherwise have in any communication, including the content of any such communication. Communications or data reception on personal, password-protected, web-based e-mail accounts and any other services are subject to monitoring if department equipment is used.

In accordance with this policy supervisors are authorized to conduct a limited administrative search of electronic files without prior notice, consent or a search warrant, on department-issued or personally owned PCDs that have been used to conduct department-related business.

Personal Communication Devices

701.4 DEPARTMENT-ISSUED PCD

Depending on an employee's assignment and the needs of the position, the Department may at its discretion issue or fund a PCD. Department-issued or funded PCDs are provided as equipment to facilitate on-duty performance. Such devices shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

701.5 PERSONALLY OWNED PCD

Employees may carry a personally owned PCD while on-duty subject to the following conditions and limitations:

- (a) Carrying a personally owned PCD is a privilege, not a right.
- (b) The Department accepts no responsibility or liability for loss of or damage to a personally owned PCD.
- (c) Employees shall promptly notify the Department in the event the PCD is lost or stolen.
- (d) The PCD and any associated services shall be purchased, used and maintained solely at the employee's expense.
- (e) The device should not be used for work-related purposes. Employees have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.
- (f) The device shall not be utilized to record or disclose any business-related data, including photographs, video or the recording or transmittal of any data or material obtained or made accessible as a result of employment with the Department, without the express authorization of the Chief of Police or the authorized designee.

701.5.1 PUBLIC RECORDS

Work related information including data created, received, recorded or stored on a personally owned PCD in the course of department duties is considered government data subject to the requirements of the Minnesota Government Data Practices Act and discovery obligations (Minn. Stat. § 13.01 et seq.).

701.6 USE OF PERSONAL COMMUNICATION DEVICES

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

- (a) PCD use by employees shall remain in compliance with the Standards of Conduct policy.
- (b) De minimis personal use of PCDs may occur while on-duty.

Rochester Police Department

Policy Manual

Personal Communication Devices

701.7 SUPERVISORY RESPONSIBILITIES

Supervisors should monitor, to the extent reasonably practicable, PCD use in the workplace and take prompt corrective action if an employee is observed or reported to be improperly using a PCD. An investigation into improper conduct should be promptly initiated when circumstances warrant.

701.8 USE WHILE DRIVING

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices to matters involving official duties and, where reasonably practicable, stop the vehicle at an appropriate location to use the PCD (Minn. Stat. § 169.475).

Employees who are operating non-emergency vehicles should not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (Minn. Stat. § 169.475). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

701.9 OFFICIAL USE

Employees are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive data is not inadvertently transmitted.

Vehicle Maintenance

702.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, maintained, refueled and present a clean appearance.

702.2 DEFECTIVE VEHICLES

When a department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be completed by the employee who becomes aware of the defective condition and promptly forwarded to vehicle maintenance for repair.

702.2.1 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged or perform poorly shall be removed from service for inspection and repair as soon as practicable.

702.2.2 SEVERE USE

Vehicles operated under severe use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as reasonably possible. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits or prolonged high-speed operation.

702.2.3 REMOVAL OF WEAPONS

All firearms, weapons, control devices and computers shall be removed from a vehicle and properly secured prior to the vehicle being released for maintenance, service or repair.

702.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all Department vehicles for emergency purposes and to perform routine duties.

702.3.1 PATROL VEHICLES

Officers shall inspect the patrol vehicle at the beginning of the shift and ensure that necessary equipment is present and functioning.

702.3.2 UNMARKED VEHICLES

An employee driving an unmarked department vehicle shall inspect the vehicle prior to use and ensure that necessary equipment (if applicable) is present.

702.4 VEHICLE REFUELING

Vehicles should be kept fueled to ensure continuity of operations during shift change.

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Vehicle Maintenance

702.5 WASHING OF VEHICLES

All units shall be kept clean, weather conditions permitting, and shall be washed as necessary to enhance their appearance.

Employees using a vehicle shall remove any trash or debris at the end of the shift. Not public data should be placed in a designated receptacle provided for the shredding of this matter.

702.6 NON-SWORN EMPLOYEE USE

Non-sworn employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

Vehicle Use

703.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure department vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of department vehicles and shall not be construed to create or imply any contractual obligation by the City of Rochester to provide assigned take-home vehicles.

703.2 POLICY

The Rochester Police Department provides vehicles for department-related business and may assign patrol and unmarked vehicles based on a determination of operational efficiency, economic impact to the Department, requirements for tactical deployments and other considerations.

703.3 USE OF VEHICLES

703.3.1 SHIFT ASSIGNED VEHICLES

Patrol supervisors should be aware of vehicle assignments and assist fleet mechanics in removing vehicles from service as necessary.

703.3.2 OTHER USE OF VEHICLES

Members utilizing a vehicle for any purpose other than their normally assigned duties or normal vehicle assignment (e.g., transportation to training, community event) shall make the appropriate arrangement through their relevant Division supervisor.

This subsection does not apply to those who are assigned to transport vehicles to and from the maintenance yard or car wash.

703.3.3 INSPECTIONS

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

The interior of any vehicle that has been used to transport any person other than a member of this department should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner or arrestee, the transporting member shall search all areas of the vehicle that are accessible by the person before and after that person is transported.

All department vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

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703.3.4 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times when accessible to the public. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging). Officers who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

Members shall ensure all weapons are secured while the vehicle is unattended.

703.3.5 MOBILE COMPUTER TERMINAL

Members assigned to vehicles equipped with a Mobile Computer Terminal (MCT) shall log onto the MCT with the required information when going on-duty. Use of the MCT is governed by the Mobile Computer Terminal Use Policy.

703.3.6 VEHICLE LOCATION SYSTEM

Patrol and other vehicles, at the discretion of the Chief of Police, may be equipped with a system designed to track the vehicle's location. While the system may provide vehicle location and other information, members are not relieved of their responsibility to use required communication practices to report their location and status.

Members shall not make any unauthorized modifications to the system. If the member finds that the system is not functioning properly at any time during the shift, he/she should exchange the vehicle for one with a working system and report the issue.

System data may be accessed by supervisors at any time.

All data captured by the system shall be retained in accordance with the established records retention schedule.

703.3.7 KEYS

Vehicle keys shall be stored in the department's automated key tracking system. Keys should not be held beyond their required time of use and returned to the tracking system when a vehicle is idled.

Members shall not duplicate keys. The loss of a key shall be promptly reported in writing through the member's chain of command.

703.3.8 AUTHORIZED PASSENGERS

Members operating department vehicles shall not permit persons other than City personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Along Policy.

703.3.9 ALCOHOL

Members who have consumed alcohol are prohibited from operating any department vehicle unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

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703.3.10 PARKING

Except when responding to an emergency or when urgent department-related business requires otherwise, members driving department vehicles should obey all parking regulations.

Department vehicles should be parked in assigned stalls. Members shall not park privately owned vehicles in stalls assigned to department vehicles or in other areas of the parking lot that are not so designated unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

703.3.11 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories without supervisory approval.

703.3.12 NON-SWORN MEMBER USE

Non-sworn members using marked emergency vehicles shall ensure that all weapons have been removed before going into service. Non-sworn members shall not operate the emergency lights or siren of any vehicle unless expressly authorized.

703.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES

Department vehicles may be assigned to individual members at the discretion of the Chief of Police. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the member is unable to perform his/her regular assignment.

703.4.1 ON-DUTY USE

Vehicle assignments shall be based on the nature of the member's duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other department members at the discretion of the Chief of Police or the authorized designee.

703.4.2 TAKE-HOME USE

Circumstances may arise where department vehicles must be used by members to commute to and from a work assignment. Members may take home department vehicles only with prior approval of a supervisor and shall meet the following criteria:

- (a) The circumstances were created by the needs of the Department.
- (b) Other reasonable transportation options are not available.
- (c) The member lives within a reasonable distance of the Rochester City limits.
- (d) Vehicles will be locked when not attended.
- (e) All firearms, weapons and control devices will be removed from the interior of the vehicle and properly secured in the residence when the vehicle is not attended, unless the vehicle is parked in a locked garage.

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703.4.3 ASSIGNED VEHICLES

Assignment of take-home vehicles shall be based on the location of the member's residence; the nature of the member's duties, job description and essential functions; and the member's employment or appointment status. Members who reside outside the City of Rochester may be required to secure the vehicle at a designated location or the Department at the discretion of the Chief of Police.

Criteria for use of take-home vehicles include the following:

- (a) Vehicles shall only be used for work-related purposes and shall not be used for personal errands or transports, unless special circumstances exist and the Chief of Police or a Captain gives authorization.
- (b) Vehicles may be used to transport the member to and from the member's residence for work-related purposes.
- (c) Vehicles should not be used when off-duty except:
 - 1. In circumstances when a member has been placed on call by the Chief of Police or Captains and there is a high probability that the member will be called back to duty.
 - 2. When the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or traveling to or from a work-related activity or function.
 - 3. When the member has received permission from the Chief of Police or Captains.
 - 4. When the vehicle is being used by the Chief of Police, Captains or members who are in on-call administrative positions.
 - 5. When the vehicle is being used by on-call investigators.
- (d) While operating the vehicle, authorized members will carry and have accessible their duty firearms and be prepared to perform any function they would be expected to perform while on-duty.
- (e) The two-way communications radio must be on and set to an audible volume when the vehicle is in operation.
- (f) Unattended vehicles are to be locked and secured at all times.
 - 1. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging).
 - 2. All weapons shall be secured while the vehicle is unattended.
 - 3. All department identification, portable radios and equipment should be secured.
- (g) Vehicles are to be legally parked with off-street parking preferred while at the member's residence. If the vehicle is not secured inside a locked garage, all firearms and kinetic impact weapons shall be removed and properly secured in the residence (see the Firearms Policy regarding safe storage of firearms at home).

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- (h) Vehicles are to be secured at the member's residence or the appropriate department facility, at the discretion of the Department when a member will be away (e.g., on vacation) for periods exceeding one week.
 - 1. If the vehicle remains at the residence of the member, the Department shall have access to the vehicle.
 - 2. If the member is unable to provide access to the vehicle, it shall be parked at the Department.
- (i) The member is responsible for the care and maintenance of the vehicle.

703.4.4 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Rochester Police Department or while off-duty, an officer shall not initiate enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

Officers may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

Officers driving take-home vehicles shall be armed, appropriately attired and carry their department-issued identification. Officers should also ensure that department radio communication capabilities are maintained to the extent feasible.

703.4.5 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the Department. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

- (a) Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage.
- (b) It is the member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.
- (c) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the department supervisor in charge of vehicle maintenance.
- (d) The Department shall be notified of problems with the vehicle.
- (e) All weapons shall be removed from any vehicle left for maintenance in an unsecured garage.
- (f) Supervisors shall make inspections of vehicles assigned to members under their command as determined by the Division Captain to ensure vehicles are being maintained in accordance with this policy.

703.5 UNMARKED VEHICLES

Unmarked vehicles are assigned to various divisions and their use is restricted to the respective division and the assigned member, unless otherwise approved by a supervisor.

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703.6 DAMAGE, ABUSE AND MISUSE

When any department vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any collision report shall be filed with the agency having jurisdiction (see the Traffic Collisions Policy).

Damage to any department vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.

703.7 ATTIRE AND APPEARANCE

When operating any department vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Department.

Cash Handling, Security and Management

704.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure department members handle cash appropriately in the performance of their duties.

This policy does not address cash-handling issues specific to the Property and Evidence and Informants policies.

704.2 POLICY

It is the policy of the Rochester Police Department to properly handle and document cash transactions and to maintain accurate records of cash transactions in order to protect the integrity of department operations and ensure the public trust.

704.3 PETTY CASH FUNDS

The Chief of Police shall designate a person as the fund manager responsible for maintaining and managing petty cash funds.

Each petty cash fund requires the creation and maintenance of an accurate and current transaction ledger and the filing of invoices, receipts, cash transfer forms and expense reports by the fund manager.

704.4 PETTY CASH TRANSACTIONS

The fund manager shall document all transactions on the ledger and other appropriate forms. Transactions should include the filing of an appropriate receipt, invoice or cash transfer form. Transactions that are not documented by a receipt, invoice or cash transfer form require an expense report.

704.5 PETTY CASH AUDITS

The fund manager shall perform an audit no less than once every six months. This audit requires that the manager and an accountant from City Finance, review the ledger and verify the accuracy of the accounting. The fund manager and the finance representative shall sign or otherwise validate the ledger attesting to the accuracy of all documentation and fund accounting. A discrepancy in the audit requires documentation by those performing the audit and immediate reporting of the discrepancy to the Chief of Police.

Transference of fund management to another member shall require a separate petty cash audit.

704.6 ROUTINE CASH HANDLING

Those who handle cash as part of their property or Criminal Interdiction Unit supervisor duties shall discharge those duties in accordance with the Property and Evidence and Informants policies.

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Members who routinely accept payment for department services shall discharge those duties in accordance with the procedures established for those tasks.

704.7 OTHER CASH HANDLING

Members of the Department who, within the course of their duties, are in possession of cash that is not their property or is outside their defined cash-handling responsibilities shall, as soon as practicable, verify the amount, summon another member to verify their accounting, and process the cash for safekeeping or as evidence or found property, in accordance with the Property and Evidence and Informants policies.

Cash in excess of \$1,000 requires immediate notification of a supervisor, special handling, verification and accounting by the supervisor. Each member involved in this process shall complete an appropriate report or record entry.

Personal Protective Equipment

705.1 PURPOSE AND SCOPE

This policy identifies the different types of personal protective equipment (PPE) provided by the Department as well the requirements and guidelines for the use of PPE.

This policy does not address ballistic vests or protection from communicable disease, as those issues are addressed in the Body Armor and Communicable Diseases policies.

705.1.1 DEFINITIONS

Definitions related to this policy include:

Personal protective equipment (PPE) - Equipment that protects a person from serious workplace injuries or illnesses resulting from contact with chemical, radiological, physical, electrical, mechanical, or other workplace hazards.

Respiratory PPE - Any device that is worn by the user to protect from exposure to atmospheres where there is smoke, low levels of oxygen, high levels of carbon monoxide, or the presence of toxic gases or other respiratory hazards. For purposes of this policy, respiratory PPE does not include particulate-filtering masks such as N95 or N100 masks.

705.2 POLICY

The Rochester Police Department endeavors to protect members by supplying certain PPE to members as provided in this policy.

705.3 OFFICER RESPONSIBILITIES

Members are required to use PPE as provided in this policy and pursuant to their training.

Members are responsible for proper maintenance and storage of issued PPE. PPE should be stored in an appropriate location so that it is available when needed.

Any member who identifies hazards in the workplace is encouraged to utilize the procedures in the Workplace Accident and Injury Reduction Policy to recommend new or improved PPE or additional needs for PPE.

705.4 HEARING PROTECTION

Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed industry standards for use at firing ranges (29 CFR 1910.95; Minn. R. 5205.0010).

705.5 EYE PROTECTION

Approved eye protection, including side protection, shall be used by members during firearms training. Eye protection for members who wear prescription lenses shall incorporate the

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prescription (e.g., eye protection that can be worn over prescription lenses). Members shall ensure their eye protection does not interfere with the fit of their hearing protection.

The Training Unit shall ensure eye protection meets or exceeds consensus standards set by the American National Standards Institute (29 CFR 1910.133; Minn. R. 5205.0010).

705.6 HEAD AND BODY PROTECTION

Members of the Emergency Response Unit assigned to make arrests or control crowds should be provided ballistic head protection with an attachable face shield.

705.7 RESPIRATORY PROTECTION

The City of Rochester Safety Administrator is responsible for ensuring a respiratory protection plan is developed and maintained by a trained and qualified member. The plan shall include procedures for (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) Selecting appropriate respiratory PPE based on hazards and risks associated with functions or positions.
- (b) Fit testing, including identification of members or contractors qualified to conduct fit testing.
- (c) Medical evaluations.
- (d) PPE inventory control.
- (e) PPE issuance and replacement.
- (f) Cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respiratory PPE, including schedules for these activities.
- (g) Regularly reviewing the PPE plan.
- (h) Remaining current with applicable National Institute for Occupational Safety and Health (NIOSH), American National Standards Institute (ANSI), Occupational Safety and Health Administration (OSHA), Environmental Protective Agency (EPA), and state PPE standards and guidelines.

705.7.1 RESPIRATORY PROTECTION USE

Designated members may be issued respiratory PPE based on the member's assignment (e.g., a narcotics investigator who is involved in clandestine lab investigations).

Respiratory PPE may be worn when authorized by a scene commander who will determine the type and level of protection appropriate at a scene based upon an evaluation of the hazards present.

Scene commanders are responsible for monitoring members using respiratory PPE and their degree of exposure or stress. When there is a change in work area conditions or when a member's degree of exposure or stress may affect respirator effectiveness, the scene commander shall reevaluate the continued effectiveness of the respirator and direct the member to leave the

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respirator use area when the scene commander reasonably believes (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) It is necessary for the member to wash his/her face and the respirator facepiece to prevent eye or skin irritation associated with respirator use.
- (b) The member detects vapor or gas breakthrough, or there is a change in breathing resistance or leakage of the facepiece.
- (c) The member needs to replace the respirator, filter, cartridge, or canister.

705.7.2 MEMBER RESPONSIBILITIES FOR RESPIRATORY PROTECTION

Members shall not use self-contained breathing apparatus (SCBA), full-face respirators, or cartridge respirators unless they have completed training requirements for the equipment.

Members exposed to environments that are reasonably known to be harmful due to gases, smoke, or vapors shall use respiratory PPE.

Members using respiratory PPE shall (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) Ensure that they have no facial hair between the sealing surface of the facepiece and the face that could interfere with the seal or the valve function. Members also shall ensure that they have no other condition that will interfere with the face-to-facepiece seal or the valve function.
- (b) Not wear corrective glasses, goggles, or other PPE that interferes with the seal of the facepiece to the face, or that has not been previously tested for use with that respiratory equipment.
- (c) Perform a user seal check per department-approved procedures recommended by the respirator manufacturer each time they put on a tight-fitting respirator.
- (d) Leave a respiratory use area whenever they detect vapor or gas breakthrough, changes in breathing resistance or leakage of their facepiece and ensure that the respirator is replaced or repaired before returning to the affected area.

705.7.3 GAS MASK

Full-face air-purifying respirators, commonly referred to as gas masks, may be fitted with mechanical pre-filters or combination cartridge/filter assemblies for use in areas where gases, vapors, dusts, fumes, or mists are present. Members must identify and use the correct cartridge based on the circumstances (29 CFR 1910.134; Minn. R. 5205.0010).

A scene commander may order the use of gas masks in situations where the use of an SCBA is not necessary. These incidents may include areas where tear gas has or will be used or where a vegetation fire is burning. Gas masks shall not be used if there is a potential for an oxygen-deficient atmosphere.

Members shall ensure their gas mask filters are replaced whenever:

- (a) They smell, taste, or are irritated by a contaminant.
- (b) They experience difficulty breathing due to filter loading.

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- (c) The cartridges or filters become wet.
- (d) The expiration date on the cartridges or canisters has been reached.

705.7.4 SELF-CONTAINED BREATHING APPARATUS

Scene commanders may direct members to use SCBA when entering an atmosphere that may pose an immediate threat to life, would cause irreversible adverse health effects, or would impair an individual's ability to escape from a dangerous atmosphere. These situations may include but are not limited to:

- (a) Entering the hot zone of a hazardous materials incident.
- (b) Entering any area where contaminant levels may become unsafe without warning, or any situation where exposures cannot be identified or reasonably estimated.
- (c) Entering a smoke- or chemical-filled area.

The use of SCBA should not cease until approved by a scene commander.

705.7.5 RESPIRATOR FIT TESTING

No member shall be issued respiratory PPE until a proper fit testing has been completed by a designated member or contractor (29 CFR 1910.134; Minn. R. 5205.0010).

After initial testing, fit testing for respiratory PPE shall be repeated (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) At least once every 12 months.
- (b) Whenever there are changes in the type of SCBA or facepiece used.
- (c) Whenever there are significant physical changes in the user (e.g., obvious change in body weight, scarring of the face seal area, dental changes, cosmetic surgery, or any other condition that may affect the fit of the facepiece seal).

All respirator fit testing shall be conducted in negative-pressure mode.

705.7.6 RESPIRATORY MEDICAL EVALUATION QUESTIONNAIRE

No member shall be issued respiratory protection that forms a complete seal around the face until (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) The member has completed a medical evaluation that includes a medical evaluation questionnaire.
- (b) A physician or other licensed health care professional has reviewed the questionnaire.
- (c) The member has completed any physical examination recommended by the reviewing physician or health care professional.

705.8 LIFE JACKETS

The Training Unit should ensure watercraft used by members are equipped with U.S. Coast Guard approved life jackets and that members who work over or near water where there is a danger of drowning are provided properly fitting U.S. Coast Guard approved life jackets.

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Members are responsible for wearing provided life jackets when working over or near water where there is a danger of drowning.

Each member is responsible for inspecting the member's provided life jacket before and after each use. Damaged or defective jackets should be taken out of service and the Training Unit notified so a replacement can be issued.

705.9 RECORDS

The Training Unit in coordination with the City of Rochester Safety Administrator is responsible for maintaining records of all:

- (a) PPE training.
- (b) Initial fit testing for respiratory protection equipment.
- (c) Annual fit testing.
- (d) Respirator medical evaluation questionnaires and any subsequent physical examination results.
 - 1. These records shall be maintained in a separate confidential medical file.

The records shall be maintained in accordance with the department records retention schedule, 29 CFR 1910.1020, and Minn. R. 5205.0010.

705.10 TRAINING

Members should be trained in the respiratory and other hazards to which they may be potentially exposed during routine and emergency situations.

All members shall be trained in the proper use and maintenance of PPE issued to them, including when the use is appropriate; how to put on, remove, and adjust PPE; how to care for the PPE; and the limitations (29 CFR 1910.132; Minn. R. 5205.0010).

Members issued respiratory PPE shall attend annual training on the proper use of respiratory protection devices (29 CFR 1910.134; Minn. R. 5205.0010).

Chapter 8 - Support Services

Crime Analysis

800.1 PURPOSE AND SCOPE

Crime analysis should provide currently useful information to aid operational personnel in meeting its tactical crime control and prevention objectives by identifying and analyzing methods of operation of individual criminals, providing crime pattern recognition and providing analysis of data from field interrogations and arrests. Crime analysis can be useful to the Department's long-range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

800.2 DATA SOURCES

Crime analysis data is extracted from many sources gathered through the criminal justice process.

800.3 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for crime analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

800.4 CRIME ANALYSIS DISSEMINATION

For a crime analysis system to function effectively, information should be disseminated to the appropriate units or persons on a timely basis. Information that is relevant to the operational and tactical plans of specific line units should be sent directly to them. Information relevant to the development of the Department's strategic plans should be provided to the appropriate staff units. When information pertains to tactical and strategic plans, it should be provided to all affected units.

Dispatch

801.1 PURPOSE AND SCOPE

This policy establishes guidelines for the basic functions of Dispatch. It addresses the immediate information needs of the Department in the course of its normal daily activities and during emergencies.

801.2 POLICY

It is the policy of the Rochester Police Department to provide 24-hour telephone service to the public for information and for routine or emergency assistance. The Department provides two-way radio capability for continuous communication between Dispatch and department members in the field.

801.3 DISPATCH SECURITY

The communications function is vital and central to all emergency service operations. The safety and security of Dispatch, its members and its equipment must be a high priority. Special security procedures should be established in a separate operations manual for Dispatch.

Access to Dispatch shall be limited to Department members with a specific business-related purpose.

801.4 RESPONSIBILITIES

801.4.1 COMMUNICATIONS MANAGER

The Chief of Police shall appoint and delegate certain responsibilities to a Communications Manager. The Communications Manager is directly responsible to the Services Captain.

The responsibilities of the Communications Manager include, but are not limited to:

- (a) Overseeing the efficient and effective operation of Dispatch in coordination with other supervisors.
- (b) Monitoring working conditions of the unit, including staffing levels, workload, schedules, overtime, sick leave, vacation, etc.
- (c) Supervising and providing work direction to a team of Communications Supervisors while evaluating overall performance of Dispatch.
- (d) Ensuring the radio and telephone recording system is operational.
 - 1. Recordings shall be maintained in accordance with the established records retention schedule and as required by law.
- (e) Processing requests for copies of Dispatch information for release.
- (f) Maintaining Dispatch database systems.
- (g) Maintaining and updating Dispatch procedures manual.

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- (a) Ensuring dispatcher compliance with established policies and procedures.
- (h) Handling internal and external inquiries regarding services provided and accepting personnel complaints in accordance with the Personnel Complaints Policy.
- (i) Maintaining a current contact list of City personnel to be notified in the event of a utility service emergency.
- (j) Serving as the Terminal Agency Coordinator (TAC) for the Rochester Police Department.

801.4.2 ADDITIONAL PROCEDURES

The Communications Manager should establish procedures for:

- (a) Recording all telephone and radio communications and playback issues.
- (b) Storage and retention of recordings.
- (c) Security of audio recordings (e.g., passwords, limited access, authorized reviewers, preservation of recordings past normal retention standards).
- (d) Availability of current information for dispatchers (e.g., Shift Commander contact, rosters, member tracking methods, member contact, maps, emergency providers, tactical dispatch plans).
- (e) Assignment of field members and safety check intervals.
- (f) Emergency Medical Dispatch (EMD) procedures.
- (g) Procurement of external services (e.g., fire suppression, ambulances, aircraft, tow trucks, taxis).
- (h) Protection of essential equipment (e.g., surge protectors, gaseous fire suppression systems, uninterruptible power systems, generators).
- (i) Protection of radio transmission lines, antennas and power sources for Dispatch (e.g., security cameras, fences).
- (j) Handling misdirected, silent and hang-up calls.
- (k) Handling private security alarms, if applicable.
- (l) Radio interoperability issues.

801.4.3 DISPATCHERS

Dispatchers report to a Dispatch Supervisor. The responsibilities of the dispatcher include, but are not limited to:

- (a) Receiving and handling all incoming and transmitted communications, including:
 1. Emergency 9-1-1 lines.
 2. Business telephone lines.
 3. Telecommunications Device for the Deaf (TDD)/Text Telephone (TTY) equipment.

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4. Radio communications with department members in the field and support resources (e.g., fire department, emergency medical services (EMS), allied agency law enforcement units).
 5. Other electronic sources of information (e.g., text messages, digital photographs, video).
- (b) Documenting the field activities of department members and support resources (e.g., fire department, EMS, allied agency law enforcement units).
 - (c) Inquiry and entry of information through Dispatch, department and other law enforcement database systems (e.g., the Minnesota Division of Driver and Vehicle Services (DVS) and the Minnesota Bureau of Criminal Apprehension (BCA)).
 - (d) Monitoring department video surveillance systems.
 - (e) Maintaining the current status of members in the field, their locations and the nature of calls for service.
 - (f) Notifying a supervisor of emergency activity, including, but not limited to:
 1. Vehicle pursuits.
 2. Foot pursuits.
 3. Assignment of emergency response.

801.5 CALL HANDLING

This department provides members of the public with access to the 9-1-1 system for a single emergency telephone number.

When a call for service is received, the dispatcher will reasonably and quickly attempt to determine whether the call is an emergency or non-emergency, and shall quickly ascertain the call type, location and priority by asking four key questions:

- Where?
- What?
- When?
- Who?

If the dispatcher determines that the caller has a hearing and/or speech impairment or disability, he/she shall immediately initiate a connection with the individual via available TDD/TTY equipment or Telephone Relay Service (TRS), as mandated by the Americans with Disabilities Act (ADA).

If the dispatcher determines that the caller is a limited English proficiency (LEP) individual, the dispatcher should quickly determine whether sufficient information can be obtained to initiate an appropriate response. If language assistance is still needed, the language is known and a language-appropriate authorized interpreter is available in Dispatch, the dispatcher should immediately connect the LEP caller to the authorized interpreter.

Dispatchers should be courteous, patient and respectful when dealing with the public.

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801.5.1 EMERGENCY CALLS

A call is considered an emergency when there is an immediate or potential threat to life or serious property damage, and the timely arrival of public safety assistance is of the utmost importance. A person reporting an emergency should not be placed on hold until the dispatcher has obtained all necessary information to ensure the safety of the responding department members and affected individuals.

Emergency calls should be dispatched immediately. A supervisor shall be notified of pending emergency calls for service when department members are unavailable for dispatch.

801.5.2 NON-EMERGENCY CALLS

A call is considered a non-emergency call when there is no immediate or potential threat to life or property. A person reporting a non-emergency may be placed on hold, if necessary, to allow the dispatcher to handle a higher priority or emergency call.

The reporting person should be advised if there will be a delay in the dispatcher returning to the telephone line or when there will be a delay in the response for service.

801.6 RADIO COMMUNICATIONS

The police radio system is for official use only, to be used by dispatchers to communicate with department members in the field. All transmissions shall be professional and made in a calm, businesslike manner, using proper language and correct procedures. Such transmissions shall include, but are not limited to:

- (a) Members acknowledging the dispatcher with their radio identification call signs and current location.
- (b) Dispatchers acknowledging and responding promptly to all radio transmissions.
- (c) Members keeping the dispatcher advised of their status and location.
- (d) Member and dispatcher acknowledgements shall be concise and without further comment unless additional information is needed.

The Communications Manager shall be notified of radio procedure violations or other causes for complaint. All complaints and violations will be investigated and reported to the complainant's supervisor and processed through the chain of command.

801.6.1 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE

Rochester Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and requirements.

801.6.2 RADIO IDENTIFICATION

Radio call signs are assigned to department members based on factors such as duty assignment, uniformed patrol assignment and/or member identification number. Members should use their call signs when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate department member. Members

Dispatch

initiating communication with other law enforcement or support agencies shall use their entire radio call sign.

801.7 DOCUMENTATION

It shall be the responsibility of Dispatch to document all relevant information on calls for service or self-initiated activity. Dispatchers shall attempt to elicit, document and relay as much information as possible to enhance the safety of the member and assist in anticipating conditions that may be encountered at the scene. Desirable information would include, at a minimum:

- Incident control number.
- Date and time of request.
- Name and address of the reporting person, if possible.
- Type of incident and the reported disposition.
- Involvement of weapons, drugs and/or alcohol.
- Location of incident reported.
- Identification of members assigned as primary and backup.
- Time of dispatch.
- Time of the responding member's arrival.
- Time of member's return to service.
- Disposition or status of reported incident.

801.8 CONFIDENTIALITY

Information that becomes available through Dispatch may be confidential or sensitive in nature. All members of Dispatch shall treat information that becomes known to them as confidential and release that information in accordance with the Protected Information Policy.

Automated data, such as DVS records, warrants, criminal history information, records of internal police files or medical information, shall only be made available to authorized law enforcement personnel. The Dispatcher should encrypt radio traffic prior to transmitting confidential information.

801.9 CPR TRAINING

Members authorized to answer calls for service shall be trained in providing CPR by telephone or transferring calls to the appropriate member or agency (Minn. Stat. § 403.03, Subd. 2).

Property and Evidence

802.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove and/or destroy property. Property belonging to persons in custody should be handled pursuant to policies guiding Juvenile Temporary Custody, Temporary Holding Facility, Jail Operations, and the operations procedures for each facility or operation.

802.1.1 PROPERTY AND EVIDENCE SECURITY

Property and Evidence shall maintain secure storage and control of all property necessitating custody by the Department. The evidence technicians are responsible for the security of the Property and Evidence. Property and Evidence keys are maintained only by the evidence technicians and the Records Manager. The evidence technicians and the Records Manager shall not loan Property and Evidence keys or electronic key cards to anyone and shall maintain keys and cards in a secure manner.

Only the evidence technicians and Records manager shall be granted access into evidence via electronic key cards. Electronic key card access into evidence shall immediately be removed for personnel who resign, retire, transfer, are placed on administrative leave, or are terminated.

Any individual entering the Property and Evidence other than the evidence technicians and Records Manager must be accompanied by the evidence technicians or the Records Manager and must sign in and out on the logbook giving the date and time of entry and exit, and the purpose, including a specific case or property number. The entry shall be initialed by the accompanying individual.

After hours entry will be approved by the Records Manager and includes access by evidence technicians and the Records Manager for relevant and specified work assignments only. In case of emergency, if the Records Manager cannot be reached, law enforcement staff may reach out directly to evidence technicians.

802.2 DEFINITIONS

Property - Includes all items of evidence, items taken for safekeeping and found property.

Evidence - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes digital evidence, photographs, and latent fingerprints.

Safekeeping - Includes the following types of property:

- Property obtained by the Department for safekeeping, such as a firearm.
- Personal property of an arrestee not taken as evidence.
- Property taken for safekeeping under authority of a law.

Property and Evidence

Found Property - Is non-evidentiary property where the owner cannot be readily identified or contacted.

Chain of Custody – Refers to the chronological documentation of the seizure, custody, control, transfer (temporary or permanent), and disposition of evidence, either physical or electronic.

802.3 PROPERTY HANDLING

Any employee who first comes into possession of any property, shall retain such property in his/her possession until it is properly packaged, entered into the Evidence Management System (EMS), tagged with the property label, and placed in the designated property locker or storage room. Care shall be taken to maintain the chain of custody for all evidence.

Any property seized by an officer with or without a warrant shall be safely kept for as long as necessary for the purpose of being produced as evidence (Minn. Stat. § 626.04 (a)). Seized property held as evidence shall be returned to its rightful owner unless subject to lawful detention or ordered destroyed or otherwise disposed of by the court (Minn. Stat. § 626.04 (b) and Minn. Stat. § 629.361).

An officer arresting a person for burglary, robbery or a theft offense shall use reasonable diligence to secure the property that was alleged to have been stolen and shall be answerable for it while it remains in his/her custody (Minn. Stat. § 629.361).

Where ownership can be established as to found property that has no apparent evidentiary value, such property may be released to the owner without the need for booking. The property documentation must be completed to document the release of property not booked in the incident notes or case report.

802.3.1 PROPERTY BOOKING PROCEDURE

All property must be secured into evidence prior to the employee going off-duty. Employees entering property into evidence shall observe the following guidelines:

- (a) Complete the property into the EMS as soon as practical describing each item of property separately, listing all serial numbers, owner's name, finder's name and other identifying information or markings.
- (b) Employees shall appropriately package the items following the packaging guidebook within the Evidence Processing Room(s).
- (c) An evidence barcode label printed from the EMS shall be applied to each item submitted.
- (d) Submitted items shall be placed into the secure lockers.
- (e) When the property is too large to be placed in a temporary property locker, the item should be placed in an evidence closet, secure cage, or garage storage area, with documentation submitted to evidence staff.

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802.3.2 CONTROLLED SUBSTANCES

All controlled substances shall be booked separately using a separate property record. Drug paraphernalia shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in the designated property locker.

802.3.3 EXPLOSIVES

Employees who encounter a suspected explosive device shall promptly notify the immediate supervisor or the Shift Commander. The State Duty Officer will be called and a bomb squad dispatched to handle explosive-related incidents. The responding Bomb Squad will be responsible for handling explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the police facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The evidence technician is responsible for transporting to the fire department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

802.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) Bodily fluids such as blood or semen stains shall be air-dried prior to booking. Items should be placed in drying lockers and submitted into evidence as soon as practical, but not greater than one week unless environmental conditions dictate otherwise.
- (b) License plates found not to be stolen or connected with a known crime, shall be placed in the designated container for destruction located within the evidence processing room(s). No formal property booking process is required.
- (c) All bicycles and bicycle frames require a property record. Property tags with an evidence label will be securely attached to each bicycle or bicycle frame. The property may be released directly to the evidence technician, or placed in the bicycle storage area until a evidence technician can log the property.
- (d) All cash shall be counted in the presence of another officer and the envelope initialed by both officers. A supervisor shall be contacted for cash in excess of \$1,000. The supervisor shall also witness the count, and will initial and date the property documentation and specify any additional security procedures to be used.
- (e) All evidence collected by personnel processing a crime scene requiring specific storage requirements pursuant to laboratory procedures should clearly indicate storage requirements on the property label.

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

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802.3.5 COURT-ORDERED FIREARM SURRENDERS

- (a) Although not required, this department generally will accept firearms surrendered by an abusing party or defendant pursuant to a court order. A decision to refuse a surrendered firearm should be approved by a supervisor (Minn. Stat. § 260C.201, Subd. 3; Minn. Stat. § 518B.01, Subd. 6; Minn. Stat. § 609.2242, Subd. 3; Minn. Stat. § 609.749, Subd. 8).
- (b) Members accepting surrendered firearms should complete a receipt describing the surrendered firearms, evidence contact information and notice that a court order may be required to return the firearms. The items should be entered in the EMS and include the following information:
 - (a) Whether the firearm is being transferred temporarily or permanently for destruction
 - (b) The abusing party or defendant's name
 - (c) The date and time of the transfer
 - (d) Complete description of all firearms surrendered (e.g., make, model, serial number, color, identifying marks)
- (c) In certain circumstances, a court may issue an order for the immediate transfer of firearms of an abusing party or defendant.
 1. RPD may serve the court order either by assignment or when an officer comes into contact with an abusing party or defendant for which a court order has been issued but has not been served, or for which they are in violation. In such cases, if there are firearms that may be lawfully seized, they should be seized and submitted to the Property and Evidence pursuant to standard protocol.
 2. If the abusing party or defendant is not cooperative, seek guidance from legal counsel to ensure that firearms are seized lawfully.
 3. Permits possessed by the abusing party or defendant should be returned to the Sheriff where the person resides.
- (d) Property and Evidence shall develop and maintain a process to store, transfer or release firearms ordered surrendered by a court. The procedures shall:
 1. Provide for adequate storage and protection so as to preserve the condition of the firearms.
 2. Require a valid court order or written notice from the abusing party or defendant to be presented before any transfer of the firearms.
 3. Ensure that recipients of transferred firearms are not legally prohibited from possession of firearms under state or federal law.
 4. Ensure that proper affidavits or proof of transfer are obtained from any designated firearms dealer or third party.
 5. Ensure that prior to disposition of unclaimed firearms, abusing parties or defendants are notified via certified mail.

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802.4 PACKAGING OF PROPERTY

Packaging will conform to the Property Packaging Procedures. Certain items require special consideration and shall be booked separately as follows:

- (a) Controlled substances
- (b) Firearms (ensure they are unloaded and booked separately from ammunition)
- (c) Property with more than one known owner
- (d) Drug paraphernalia
- (e) Fireworks for destruction (secured outside of the evidence room)
- (f) Contraband

802.4.1 PACKAGING CONTAINER

Employees shall package all property in a suitable container available for its size. Knife boxes should be used to package knives, handgun boxes should be used for handguns and syringe tubes should be used to package syringes and needles. Syringes shall only be placed into evidence if it is vital to a criminal case.

A barcode label shall be securely attached to the outside of all items or group of items packaged together.

802.4.2 PACKAGING CONTROLLED SUBSTANCES

The officer seizing controlled substances shall retain such property in his/her possession until it is properly weighed, packaged, tagged and placed in the designated locker. Employees shall be aware of the specific dangers presented by opioids such as fentanyl. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected controlled substances. The removal of narcotics from packaging is discouraged. For small amounts of narcotics (generally less than 1 gram), where packaging weight may exceed that of the narcotic, charges should be referred pending BCA analysis.

Controlled substances shall be packaged in an envelope of appropriate size. The officer shall initial the sealed package with their initials covering the heat seal. Controlled substances shall not be packaged with other property.

A barcode label shall be attached to the outside of the container and the item should be described in a manner that enables the reader to visualize the item without physically examining it.

802.4.3 RIGHT OF REFUSAL

The evidence technicians have the right to refuse any piece of property that is not properly documented or packaged. Should the evidence technicians refuse an item, they shall maintain secure custody of the item in a temporary property locker and inform the supervisor of the submitting officer.

Property and Evidence

802.5 RECORDING OF PROPERTY

The evidence technicians receiving custody of evidence or property shall utilize an Evidence Management System (EMS) that creates and maintains an electronic record and permanent chain of custody of property within Property and Evidence.

The electronic record within the EMS creates a unique property number for each piece of property received that includes the date received, case number, tag number, item description, item location and date disposed.

Any changes in the location of property held by the Property and Evidence shall be noted in the EMS.

802.6 PROPERTY CONTROL

Each time evidence technicians receive property or release property to another person, he/she shall enter this information in the EMS. Officers desiring property for court shall contact the evidence technicians at least one day prior to the court day.

802.6.1 RESPONSIBILITIES OF OTHER PERSONNEL

Request for analysis for items other than controlled substances shall be completed on the appropriate forms and submitted to the evidence technician. This request may be filled out any time after booking of the property or evidence.

802.6.2 TRANSFER OF EVIDENCE TO THE BCA CRIME LABORATORY

The majority of evidence submitted to the BCA Crime Laboratory is to be transferred by mail with a signed return. Transferred evidence will be noted in the EMS as submitted to the BCA and scanned in the RMS, that includes the date processed and by whom.

In instances where evidence is delivered in person, the transporting employee will check the evidence out of property by signing out the evidence in the EMS, which indicates the date and time and the request for laboratory analysis.

The lab request forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the will transporting employeewill turn the item over to the accepting BCA employee, who will add the item into a state evidence program. This program is accessible to evidence staff for verification.

802.6.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence via signature in the EMS. Temporary release of property to officers for investigative purposes, or for court, shall be noted in the EMS, which include the date, time and to whom it was released.

The evidence technicians shall obtain the signature of the person to whom property was released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to evidence or properly released to another authorized person or entity.

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The return of the property should be recorded in the EMS, which indicates date, time and the person who returned the property.

802.6.4 AUTHORITY TO RELEASE PROPERTY

Every time property is released, this transaction will be processed in the EMS and include a signature whenever possible. No evidence is to be released without researching the status of the case in the department's Records Management System (RMS), reviewing court records, and adhering to the state retention guidelines as detailed below. Best practices dictate first receiving written authorization from a supervisor or investigator on evidence that does not clearly fall into the categories below or where research is not clear. The individual completing the research and/or following up with a supervisor or investigator is responsible to ensure property and evidence are cleared for release. Records technicians shall error on the side of caution when releasing property and evidence, and thoroughly document the reason in the EMS that may include copying and pasting emails or uploading documents received from the supervisor or investigator into the EMS.

Investigator or Supervisor Approval is required for the purging or destruction of the following items:

- (a) Money
- (b) Forfeited Property
- (c) Suicides
- (d) Large Drug Cases
- (e) Guns
- (f) Criminal Sexual Conduct
- (g) Any other case that does not clearly fit the categories below

Evidence technicians may purge or destroy evidence that clearly fall into these categories below with justification documented in the EMS:

- (a) Criminal Convictions or Found Not Guilty:
 - 1. 60 days after date of sentencing for misdemeanors
 - 2. 90 days after date of sentencing for gross misdemeanors
 - 3. 120 days after date of sentencing for felonies

Inactive Cases:

- (a) 3 years for open/inactive cases or prior to 3 years with Investigator approval
- (b) Exceptions to 3 years due to Statute of Limitations
 - 1. Involuntary Servitude – victim as an adult – 6 years after offense
 - 2. Theft/Fraud – 6 years from offense

Found Property/Security Storage:

- (a) 60 days for found property and security storage for Rochester Police Department

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Permanent Cases:

- (a) Homicide
- (b) Kidnapping
- (c) Sexual Assault/Trafficking with Physical Evidence
- (d) Involuntary Servitude – victim under 18 yoa
- (e) Arson

For property in custody of the Department for investigatory or prosecutorial purposes and owned by a victim or witness, a evidence technician shall, upon the request of the owner:

- (a) Provide a list describing the property unless such release would seriously impede an investigation.
- (b) Return the property expeditiously unless the property is required as evidence.

Upon the direction of a prosecuting attorney, property held as evidence of a crime may be photographed and released to the owner of the property in accordance with the requirements of Minn. Stat. § 609.523.

802.6.5 RELEASE OF PROPERTY

Reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 60 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within the specified timeframe after notification (or receipt, if notification is not feasible) may be transferred to an online auction service, thrown away if no value, or released to a non-profit agency. Firearms shall be destroyed without exception if the owner can't be verified. The final disposition of all such property shall be fully documented in the EMS.

Evidence technicians shall release the property upon proper identification being presented by the owner after proper research has been conducted and approval is received (if applicable) that the property can be released. The owner shall also pay any costs incurred by the agency. A signature of the person receiving the property shall be recorded in the EMS.

802.6.6 STOLEN OR EMBEZZLED PROPERTY

Stolen or embezzled property or property believed to be stolen or embezzled that is in the custody of this department shall be restored to the owner (Minn. Stat. § 609.523 Subd. 3). Such property may be released from law enforcement custody when the following are satisfied:

- (a) Release is authorized by investigations, supervisor or the attorney's office.
- (b) Photographs of the property are taken by investigations.

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- (c) Satisfactory proof of ownership of the property is shown by the owner.

802.6.7 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a court order or other proof of the undisputed right to the involved property.

All parties should be advised that their claims are civil.

802.6.8 RELEASE AND DISPOSAL OF FIREARMS

A firearm may not be released until it has been verified that the person receiving the weapon is not prohibited from receiving or possessing the weapon by 18 USC § 922. Evidence technicians shall check local, state and national criminal history records.

The Department shall make best efforts for a period of 60 days after the seizure of an abandoned or stolen firearm to protect the firearm from harm and return it to the lawful owner (Minn. Stat. § 609.5315 Subd. 7). At the expiration of such period, the firearm or other deadly weapon may be processed for disposal consistent with this policy.

All firearms unable to be returned to the owner or their designee if the circumstance allows shall be destroyed.

802.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal.

802.7.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons.
- Counterfeiting equipment.
- Gaming devices.
- Obscene matter.
- Altered vehicles or component parts.
- Controlled substances.
- Unclaimed, stolen or embezzled property.
- Destructive devices.

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Money found in gambling devices by any peace officer, other than a municipal police officer, shall be paid into the county treasury. Money found in gambling devices by a municipal police officer shall be paid into the treasury of the municipality (Minn. Stat. § 626.04 (b)).

802.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after 60 days for found property and three years for seized money, the money is presumed abandoned property and is reportable as specified in § 804.8, Minn. Stat. § 345.38 and Minn. Stat. § 345.75).

802.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The Property and Evidence Manager shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor
- (d) Any sexual assault victim
- (e) The Investigation Division Supervisor

Biological evidence shall be retained for a minimum period established by law, the Property and Evidence Supervisor or the expiration of any sentence imposed related to the evidence (Minn. Stat. § 590.10), whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Investigation Division Supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

Bulk evidence may be destroyed prior to these minimum retention periods only pursuant to a court order or if the Property and Evidence Supervisor determines that such destruction is consistent with Minn. Stat. § 590.10 and the above notices have been made.

802.8 INSPECTIONS OF THE PROPERTY AND EVIDENCE

- (a) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.
- (b) An audit of evidence held by the Department shall be conducted by the Professional Standards Manager or authorized designee as assigned by the Chief of Police.

Records Unit Procedures

803.1 PURPOSE AND SCOPE

The Records Manager shall maintain the Department Records Unit Procedures Manual on a current basis to reflect the procedures being followed within the Records Unit. Policies and procedures that apply to all employees of this department are contained in this chapter.

803.1.1 NUMERICAL FILING SYSTEM

Case reports are filed numerically within the electronic Records Management System (RMS).

Reports are numbered commencing with the last two digits of the current year followed by a sequential number beginning with 00000001 starting at midnight on the first day of January of each year. As an example, case number 20-00000001 would be the first new case beginning January 1, 2020.

803.2 FILE ACCESS AND SECURITY

All reports including, but not limited to, initial, supplemental, follow-up, evidence and all reports related to a case shall be maintained in a secure electronic Records Management System (RMS). Access to report files are tracked through the RMS. Audit and management features are present within the RMS that show individual user history as well as time, dates, and type of data queried.

803.3 RECORDS MANAGER TRAINING

The Records Manager shall receive training in records management, including proper maintenance, retention and disposal of records and the proper release of records under the Minnesota Government Data Practices Act (MGDPA).

Records Maintenance and Release

804.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

804.1.1 DEFINITIONS

Definitions related to this policy include:

Confidential Data on Individuals - Data classified as confidential by state or federal law and that identifies individuals and cannot be disclosed to the public or even to the individual who is the subject of the data (Minn. Stat. § 13.02, Subd. 3).

Corrections and Detention Data - Data on individuals created, collected, used or maintained because of their lawful confinement or detainment in state reformatories, prisons and correctional facilities, municipal or county jails, lockups, work houses, work farms and all other correctional and detention facilities (Minn. Stat. § 13.85, Subd. 1).

Data on Individuals - All government data in which any individual is or can be identified as the subject of that data, unless the appearance of the name or other identifying data can be clearly demonstrated to be only incidental to the data and the data are not accessed by the name or other identifying data of any individual (Minn. Stat. § 13.02, Subd. 5).

Government Data - Data collected, created, received, maintained or disseminated by this department regardless of its physical form, storage media or conditions of use (Minn. Stat. § 13.02, Subd. 7).

Private Data - Data classified as private by state or federal law and that identifies individuals that are only available to the individual who is the subject of the data or with the individual's consent (Minn. Stat. § 13.02, Subd. 12).

804.2 POLICY

The Rochester Police Department is committed to providing public access to records and data in a manner that is consistent with the Minnesota Government Data Practices Act (MGDPA) and Official Records Act (Minn. Stat. § 13.03; Minn. Stat. § 15.17).

804.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Chief of Police shall designate a Custodian of Records. The responsibilities of the Custodian of Records include, but are not limited to:

- (a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department data (Minn. Stat. § 15.17; Minn. Stat. § 138.17, Subd. 7).
- (b) Maintaining and updating the department records retention schedule, including:
 1. Identifying the minimum length of time the Department must keep data.

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2. Identifying the department division responsible for the original data.
- (c) Establishing rules regarding the inspection and copying of department data as reasonably necessary for the protection of such data.
- (d) Identifying data or portions of data that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of data.
- (f) Ensuring a current schedule of fees for public data as allowed by law is available.
- (g) Ensuring the posting or availability to the public a document that contains the basic rights of a person who requests government data, the responsibilities of the Department, and any associated fees (Minn. Stat. § 13.025).
- (h) Ensuring data created by the Department is inventoried and subject to inspection and release pursuant to lawful requests consistent with the MGDPA requirements (Minn. Stat. § 13.03, Subd. 1).

804.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any department member who receives a request for data shall route the request to the Custodian of Records or the authorized designee.

804.4.1 REQUESTS FOR RECORDS

The processing of requests for data is subject to the following:

- (a) A person shall be permitted to inspect and copy public government data upon request at reasonable times and places and shall be informed of the data's meaning if requested (Minn. Stat. § 13.03, Subd. 3).
 1. The Department may not charge or require the requesting person to pay a fee to inspect data. Inspection includes, but is not limited to, the visual inspection of paper and similar types of government data. Inspection does not include printing copies, unless printing a copy is the only method to provide for inspection of the data (Minn. Stat. § 13.03, Subd. 3(b)).
 2. For data stored and made available in electronic form via remote access, public inspection includes allowing remote access by the public to the data and the ability to print copies or download the data. A fee may be charged for remote access to data where either the data or the access is enhanced at the request of the person seeking access (Minn. Stat. § 13.03, Subd. 3(b)).
- (b) Government data maintained by this department using a computer storage medium shall be provided in that medium in electronic form, if a copy can be reasonably made. The Department is not required to provide the data in an electronic format or program that is different from the format or program in which the data is maintained (Minn. Stat. § 13.03, Subd. 3 (e)).
- (c) The Department is not required to create records that do not exist.
- (d) The Custodian of Records or designee processing the request shall determine if the requested data is available and, if so, whether the data is restricted from release or

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denied. The Custodian of Records or designee shall inform the requesting person of the determination either orally at the time of the request or in writing as soon after that time as reasonably possible. The Custodian of Records or designee shall cite the specific statutory section, temporary classification or specific provision of state or federal law on which the determination is based. Upon the request of any person denied access to data, the denial shall be certified in writing (Minn. Stat. § 13.03, Subd. 3 (f)).

- (e) When a record contains data with release restrictions and data that is not subject to release restrictions, the restricted data shall be redacted and the unrestricted data released.

804.5 RELEASE RESTRICTIONS

Examples of release restrictions include:

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver's license record, motor vehicle record, or any department record, including traffic collision reports, is restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Private data on the following individuals (Minn. Stat. § 13.82, Subd. 17):
 1. An undercover law enforcement officer.
 2. A victim or alleged victim of criminal sexual conduct, or sex trafficking, or of a violation of Minn. Stat. § 617.246, Subd. 2.
 3. A paid or unpaid informant if the Department reasonably believes revealing the identity would threaten the personal safety of the informant.
 4. A victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, unless the Department reasonably determines that revealing the identity of the victim or witness would not threaten the personal safety or property of the individual.
 5. A person who placed a call to a 9-1-1 system or the identity of the person whose phone was used to place a call to the 9-1-1 system when revealing the identity may threaten the personal safety or property of any person or the purpose of the call was to receive help in a mental health emergency. A voice recording of a call placed to the 9-1-1 system is deemed to reveal the identity of the caller.
 6. A juvenile witness when the subject matter of the investigation justifies protecting the identity of the witness.
 7. A mandated reporter.
- (c) Audio recordings of calls placed to the 9-1-1 system requesting law enforcement, fire, or medical agency response, except that a written transcript of the call is public unless it reveals the identity of protected individuals (Minn. Stat. § 13.82, Subd. 4).

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- (d) Criminal investigative data involving active cases and inactive investigative data (Minn. Stat. § 13.82, Subd. 7):
 - 1. If the release of the data would jeopardize another ongoing investigation or would reveal the identity of protected individuals or is otherwise restricted.
 - 2. Images and recordings, including photographs, video, and audio records that are clearly offensive to common sensibilities. However, the existence of any such image or recording shall be disclosed.
 - 3. As otherwise restricted by law.
- (e) Juvenile records and data (Minn. Stat. § 260B.171).
- (f) State criminal history data held in the Bureau of Criminal Apprehension (BCA) database, including but not limited to fingerprints, photographs, identification data, arrest data, prosecution data, criminal court data, and custody and supervision data (Minn. Stat. § 13.87).
- (g) Traffic collision reports and related supplemental information (Minn. Stat. § 169.09, Subd. 13).
- (h) Corrections and detention data (Minn. Stat. § 13.85).
- (i) Personnel data except, unless otherwise restricted (Minn. Stat. § 13.43, Subd. 2):
 - 1. Name, employee identification number, and some aspects of compensation.
 - 2. Job title, bargaining unit, job description, education and training background, and previous work experience.
 - 3. Date of first and last employment.
 - 4. Existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action.
 - 5. Final disposition of any disciplinary action together with the specific reasons for the action, and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of this department.
 - 6. Terms of any agreement settling any dispute arising out of an employment relationship.
 - 7. Work location, work telephone number, badge number, and honors and awards received.
 - 8. Time sheets or other comparable data only used to account for an employee's work time for payroll purposes, excluding the use of sick or other medical leave or other nonpublic data.
 - 9. All other personnel data regarding employees of this department are private data and may only be released as authorized by that classification.
- (j) Any data that was created under the direction or authority of the City Attorney exclusively in anticipation of potential litigation involving this department shall be classified as protected nonpublic or confidential data while such action is pending (Minn. Stat. § 13.39).

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- (k) All data collected by an Automated License Plate Reader (ALPR) on individuals or nonpublic data absent an exception (Minn. Stat. § 13.82; Minn. Stat. § 13.824).
- (l) Response or incident data, so long as the Custodian of Records determines that public access would likely endanger the physical safety of an individual or cause a perpetrator to flee, evade detection, or destroy evidence (Minn. Stat. § 13.82, Subd. 14).
- (m) Any data on individuals receiving peer counseling or critical incident stress management services (Minn. Stat. § 13.02, Subd. 12; Minn. Stat. § 181.9731; Minn. Stat. § 181.9732).

Any other record not addressed in this policy shall not be subject to release where such record is classified as other than public data. All public data shall be released as required by the MGDPA (Minn. Stat. § 13.03, Subd. 1).

804.6 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for data should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested data.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the County Attorney, City Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

804.7 EXPUNGEMENT

A petition for expungement and expungement orders received by the Department shall be reviewed for appropriate action by the Custodian of Records.

804.7.1 PETITION FOR EXPUNGEMENT

When responding to a petition for expungement, the Custodian of Records shall inform the court and the individual seeking expungement that the response contains private or confidential data (Minn. Stat. § 609A.03, Subd. 3).

804.7.2 ORDERS OF EXPUNGEMENT

The Custodian of Records shall expunge such records as ordered by the court. Records may include, but are not limited to, a record of arrest, investigation, detention or conviction. Once a record is expunged, members shall respond to any inquiry as though the record did not exist.

Upon request by the individual whose records are to be expunged, the Custodian of Records must send a letter at an address provided by the individual confirming the receipt of the expungement order and that the record has been expunged (Minn. Stat. § 609A.03, Subd. 8).

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Expunged records may be opened only by court order (Minn. Stat. § 609A.03, Subd. 7).

Expunged records of conviction may be opened for purposes of evaluating a prospective employee of the Department without a court order.

The Custodian of Records shall inform any law enforcement, prosecution or corrections authority, upon request, of the existence of a sealed record and of the right to obtain access to it.

804.8 MAINTENANCE OF CLOSED RECORDS

Records such as offense reports, arrest reports, juvenile records or other sensitive records shall be secured in such a manner as to reasonably protect them from unauthorized disclosure. Closed records shall be kept separate from public records and shall remain confidential.

Protected Information

805.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Rochester Police Department. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the government data information covered in the Records Maintenance and Release Policy.

805.1.1 DEFINITIONS

Definitions related to this policy include:

Protected information - Any information or data that is collected, stored or accessed by members of the Rochester Police Department and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

805.2 POLICY

Members of the Rochester Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

805.3 RESPONSIBILITIES

The Chief of Police shall select a member of the Department to coordinate the use of protected information (Minn. Stat. § 13.05, Subd. 13).

The responsibilities of this position include, but are not limited to:

- (a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, the National Law Enforcement Telecommunications System (NLETS), Minnesota Division of Driver and Vehicle Services (DVS) records, Minnesota Bureau of Criminal Apprehension (BCA) and the National Incident-Based Reporting System (NIBRS).
- (b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.
- (d) Developing procedures to ensure training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.
- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

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- (g) Ensuring a comprehensive security assessment of any personal information maintained by the Rochester Police Department is conducted at least annually (Minn. Stat. § 13.055, Subd. 6).

805.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Rochester Police Department policy or training (Minn. Stat. § 13.09). Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access (Minn. Stat. § 13.05; Minn. Stat. § 299C.40).

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

805.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Manager for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Records Unit to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of officers, other department members or the public is at risk. Transmission of such information through CJIS compliant systems is permissible.

Nothing in this policy is intended to prohibit broadcasting warrant information.

805.5.1 REVIEW OF CHRI

Members of this department shall refer individuals seeking access to CHRI to the Minnesota BCA (Minn. Stat. § 13.87, Subd. 1(b)).

Protected Information

805.6 SECURITY OF PROTECTED INFORMATION

The Chief of Police will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Developing and maintaining security practices, procedures and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.
- (d) Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

805.6.1 MEMBER RESPONSIBILITIES

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

805.7 SECURITY BREACHES

In the event of an actual or potential breach of the security or other unauthorized acquisition of private or confidential information, the Chief of Police or designee shall ensure an investigation into the breach is made. Upon completion of the investigation and final disposition of any disciplinary action, a report containing the facts and result of the investigation shall be prepared. If the breach was conducted by an employee, contractor or agent of Rochester, the report must include a description of the type of data that was breached, the number of individuals whose information was breached, the disposition of any related disciplinary action, and the identity of the employee determined to be responsible for the breach (Minn. Stat. § 13.055).

Written notice shall be given to any individual whose private or confidential data was, or is reasonably believed to have been, acquired by an unauthorized person as soon as reasonably practicable. The notice shall include the following (Minn. Stat. § 13.055):

- (a) Notification that an investigation will be conducted.
- (b) Notification that a report containing the facts and results will be prepared.
- (c) Information on how the person may obtain access to the report, including that he/she may request delivery of the report by mail or email.

The notice may be delayed only so long as necessary to determine the scope of the breach and restore the reasonable security of the data or so long as it will impede an active criminal

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investigation. Notice shall be made by first class mail, electronic notice or substitute notice as provided in Minn. Stat. § 13.055, Subd. 4. If notification is required to be made to more than 1,000 individuals, notice to all consumer reporting agencies of the timing distribution and content of the notices must also be made (Minn. Stat. § 13.055, Subd. 5).

805.8 TRAINING

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

Animal Control

806.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for interacting with animals and responding to calls for service that involve animals.

806.2 POLICY

It is the policy of the Rochester Police Department to be responsive to the needs of the community regarding animal-related issues. This includes enforcing local, state and federal laws relating to animals and appropriately resolving or referring animal-related problems, as outlined in this policy.

806.3 COMMUNITY SERVICE OFFICER RESPONSIBILITIES

Animal control services are generally the primary responsibility of Community Service Officers assigned to the Animal Control Unit and include the following:

- (a) Animal-related matters.
- (b) Ongoing or persistent animal nuisance complaints. Such complaints may be scheduled, if reasonable, for handling during periods that Community Service Officer is available for investigation and resolution.
- (c) Follow-up on animal-related calls, such as locating owners of injured animals.

The CSOs are available for emergency call-outs during off-duty hours. Emergencies which justify a call-out are:

- (a) Serious bite incidents
- (b) Injured animals
- (c) Requests to impound an animal found during a search, arrest or crime scene investigation
- (d) Incidents involving apparently dangerous animals

806.4 MEMBER RESPONSIBILITIES

Members who respond to or assist with animal-related calls for service should evaluate the situation and determine appropriate actions to control the situation.

Due to the hazards of handling animals without proper training and equipment, responding members generally should not attempt to capture and pick up any animal, but should keep the animal under observation until the arrival of appropriate assistance.

Members may consider acting before the arrival of such assistance when:

- (a) There is a threat to public safety.
- (b) An animal has bitten someone; members should take measures to confine the animal and prevent further injury.

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- (c) An animal is creating a traffic hazard.
- (d) An animal is seriously injured.
- (e) The owner/handler has been arrested or is incapacitated. In such circumstances, the member should find appropriate placement for the animal.
 - 1. This is only necessary when the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animal.
 - 2. With the owner's consent, locating appropriate placement may require contacting relatives or neighbors to care for the animal.
 - 3. If no person can be found or the owner does not or cannot give consent, the animal should be taken to a designated animal care facility.

806.5 ANIMAL CRUELTY COMPLAINTS

Laws relating to the cruelty to animals should be enforced, including but not limited to (Minn. Stat. § 343.21 et seq.):

- (a) An investigation should be conducted on all reports of animal cruelty.
- (b) Legal steps should be taken to protect an animal that is in need of immediate care or protection from acts of cruelty (Minn. Stat. § 343.29).
 - 1. An officer may remove, shelter and care for any animal that is not properly sheltered from cold, heat or inclement weather, or any animal not properly fed and watered or provided with suitable food and drink, in circumstances that threaten the life of the animal.
 - 2. An animal taken into care during an animal cruelty investigation may be euthanized following a determination by a doctor of veterinary medicine that the animal is suffering and is beyond cure through reasonable care and treatment.

806.6 ANIMAL BITE REPORTS

Members investigating an animal bite should obtain as much information as possible for follow-up with the appropriate health or animal authorities. Efforts should be made to capture or otherwise have the animal placed under control. Members should attempt to identify and notify the owner of the final disposition of the animal.

806.6.1 ANIMAL BITES TO HUMANS

Members should coordinate with appropriate animal authorities to ensure that animals who have bitten a human are quarantined for rabies observation as required by Minn. R. 1721.0580.

806.7 STRAY DOGS

If the dog has a license or can otherwise be identified, the owner should be contacted (Minn. Stat. § 343.29), if possible. If the owner is contacted, the dog should be released to the owner and a

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citation may be issued, if appropriate. If a dog is taken into custody, it shall be transported to the appropriate shelter/holding pen.

Members shall provide reasonable treatment to animals in their care (e.g., food, water, shelter).

806.8 DANGEROUS ANIMALS

In the event responding members cannot fulfill a request for service because an animal is difficult or dangerous to handle, a supervisor shall be contacted to determine available resources, including requesting the assistance of animal control services.

806.9 PUBLIC NUISANCE CALLS RELATING TO ANIMALS

Members should diligently address calls related to nuisance animals (e.g., barking dogs), as such calls may involve significant quality of life issues.

806.10 DECEASED ANIMALS

When a member becomes aware of a deceased animal all reasonable attempts should be made to preliminarily determine if the death of the animal is related to criminal activity.

- (a) Deceased animals on public property should be noted for proper pickup and disposal.
- (b) Members should not climb onto or under any privately owned structure for the purpose of removing a deceased animal.

806.11 INJURED ANIMALS

When a member becomes aware of an injured domesticated animal, all reasonable attempts shall be made to contact the owner or responsible handler.

If an owner or responsible handler cannot be located, the animal should be taken to a designated animal care facility.

806.12 DESTRUCTION OF ANIMALS

When it is necessary to use a firearm to euthanize a badly injured animal or stop an animal that poses an imminent threat to human safety, the Firearms Policy shall be followed.

806.13 MUTUAL AID

Rochester Animal Control and CSOs acting in that capacity will not generally respond to calls for animal services within the County, townships or small towns unless an emergency circumstance exists. A dangerous dog or bite with a serious injury could constitute an emergency. An animal at large, neglected animal or barking dog would not.

The Rochester Police Department will provide emergency animal control services to the County, small cities and the townships within Olmsted County when specifically requested by a supervisor from the Olmsted County Sheriff's Office.

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806.13.1 SHELTER ACCESS

In accordance with the contract that preceded the construction of the Animal Shelter, the County, townships and small cities within Olmsted County are entitled to the use of 10% of the kennel spaces when available.

The Rochester Police Department will grant access to the shelter for purposes of admitting any cat or dog being brought in from the County or a small city or township within Olmsted County when authorized by a supervisor from the Olmsted County Sheriff's Office. An officer admitting an animal into the shelter after regular shelter hours under these circumstances will:

- (a) Secure the dog or cat in an appropriate kennel.
- (b) Provide the animal with water.
- (c) Leave a message for the regular animal control staff alerting them of this admission including the ICR number associated with the call.
- (d) Properly document the details of the call in the incident notes.

Jeanne Clery Campus Security Act

807.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines to ensure this department fulfills its obligation in complying with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

807.2 POLICY

The Rochester Police Department encourages accurate and prompt reporting of all crimes and takes all such reports seriously (20 USC § 1092(f)(1)(C)(iii)). Reports will be accepted in any manner, including in person or in writing, at any Rochester Police Department facility. Reports will be accepted anonymously, by phone or via email or on the institution's website.

It is the policy of the Rochester Police Department to comply with the Clery Act. Compliance with the Clery Act requires a joint effort between the Rochester Police Department staff and faculty of the institution.

Supervisors assigned areas of responsibility in the following policy sections are expected to be familiar with the subsections of 20 USC § 1092(f) and 34 CFR 668.46 that are relevant to their responsibilities.

807.3 POLICY, PROCEDURE AND PROGRAM DEVELOPMENT

The Chief of Police will:

- (a) Ensure that the Rochester Police Department establishes procedures for immediate emergency response and evacuation, including the use of electronic and cellular communication and testing of these procedures (20 USC § 1092(f)(1)(J)(i); 20 USC § 1092(f)(1)(J)(iii)).
- (b) Enter into agreements as appropriate with local law enforcement agencies to:
 1. Identify roles in the investigation of alleged criminal offenses on campus (20 USC § 1092(f)(1)(C)(ii)).
 2. Assist in the monitoring and reporting of criminal activity at off-campus student organizations that are recognized by the institution and engaged in by students attending the institution, including student organizations with off-campus housing facilities (20 USC § 1092(f)(1)(G)).
 3. Ensure coordination of emergency response and evacuation procedures, including procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation (20 USC § 1092(f)(1)(J)).

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4. Notify the Rochester Police Department of criminal offenses reported to local law enforcement agencies to assist the institution in meeting its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)).
 5. Notify the Rochester Police Department of criminal offenses reported to local law enforcement agencies to assist in making information available to the campus community in a timely manner and to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).
- (c) Appoint a designee to develop programs that are designed to inform students and employees about campus security procedures and practices, and to encourage students and employees to be responsible for their own security and the security of others (20 USC § 1092(f)(1)(D)).
 - (d) Appoint a designee to develop programs to inform students and employees about the prevention of crime (20 USC § 1092(f)(1)(E)).
 - (e) Appoint a designee to develop educational programs to promote the awareness of rape, acquaintance rape, domestic abuse, dating violence, sexual assault and stalking, and what to do if an offense occurs, including, but not limited to, who should be contacted, the importance of preserving evidence and to whom the alleged offense should be reported (20 USC § 1092(f)(8)(B)). The designee shall also develop written materials to be distributed to reporting persons that explains the rights and options provided for under 20 USC § 1092 (20 USC § 1092(f)(8)(C)).
 - (f) Appoint a designee to make the appropriate notifications to institution staff regarding missing person investigations in order to ensure that the institution complies with the requirements of 34 CFR 668.46(h).

807.4 RECORDS COLLECTION AND RETENTION

The Records Manager is responsible for maintaining Rochester Police Department statistics and making reasonable good-faith efforts to obtain statistics from other law enforcement agencies as necessary to allow the institution to comply with its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)). The statistics shall be compiled as follows:

- (a) Statistics concerning the occurrence of the following criminal offenses reported to this department or to local police agencies that occurred on campus, in or on non-campus buildings or property, and on public property including streets, sidewalks and parking facilities within the campus or immediately adjacent to and accessible from the campus (20 USC § 1092(f)(1)(F)(i); 34 CFR 668.46(c)):
 1. Murder
 2. Sex offenses, forcible or non-forcible
 3. Robbery

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4. Aggravated assault
 5. Burglary
 6. Motor vehicle theft
 7. Manslaughter
 8. Arson
 9. Arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations and weapons possession
 10. Dating violence, domestic abuse and stalking
- (b) Statistics concerning the crimes described in the section above, theft, simple assault, intimidation, destruction, damage or vandalism of property, and other crimes involving bodily injury to any person where the victim was intentionally selected because of his/her actual or perceived race, sex, religion, gender, gender identity, sexual orientation, ethnicity or disability. These statistics should be collected and reported according to the category of prejudice (20 USC § 1092(f)(1)(F)(ii); 34 CFR 668.46(c)).
- (c) The statistics shall be compiled using the definitions in the FBI's Uniform Crime Reporting (UCR) system and modifications made pursuant to the Hate Crime Statistics Act (20 USC § 1092(f)(7) and 34 CFR 668.46(c)(9)). For the offenses of domestic abuse, dating violence and stalking, such statistics shall be compiled in accordance with the definitions used in the Violence Against Women Act (20 USC § 1092(f)(7); 34 USC § 12291; 34 CFR 668.46(a)). The statistics will be categorized separately as offenses that occur in the following places (20 USC § 1092(f)(12); 34 CFR 668.46(c)(5)):
1. On campus.
 2. In or on a non-campus building or property.
 3. On public property.
 4. In dormitories or other on-campus, residential, or student facilities.
- (d) Statistics will be included by the calendar year in which the crime was reported to the Rochester Police Department (34 CFR 668.46(c)(3)).
- (e) Stalking offenses will include a statistic for each year in which the stalking conduct is reported and will be recorded as occurring either at the first location where the stalking occurred or the location where the victim became aware of the conduct (34 CFR 668.46(c)(6)).
- (f) Statistics will include the three most recent calendar years (20 USC § 1092(f)(1)(F); 34 CFR 668.46(c)).
- (g) The statistics shall not identify by name victims of crimes or persons accused of crimes (20 USC § 1092(f)(7)).

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807.4.1 CRIME LOG

The Records Manager is responsible for ensuring a daily crime log is created and maintained as follows (20 USC § 1092(f)(4) and 34 CFR 668.46(f)):

- (a) The daily crime log will record all crimes reported to the Rochester Police Department, including the nature, date, time and general location of each crime, and the disposition, if known.
- (b) All log entries shall be made within two business days of the initial report being made to the Department.
- (c) If new information about an entry becomes available, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police department or security department.
- (d) The daily crime log for the most recent 60-day period shall be open to the public for inspection at all times during normal business hours. Any portion of the log that is older than 60 days must be made available within two business days of a request for public inspection. Information in the log is not required to be disclosed when:
 1. Disclosure of the information is prohibited by law.
 2. Disclosure would jeopardize the confidentiality of the victim.
 3. There is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, may cause a suspect to flee or evade detection, or could result in the destruction of evidence. In any of these cases, the information may be withheld until that damage is no longer likely to occur from the release of such information.

807.5 INFORMATION DISSEMINATION

It is the responsibility of the Investigations Captain to ensure that the required Clery Act disclosures are properly forwarded to campus administration and community members in accordance with institution procedures. This includes:

- (a) Procedures for providing emergency notification of crimes or other incidents and evacuations that might represent an imminent threat to the safety of students or employees (20 USC § 1092(f)(3); 34 CFR 668.46(e) and (g)).
- (b) Procedures for notifying the campus community about crimes considered to be a threat to other students and employees in order to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).
- (c) Information necessary for the institution to prepare its annual security report (20 USC § 1092(f)(1); 34 CFR 668.46(b)). This report will include, but is not limited to:
 1. Crime statistics and the policies for preparing the crime statistics.
 2. Crime and emergency reporting procedures, including the responses to such reports.

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3. Policies concerning security of and access to campus facilities.
4. Crime, dating violence, domestic abuse, sexual assault and stalking awareness and prevention programs, including:
 - (a) Procedures victims should follow.
 - (b) Procedures for protecting the confidentiality of victims and other necessary parties.
5. Enforcement policies related to alcohol and illegal drugs.
6. Locations where the campus community can obtain information about registered sex offenders.
7. Emergency response and evacuation procedures.
8. Missing student notification procedures.
9. Information addressing the jurisdiction and authority of campus security including any working relationships and agreements between campus security personnel and both state and local law enforcement agencies.

Chapter 9 - Custody

Temporary Custody of Adults

900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Rochester Police Department for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults who are in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

900.1.1 DEFINITIONS

Definitions related to this policy include:

Holding cell/cell - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Department.

Safety checks - Direct, visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of adults in temporary custody.

Temporary custody - The time period an adult is in custody at the Rochester Police Department prior to being released or transported to a housing or other type of facility.

900.2 POLICY

The Rochester Police Department is committed to releasing adults from temporary custody as soon as reasonably practicable and to keeping adults safe while in temporary custody at the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

900.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than four hours (Minn. R. 2945.0100; Minn. R. 2945.0120).

900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Rochester Police Department, but should be transported to a jail facility, a medical facility or other type of facility as appropriate. These include:

- (a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.
- (b) Any individual who has a medical condition, including pregnancy, or who may require medical attention, supervision or medication while in temporary custody.
- (c) Any individual who is seriously injured.

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- (d) Individuals who are a suspected suicide risk (see the Civil Commitments Policy).
 - 1. If the officer taking custody of an individual believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release or a transfer to an appropriate facility is completed.
- (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
- (f) Individuals who are under the influence of alcohol, a controlled substance or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (g) Any individual who is exhibiting extremely violent or continuously violent behavior.
- (h) Any individual who has claimed, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk.
- (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to his/her health or safety.

Officers taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

900.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized department member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with his/her supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability.

When available, at least one female department member should be present when a female adult is in temporary custody. In the event that none is readily available, all camera systems shall be activated and recording during the time of custody.

Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present.

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

900.3.3 ENTRY RESTRICTIONS

Entry into any location where a person is held in temporary custody should be restricted to:

- (a) Authorized members entering for official business purposes.
- (b) Emergency medical personnel when necessary.

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When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

900.4 INITIATING TEMPORARY CUSTODY

The officer responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, possible communicable disease or any other potential risk to the health or safety of the individual or others. The officer should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The receiving officer should ask the arresting officer if there is any statement, indication or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion the individual may be suicidal, he/she shall be transported to the City jail or the appropriate mental health facility.

The officer should promptly notify a supervisor of any conditions that may warrant immediate medical attention or other appropriate action. A supervisor shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

900.4.1 SCREENING AND PLACEMENT

The officer responsible for an individual in custody shall:

- (a) Advise a supervisor of any significant risks presented by the individual (e.g., suicide risk, health risk, violence).
- (b) Evaluate the following issues against the stated risks in (a) to determine the need for placing the individual in a single cell:
 - 1. Consider whether the individual may be at a high risk of being sexually abused based on all available known information (28 CFR 115.141) or whether the person is facing any other identified risk.
 - 2. Provide any individual identified as being at a high risk for sexual or other victimization with heightened protection. This may include (28 CFR 115.113; 28 CFR 115.141):
 - (a) Continuous, direct sight and sound supervision.
 - (b) Single-cell placement in a cell that is actively monitored on video by a member who is available to immediately intervene.
 - 3. Ensure individuals are separated according to severity of the crime (e.g., felony or misdemeanor).
 - 4. Ensure males and females are separated by sight and sound when in cells.
 - 5. Ensure restrained individuals are not placed in cells with unrestrained individuals.
- (c) Ensure that those confined under civil process or for civil causes are kept separate from those who are in temporary custody pending criminal charges.

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- (d) Ensure separation, as appropriate, based on other factors, such as age, criminal sophistication, assaultive/non-assaultive behavior, mental state, disabilities and sexual orientation.

900.4.2 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Patrol Captain will ensure that the U.S. Department of State's list of countries and jurisdictions that require mandatory notification is readily available to department members. There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be transmitted and then retained for documentation. Prominently displayed signs informing foreign nationals of their rights related to consular notification should also be posted in areas used for the temporary custody of adults.

Department members assigned to process a foreign national shall:

- (a) Inform the individual without delay he/she may have his/her consular officers notified of the arrest or detention and may communicate with them.
 - 1. This notification should be documented.
- (b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.
 - 1. If the country is on the mandatory notification list, then:
 - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
 - (b) Tell the individual this notification has been made and inform him/her without delay he/she may communicate with consular officers.
 - (c) Forward any communication from the individual to his/her consular officers without delay.
 - (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
 - 2. If the country is not on the mandatory notification list and the individual requests his/her consular officers be notified, then:
 - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
 - (b) Forward any communication from the individual to his/her consular officers without delay.

900.5 SAFETY, HEALTH AND OTHER PROVISIONS

900.5.1 TEMPORARY CUSTODY DOCUMENTATION

Any time an individual is in temporary custody at the Rochester Police Department, the custody shall be promptly and properly documented, including:

- (a) Identifying information about the individual, including his/her name.

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- (b) Date and time of arrival at the Department.
- (c) Any charges for which the individual is in temporary custody and any case number.
- (d) Time of all safety checks.
- (e) Any medical and other screening requested and completed.
- (f) Any emergency situations or unusual incidents.
- (g) Date and time of release from the Rochester Police Department.

A supervisor shall approve reports related to temporary custody documentation.

900.5.2 TEMPORARY CUSTODY REQUIREMENTS

Members monitoring or processing anyone in temporary custody shall ensure:

- (a) Safety checks and significant incidents/activities are noted.
- (b) Individuals in custody are informed they will be monitored at all times, except when using the toilet.
 - 1. There shall be no viewing devices, such as peep holes or mirrors, of which the individual is not aware.
 - 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (c) There is reasonable access to toilets and wash basins.
- (d) There is reasonable access to a drinking fountain or water.
- (e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (f) There is privacy during attorney visits.
- (g) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (h) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.
 - 1. The supervisor should ensure that there is an adequate supply of clean blankets.
- (i) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (j) Adequate furnishings are available, including suitable chairs or benches.

900.5.3 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to department members. At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should meet with those providing medical aid at the facility to allow access

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to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, he/she will be accompanied by an officer or released from custody.

Those who require medication while in temporary custody should not be at the Rochester Police Department. They should be released or transferred to another facility as appropriate.

900.5.4 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the appliance presents a risk of bodily harm to any person or is a risk to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to his/her health or safety.

Whenever a prosthetic or orthopedic appliance is removed, a supervisor shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears any risk no longer exists.

900.5.5 TELEPHONE CALLS

Every individual in temporary custody should be allowed to make a reasonable number of completed telephone calls as soon as possible after arrival.

- (a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at his/her own expense.
 - 1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).
- (b) The individual should be given sufficient time to contact whomever he/she desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.
 - 1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use his/her judgment in determining the duration of the calls.
- (c) Calls between an individual in temporary custody and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded.

900.5.6 RELIGIOUS ACCOMMODATION

Subject to available resources, safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated. Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The responsible supervisor should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves or simple head coverings for religious reasons should generally be accommodated absent unusual circumstances. Head coverings shall be searched before being worn.

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Individuals wearing headscarves or other approved coverings shall not be required to remove them while in the presence of or while visible to the opposite sex if they so desire. Religious garments that substantially cover the individual's head and face may be temporarily removed during the taking of any photographs.

900.5.7 FIREARMS AND OTHER SECURITY MEASURES

Firearms and other weapons and control devices shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, and upon approval of a supervisor.

All perimeter doors to secure areas shall be kept locked at all times except during routine cleaning when no individuals in custody are present or in the event of an emergency, such as an evacuation.

900.5.8 FINGERPRINTING

Once the person has been taken into temporary custody the arresting officer should ensure the following are taken:

- (a) Finger and thumb prints
- (b) Photographs
- (c) Distinctive physical mark identification data
- (d) Information on any known aliases or street names
- (e) Any other identification data requested or required by the Bureau of Criminal Apprehension

A supervisor should ensure fingerprints and other identifying information is entered into the searchable database managed by the Bureau of Criminal Apprehension (Minn. Stat. § 299C.10, Subd. 1).

900.6 USE OF RESTRAINT DEVICES

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk handcuffs should generally be removed when the person is in a cell.

The use of restraints other than handcuffs or leg irons generally should not be used for individuals in temporary custody at the Rochester Police Department unless the person presents a heightened risk and then only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

900.6.1 PREGNANT ADULTS

Women who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

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900.7 PERSONAL PROPERTY

The personal property of an individual in temporary custody should be removed, inventoried and processed as provided in the Custodial Searches Policy unless the individual requests a different disposition. For example an individual may request property (i.e., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient's signature on the appropriate form.

Upon release of an individual from temporary custody his/her items of personal property shall be compared with the inventory, and he/she shall sign a receipt for the property's return. If the individual is transferred to another facility or court, the member transporting the individual is required to obtain the receiving person's signature as notice of receipt. The Department shall maintain a copy of the property receipt.

A supervisor shall be notified whenever an individual alleges there is a shortage or discrepancy regarding his/her property.

All intangible personal property that is unclaimed for more than three years is presumed abandoned (Minn. Stat. § 345.38).

900.8 TEMPORARY HOLDING CELLS

A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is clean and sanitary. An inspection also should be conducted when he/she is released. Any damage noted to the cell should be photographed and documented. The following requirements shall apply:

- (a) The individual shall be searched (see the Custodial Searches Policy), and anything that could create a security or suicide risk such as contraband, hazardous items, belts, shoes or shoelaces and jackets, shall be removed.
- (b) The individual shall constantly be monitored by an audio/video system during the entire custody.
- (c) The individual shall have constant auditory access to department members.
- (d) The individual's initial placement into and removal from a locked enclosure shall be documented.
- (e) Safety checks by department members shall occur no less than every 15 minutes.
 - (a) Safety checks should be at varying times.
 - (b) All safety checks shall be documented.
 - (c) The safety check should involve questioning the individual as to his/her well-being.
 - (d) Individuals who are sleeping or apparently sleeping should be awakened.
 - (e) Requests or concerns of the individual should be documented.

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900.9 RELEASE AND/OR TRANSFER

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

- (a) All proper reports, forms, and logs have been completed.
- (b) A check has been made to ensure the individual is not reported as missing and does not have outstanding warrants.
- (c) It has been confirmed the correct individual is being released or transported.
- (d) All property except evidence, contraband, or dangerous weapons, has been returned to, or sent with, the individual.
- (e) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, medical records, an itemized list of his/her property, warrant copies).
- (f) The individual is not permitted in any nonpublic areas of the Rochester Police Department unless escorted by a member of the Department.
- (g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if he/she is being sent to another facility.
 - 1. The department member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility.
- (h) Generally, persons of the opposite sex, or adults and juveniles, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating individuals is not practicable, officers should be alert to inappropriate physical or verbal contact and take appropriate action as necessary.
- (i) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with his/her personal needs as reasonable.
- (j) Transfers that exceed 100 miles shall be accomplished with a custodial escort of the same sex as the individual being transferred unless video and audio recording equipment is installed in the vehicle that is capable of recording the transferee for the entire duration of the transfer (Minn. Stat. § 631.412).
 - (a) Recordings of such transfer shall be maintained by the Department for at least 12 months after the date of the transfer.

900.10 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY

The Department will ensure procedures are in place to address any suicide attempt, death, or serious injury of any individual in temporary custody at the Rochester Police Department. The procedures should include (Minn. Stat. § 390.11, Subd. 1(6)):

- (a) Immediate request for emergency medical assistance if appropriate.
- (b) Immediate notification through the chain of command.

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- (c) Notification of the spouse, next of kin, or other appropriate person.
- (d) Notification of the appropriate prosecutor.
- (e) Notification of the City Attorney.
- (f) Notification of the Medical Examiner.
- (g) Evidence preservation.

900.11 ASSIGNED ADMINISTRATOR

The Department will ensure any reasonably necessary supplemental procedures are in place to address the following issues:

- (a) General security
- (b) Key control
- (c) Sanitation and maintenance
- (d) Emergency medical treatment
- (e) Escapes
- (f) Evacuation plans
- (g) Fire- and life-safety
- (h) Disaster plans
- (i) Building and safety code compliance

900.12 TRAINING

Department members should be trained and familiar with this policy and any supplemental procedures.

900.13 PROCEDURE

[See attachment: RPD TEMPORARY HOLDING AREA PROCEDURE.pdf](#)

Custodial Searches

901.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Rochester Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

901.1.1 DEFINITIONS

Definitions related to this policy include:

Custody search - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

Physical body cavity search - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

Strip search - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

901.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

901.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

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901.4 SEARCHES AT POLICE FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the Rochester Police Department facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

901.4.1 PROPERTY

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member. The inventory should include the case number, date, time, member's Rochester Police Department identification number and information regarding how and when the property may be released.

901.4.2 VERIFICATION OF MONEY

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The department member sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

901.5 STRIP SEARCHES

No individual in temporary custody at any Rochester Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband.

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be

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determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

901.5.1 STRIP SEARCH PROCEDURES

Strip searches at Rochester Police Department facilities shall be conducted as follows (28 CFR 115.115):

- (a) Authorization from a supervisor shall be obtained prior to the strip search.
- (b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.
- (d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.
- (e) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.
- (f) The primary member conducting the search shall prepare a written report to include:
 - 1. The facts that led to the decision to perform a strip search.
 - 2. The reasons less intrusive methods of searching were not used or were insufficient.
 - 3. Documentation of a supervisor authorization.
 - 4. The name of the individual who was searched.
 - 5. The name and sex of the members who conducted the search.
 - 6. The name, sex and role of any person present during the search.
 - 7. The time and date of the search.
 - 8. The place at which the search was conducted.
 - 9. A list of the items, if any, that were recovered.
 - 10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.
- (g) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is showering, performing bodily functions or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect his/her privacy and dignity.

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901.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with supervisor authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy.

901.6 PHYSICAL BODY CAVITY SEARCH

Physical body cavity searches shall be subject to the following:

- (a) No individual shall be subjected to a physical body cavity search without written approval of a supervisor and only upon a search warrant or approval of legal counsel. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).
- (b) Only a physician may conduct a physical body cavity search.
- (c) Except for the physician conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present.
- (d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.
- (e) All such searches shall be documented, including:
 - 1. The facts that led to the decision to perform a physical body cavity search of the individual.
 - 2. The reasons less intrusive methods of searching were not used or were insufficient.
 - 3. Documentation of supervisor authorization.
 - 4. A copy of the search warrant.
 - 5. The time, date and location of the search.
 - 6. The medical personnel present.
 - 7. The names, sex and roles of any department members present.
 - 8. Any contraband or weapons discovered by the search.

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- (f) A copy of the written authorization shall be retained and shall be provided to the individual who was searched or other authorized representative upon request.

901.7 TRAINING

The Training Unit shall ensure members have training that includes (28 CFR 115.115):

- (a) Conducting searches of cross-gender individuals.
- (b) Conducting searches of transgender and intersex individuals.
- (c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

Prison Rape Elimination

902.1 PURPOSE AND SCOPE

This policy provides guidance for complying with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect and respond to sexual abuse, harassment and retaliation against prisoners in the Rochester Police Department Temporary Holding Facilities (28 CFR 115.111).

902.1.1 DEFINITIONS

Definitions related to this policy include:

Intersex - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

Sexual abuse - Any of the following acts, if the prisoner does not consent, is coerced into such act by overt or implied threats of violence or is unable to consent or refuse:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or the buttocks of another person, excluding contact incidental to a physical altercation (28 CFR 115.6)

Sexual abuse also includes abuse by a staff member, contractor or volunteer as follows, with or without consent of the prisoner or resident:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Contact between the mouth and any body part where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object or other instrument, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh or the buttocks, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire

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- Any attempt, threat or request by a staff member, contractor or volunteer to engage in the activities described above
- Any display by a staff member, contractor or volunteer of his/her uncovered genitalia, buttocks or breast in the presence of a prisoner or resident
- Voyeurism by a staff member, contractor or volunteer (28 CFR 115.6)

Sexual harassment - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures or actions of a derogatory or offensive sexual nature by one prisoner or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to a prisoner or resident by a staff member, contractor or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6).

Transgender - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

902.2 POLICY

The Rochester Police Department has zero tolerance toward all forms of sexual abuse and sexual harassment (28 CFR 115.111). The Department will not tolerate retaliation against any person who reports sexual abuse or sexual harassment or who cooperates with a sexual abuse or sexual harassment investigation.

The Rochester Police Department will take immediate action to protect prisoners who are reasonably believed to be subject to a substantial risk of imminent sexual abuse (28 CFR 115.162).

902.3 PREA COORDINATOR

The Chief of Police shall appoint an upper-level manager with sufficient time and authority to develop, implement and oversee department efforts to comply with PREA standards in the Rochester Police Department Temporary Holding Facilities (28 CFR 115.111). The PREA Coordinator's responsibilities shall include:

- (a) Developing and maintaining procedures to comply with the PREA Rule.
- (b) Ensuring that any contract for the confinement of Rochester Police Department prisoners includes the requirement to adopt and comply with applicable PREA standards and the PREA Rule, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.187 (28 CFR 115.112).
- (c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect prisoners from sexual abuse (28 CFR 115.113). This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year.
- (d) Developing methods for staff to privately report sexual abuse and sexual harassment of prisoners (28 CFR 115.151).

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- (e) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators and department leadership to an incident of sexual abuse (28 CFR 115.165).
- (f) Ensuring a protocol is developed for investigating allegations of sexual abuse in the Temporary Holding Facility. The protocol shall include (28 CFR 115.121; 28 CFR 115.122):
 - 1. Evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents" or a similarly comprehensive and authoritative protocol.
 - 2. A process to ensure a criminal or administrative investigation is completed on all allegations of sexual abuse or sexual harassment.
 - 3. A process to document all referrals to other law enforcement agencies.
 - 4. Access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.
 - 5. In accordance with security needs, provisions to permit, to the extent available, prisoner access to victim advocacy services if the prisoner is transported for a forensic examination to an outside hospital that offers such services.
- (g) Ensuring that prisoners with limited English proficiency and disabilities have an equal opportunity to understand and benefit from efforts to prevent, detect and respond to sexual abuse and sexual harassment. This includes, as appropriate, access to interpreters and written materials in formats or through methods that provide effective communication to those with disabilities (e.g., limited reading skills, intellectual, hearing or vision disabilities) (28 CFR 115.116).
 - 1. The agency shall not rely on other prisoners for assistance except in limited circumstances where an extended delay in obtaining an interpreter could compromise the prisoner's safety, the performance of first-response duties under this policy, or the investigation of a prisoner's allegations of sexual abuse, harassment or retaliation.
- (h) Publishing on the department's website:
 - 1. Information on how to report sexual abuse and sexual harassment on behalf of a prisoner (28 CFR 115.154).
 - 2. A protocol describing the responsibilities of the Department and any other investigating agency that will be responsible for conducting sexual abuse or sexual harassment investigations (28 CFR 115.122).

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- (i) Establishing a process that includes the use of a standardized report and set of definitions to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under this agency's direct control (28 CFR 115.187).
 - 1. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by DOJ, or any subsequent form developed by DOJ and designated for lockups.
 - 2. The data shall be aggregated at least annually.
- (j) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 for all Temporary Holding Facilities used to house prisoners overnight (28 CFR 115.193).
- (k) Ensuring contractors or others who work in the Temporary Holding Facility are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment (28 CFR 115.132).

902.4 REPORTING SEXUAL ABUSE AND HARASSMENT

Prisoners may make reports verbally, in writing, privately or anonymously of any of the following (28 CFR 115.151):

- Sexual abuse
- Sexual harassment
- Retaliation by other prisoners or staff for reporting sexual abuse or sexual harassment
- Staff neglect or violation of responsibilities that may have contributed to sexual abuse or sexual harassment

During intake the Department shall notify all prisoners of the zero-tolerance policy regarding sexual abuse and sexual harassment, and of at least one way to report abuse or harassment to a public or private entity that is not part of the Department and that is able to receive and immediately forward prisoner reports of sexual abuse and sexual harassment to agency officials. This allows the prisoner to remain anonymous (28 CFR 115.132; 28 CFR 115.151).

902.4.1 MEMBER RESPONSIBILITIES

Department members shall accept reports from prisoners and third parties and shall promptly document all reports (28 CFR 115.151).

All members shall report immediately to a supervisor any knowledge, suspicion or information regarding:

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- (a) An incident of sexual abuse or sexual harassment that occurs in the Temporary Holding Facility.
- (b) Retaliation against prisoners or the member who reports any such incident.
- (c) Any neglect or violation of responsibilities on the part of any department member that may have contributed to an incident or retaliation (28 CFR 115.161).

No member shall reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.

902.4.2 SUPERVISOR RESPONSIBILITIES

Supervisors shall report to the department's designated investigators all allegations of sexual abuse, harassment, retaliation, neglect or violations leading to sexual abuse, harassment or retaliation. This includes third-party and anonymous reports (28 CFR 115.161).

If the alleged victim is under the age of 18 or considered a vulnerable adult, the supervisor shall also report the allegation as required under mandatory reporting laws and department policy.

Upon receiving an allegation that a prisoner was sexually abused while confined at another facility, the supervisor shall notify the head of the facility or the appropriate office of the agency where the alleged abuse occurred. The notification shall be made as soon as possible. The supervisor shall document such notification (28 CFR 115.163).

If an alleged prisoner victim is transferred from the Temporary Holding Facility to a jail, prison or medical facility, the Department shall, as permitted by law, inform the receiving facility of the incident and the prisoner's potential need for medical or social services, unless the prisoner requests otherwise (28 CFR 115.165).

902.5 INVESTIGATIONS

The Department shall promptly, thoroughly and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received department-approved special training shall conduct sexual abuse investigations (28 CFR 115.171).

902.5.1 FIRST RESPONDERS

The first officer to respond to a report of sexual abuse or sexual assault shall (28 CFR 115.164):

- (a) Separate the parties.
- (b) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.
- (c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

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- (d) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

If the first responder is not an officer the responder shall request that the alleged victim not take any actions that could destroy physical evidence and should then notify a law enforcement staff member (28 CFR 115.164).

902.5.2 INVESTIGATOR RESPONSIBILITIES

Investigators shall (28 CFR 115.171):

- (a) Gather and preserve direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data.
- (b) Interview alleged victims, suspects and witnesses.
- (c) Review any prior complaints and reports of sexual abuse involving the suspect.
- (d) Conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- (e) Assess the credibility of the alleged victim, suspect or witness on an individual basis and not by the person's status as a prisoner or a member of the Rochester Police Department.
- (f) Document in written reports a description of physical, testimonial, documentary and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings.
- (g) Refer allegations of conduct that may be criminal to the County Attorney for possible prosecution, including any time there is probable cause to believe a prisoner sexually abused another prisoner in the Temporary Holding Facility (28 CFR 115.178).
- (h) Cooperate with outside investigators and remain informed about the progress of any outside investigation.

902.5.3 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment or control of this department shall not be used as a basis for terminating an investigation (28 CFR 115.171).

902.5.4 SEXUAL ASSAULT AND SEXUAL ABUSE VICTIMS

No prisoner who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation (28 CFR 115.171(e)).

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Prisoner victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

902.5.5 CONCLUSIONS AND FINDINGS

All completed investigations shall be forwarded to the Chief of Police, or if the allegations may reasonably involve the Chief of Police, to the City Administrator. The Chief of Police or City Administrator shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.172).

All personnel shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for department members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history and the sanctions imposed for comparable offenses by other members with similar histories (28 CFR 115.176).

All terminations for violations of this policy, or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and reported to any relevant licensing body (28 CFR 115.176).

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with prisoners and reported to any relevant licensing bodies (28 CFR 115.177). The Chief of Police shall take appropriate remedial measures and consider whether to prohibit further contact with prisoners by a contractor or volunteer.

902.6 RETALIATION PROHIBITED

All prisoners and members who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation (28 CFR 115.167). If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual.

A supervisor or the authorized designee shall employ multiple protection measures, such as housing changes or transfers for prisoner victims or abusers, removal of alleged abusers from contact with victims, and emotional support services for prisoners or members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

A supervisor or the authorized designee shall identify a staff member to monitor the conduct and treatment of prisoners or members who have reported sexual abuse and of prisoners who were reported to have suffered sexual abuse. The staff member shall act promptly to remedy any such retaliation. In the case of prisoners, such monitoring shall also include periodic status checks.

902.7 REVIEWS AND AUDITS

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902.7.1 INCIDENT REVIEWS

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review should occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials and seek input from line supervisors and investigators (28 CFR 115.186).

The review shall (28 CFR 115.186):

- (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.
- (b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.
- (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
- (d) Assess the adequacy of staffing levels in that area during different shifts.
- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The review team shall prepare a report of its findings, including any determinations made pursuant to this section and any recommendations for improvement. The report shall be submitted to the Chief of Police and the PREA Coordinator. The Chief of Police or the authorized designee shall implement the recommendations for improvement or shall document the reasons for not doing so (28 CFR 115.186).

902.7.2 DATA REVIEWS

The facility shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The review should include, as needed, data from incident-based documents, including reports, investigation files and sexual abuse incident reviews (28 CFR 115.187).

The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training. An annual report shall be prepared that includes (28 CFR 115.188):

- (a) Identification of any potential problem areas.
- (b) Identification of any corrective actions taken.
- (c) Recommendations for any additional corrective actions.
- (d) A comparison of the current year's data and corrective actions with those from prior years.
- (e) An assessment of the department's progress in addressing sexual abuse.

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The report shall be approved by the Chief of Police and made readily available to the public through the department website or, if it does not have one, through other means. Material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the Temporary Holding Facility. However, the nature of the redacted material shall be indicated.

All aggregated sexual abuse data from Rochester Police Department facilities and private facilities with which it contracts shall be made readily available to the public at least annually through the department website or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.189).

902.8 RECORDS

The Department shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Department, plus five years (28 CFR 115.171).

All other data collected pursuant to this policy shall be securely retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise (28 CFR 115.189).

902.9 TRAINING

All employees, volunteers and contractors who may have contact with prisoners shall receive department-approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The Training Unit shall be responsible for developing and administering this training as appropriate, covering at a minimum (28 CFR 115.131):

- The Department's zero-tolerance policy and prisoners' right to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- The dynamics of sexual abuse and harassment in confinement settings, including which prisoners are most vulnerable.
- The right of prisoners and staff members to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- Detecting and responding to signs of threatened and actual abuse.
- Communicating effectively and professionally with all prisoners.
- Compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Investigators assigned to sexual abuse investigations shall also receive training in conducting such investigations in confinement settings. Training should include (28 CFR 115.134):

- Techniques for interviewing sexual abuse victims.

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- Proper use of *Miranda* and *Garrity* warnings.
- Sexual abuse evidence collection in confinement settings.
- Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Training Unit shall maintain documentation that employees, volunteers, contractors and investigators have completed required training and that they understand the training. This understanding shall be documented through individual signature or electronic verification.

All current employees and volunteers who may have contact with prisoners shall be trained within one year of the effective date of the PREA standards. The agency shall provide annual refresher information to all such employees and volunteers to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

Chapter 10 - Personnel

Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Rochester Police Department and that are promulgated and maintained by the Police Civil Service Commission in coordination with the Department of Human Resources.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the Rochester Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

1000.3 RECRUITMENT

The Department should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

- (a) Identification of racially and culturally diverse target markets.
- (b) Use of marketing strategies to target diverse applicant pools.
- (c) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive department website and the use of department-managed social networking sites, if resources permit.
- (d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities and the military.
- (e) Employee referral and recruitment incentive programs.
- (f) Consideration of shared or collaborative regional testing processes.

The Department shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Department should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of his/her status in the recruiting process.

Recruitment and Selection

1000.4 SELECTION PROCESS

The Department shall actively strive to identify a diverse group of candidates that have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department should employ a comprehensive screening, background investigation and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
- (b) Driving record
- (c) Reference checks
- (d) Citizenship eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents (Minn. R. 6700.0700, Subp. 1). This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from open source internet sites
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks
- (h) Medical and psychological examination (may only be given after a conditional offer of employment)
- (i) Review board or selection committee assessment

1000.4.1 VETERAN'S PREFERENCE

Veterans who are candidates for job openings shall receive preference recognizing the training and experience, loyalty and sacrifice not otherwise readily assessed by examination pursuant to Minn. Stat. § 197.455. The following preference, credit and requirements shall be applied as applicable (Minn. Stat. § 197.455):

Nondisabled Veteran's Credit - There shall be added to the competitive open examination rating of a nondisabled veteran, who so elects, a credit of 10 points, provided that veteran obtained a passing rating on the examination without the addition of the credit points.

Disabled Veteran's Credit - There shall be added to the competitive open examination rating of a disabled veteran, who so elects, a credit of 15 points, provided that the veteran obtained a passing rating on the examination without the addition of the credit points. There shall be added to the competitive promotional examination rating of a disabled veteran, who so elects, a credit of five points provided that:

- (a) The veteran obtained a passing rating on the examination without the addition of the credit points.
- (b) The veteran is applying for a first promotion after securing public employment.

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For the purpose of the preference to be used in securing appointment from a competitive open examination, "disabled veteran" means a person has a compensable service-connected disability as adjudicated by the U.S. Veterans Administration, or by the retirement board of one of the several branches of the armed forces, that is existing at the time preference is claimed.

For purposes of the preference to be used in securing appointment from a competitive promotional examination, "disabled veteran" means a person who, at the time of election to use a promotional preference, is entitled to disability compensation under laws administered by the Veterans Administration for a permanent service-connected disability rated at 50 percent or more.

Preference for Spouses - A preference available pursuant to Minn. Stat. § 197.455 may be used by the surviving spouse of a deceased veteran and by the spouse of a disabled veteran who, because of the disability, is unable to qualify.

Ranking of Veterans - An eligible applicant with a rating augmented by veteran's preference shall be entered on an eligible list ahead of a non-veteran with the same rating. When notifying eligible applicants that they have passed examinations this department shall show the final examination ratings and preference credits and shall notify eligible applicants that they may elect to use veteran's preference to augment passing ratings.

When this department rejects a certified eligible applicant who has received veteran's preference, the appointing authority shall notify the eligible applicant in writing of the reasons for the rejection and file the notice with the Rochester Department of Human Resources.

1000.5 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Rochester Police Department.

The background investigation must determine whether the candidate meets the standards established by the Minnesota Board of Peace Officer Standards and Training (POST) as well as the security standards established to access state and national computerized record and communication systems (Minn. Stat. § 626.87; Minn. R. 6700.0700).

1000.5.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and Minnesota law (15 USC § 1681d; Minn. Stat. § 13C.02).

1000.5.2 STATE NOTICES

Upon initiation of a candidate's background investigation, the department shall provide written notice to POST that includes the candidate's full name and date of birth and the candidate's peace officer license number, if applicable (Minn. Stat. § 626.87).

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1000.5.3 REVIEW OF SOCIAL MEDIA SITES

Due to the potential for accessing unsubstantiated, private or protected information, the Department should not require candidates to provide passwords, account information or access to password-protected social media accounts.

The Department should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches and/or review information from social media sites to ensure that:

- (a) The legal rights of candidates are protected.
- (b) Material and information to be considered are verified, accurate and validated.
- (c) The Department fully complies with applicable privacy protections and local, state and federal law.

Regardless of whether a third party is used, the Department should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

1000.5.4 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report and all supporting documentation shall be included in the candidate's background investigation file.

1000.5.5 RECORDS RETENTION

The background report and all supporting documentation shall be maintained in accordance with the established records retention schedule (Minn. R. 6700.0700, Subp. 2).

1000.6 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

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A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

1000.7 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law. Candidates will be evaluated based on merit, ability, competence and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community.

Validated, job-related and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation.

1000.7.1 STANDARDS FOR OFFICERS

Candidates shall meet the minimum standards established by Minnesota POST (Minn. R. 6700.0700):

- (a) Citizen of the United States (Minn. R. 6700.0700, Subp. 1)
- (b) Possess a valid driver's license
- (c) Free of any felony conviction
- (d) Not be required to register as a predatory offender under state law
- (e) Free of conviction of any controlled substance law or of any misdemeanor conviction listed in Minn. R. 6700.0700
- (f) Fingerprinted for purposes of disclosure of any felony convictions
- (g) Submit to a medical examination and psychological evaluation to ensure that the candidate is free from any physical, emotional or mental condition which might adversely affect his/her performance of peace officer duties
- (h) Successfully complete a physical strength and agility examination
- (i) Successfully complete an oral examination

1000.7.2 NOTIFICATION TO POST

The Chief of Police shall notify the POST Board of any candidate appointed to the position of peace officer before the first day of employment on a form provided by POST. The appointee may not exercise peace officer powers until the notification form is received and approved by POST Board (Minn. R. 6700.0800).

1000.8 PROBATIONARY PERIODS

The Administration Captain should coordinate with the Rochester Department of Human Resources to identify positions subject to probationary periods and procedures for:

- (a) Appraising performance during probation.
- (b) Assessing the level of performance required to complete probation.

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- (c) Extending probation.
- (d) Documenting successful or unsuccessful completion of probation.

Evaluation of Employees

1001.1 PURPOSE AND SCOPE

The Rochester Police Department is committed to providing ongoing formal and informal performance feedback to employees in order to recognize and reinforce strong performance and to identify and encourage improvements when needed.

1001.2 POLICY

The Rochester Police Department utilizes a performance evaluation report to measure performance and to create and maintain a productive work environment through a shared commitment to two-way communication and the successful execution of an ongoing performance cycle that encompasses planning, managing, assessing, and reviewing employee performance..

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

1001.3 EVALUATION PROCESS

Performance evaluations provide a means to assess and review the employee's performance over the time period in consideration and to establish objectives and goals for the subsequent review period. Performance evaluations are a tool used to recognize and motivate employees by reinforcing positive performance, discussing employee career interests and identifying how employees can contribute to the department's objectives. Supervisors are encouraged to document situations and gather data throughout the evaluation period that will enable them to fairly assess the totality of an employee's performance and to incorporate actual examples into their evaluation documentation.

Performance issues that occur within the review period must be documented in the written performance evaluation; however, as a general practice, performance issues and/or disciplinary action should be addressed as they occur and not introduced in the annual performance evaluation. The failure to document performance issues in the evaluation shall not limit the City's ability to discipline, up to and including termination, an employee or take other appropriate action when deemed in the best interest of the City.

Performance evaluations are required to be fully completed prior to the issuance of a step, merit or performance based wage increase. Employees receiving an evaluation rating of "needs improvement" or "unsatisfactory" are not eligible for step or merit increases until they achieve a "successful" evaluation rating in a subsequent performance cycle.

Evaluation of Employees

In alignment with the City's core values, formal performance evaluations forms used for all City employees measure both "what an employee does" (the nature of the job position) as well as "how the employee does it" (performance in support of the City's core values).

During the evaluation process, both employees and supervisors have a responsibility to engage in active listening, provide honest and constructive feedback and timely complete assigned tasks in the evaluation process.

1001.3.1 PERFORMANCE COACHING

Managing employee performance involves an emphasis in timely, frequent and two-way communication through ongoing performance coaching. Performance coaching provides employees the opportunity to hear immediate feedback about their performance in order to continue, modify or correct behaviors to achieve success. Performance coaching may include, but is not limited to:

- (a) Providing work direction and expectations
- (b) Setting performance goals
- (c) Developing skills
- (d) Identifying obstacles to performance progress and success
- (e) Discussing career growth and development

When coaching to correct performance, supervisors may consider the use of a documented "Development Plan" or a "Performance Improvement Plan" that details identified areas of improvement and future expectations. The failure to correct performance problems identified or to meet performance expectations may be grounds for formal disciplinary action.

1001.4 EVALUATION FREQUENCY

The City of Rochester requires documented performance evaluations to be completed at the following times:

- (a) Prior to the completion of a probationary period: this includes both a new hire and a probationary period as a result of the promotion/transfer to a new job position
- (b) Annually throughout employment

1001.5 EVALUATION DISTRIBUTION

The Human Resources Department is responsible for the selection and administration of the City of Rochester's performance evaluation process. The City utilizes an electronic performance evaluation process during which both employees and supervisors are assigned tasks to complete in predefined timeframes.

Completed performance evaluations will become part of the personnel record and are accessible to employees through their electronic performance page.

Specialty Assignments and Promotions

1002.1 PURPOSE AND SCOPE

This policy is established to provide an overview of promotional and special assignment opportunities within the Rochester Police Department.

1002.2 POLICY

The Rochester Police Department determines assignments and promotions in a non-discriminatory manner based upon job-related factors and candidate skills and qualifications.

1002.3 SELECTION PROCESS

The following criteria apply to specialty assignments:

- (a) Eligibility criteria and an administrative evaluation as determined by the Chief of Police.
- (b) Command Staff or other supervisory interview process as determined by the Chief of Police.
- (c) Command Staff in consultation with the Chief.
- (d) Appointment by the Chief of Police.

Management shall retain all rights and authority regarding specialty assignments. This includes the right of assignment, selection, transfer, and the establishment of tenure limitations.

1002.4 PROMOTIONAL SPECIFICATIONS

Specifications for promotional opportunities are outlined in accordance with Police Civil Service Rules and Regulations.

Grievance Procedure

1003.1 PURPOSE AND SCOPE

It is the policy of this department that all grievances be handled fairly without discrimination against employees who file a grievance, whether there is a basis for the grievance. The Department's philosophy is to promote free verbal communication between employees and supervisors.

1003.2 PROCEDURE

Grievance procedures are defined and outlined in accordance with collective bargaining agreements.

1003.3 PUNITIVE ACTION

At no time will punitive action be taken against a peace officer for exercising any rights during the grievance procedure (see generally Minn. Stat. § 626.89, Subd. 14).

1003.4 JUDICIAL RELIEF

Any employee or representative may, after exhausting the internal grievance procedure, and, if applicable, arbitration, apply to the proper court for judicial relief as allowed by contract or law.

Anti-Retaliation

1004.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or collective bargaining agreement.

1004.2 POLICY

The Rochester Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

1004.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

Anti-Retaliation

1004.4 COMPLAINTS OF RETALIATION

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Police or the City Director of Human Resources.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

1004.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule change made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

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Anti-Retaliation

1004.6 COMMAND STAFF RESPONSIBILITIES

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

1004.7 WHISTLE-BLOWING

The Minnesota Whistleblower Act protects an employee who, in good faith (Minn. Stat. § 181.932):

- (a) Communicates a violation of any law or rule to the Department or to any government body or law enforcement official.
- (b) Participates in an investigation, hearing, or inquiry at the request of a public body or office.
- (c) Refuses an order to perform an act that the employee objectively believes violates a law, rule, or regulation, and informs the employer of the reason.
- (d) Reports a situation where the quality of health care services provided by a health care facility or provider violates a state or federal standard and potentially places the public at risk of harm.
- (e) Communicates the findings of a technical or scientific study that the employee believes, in good faith, to be truthful and accurate.

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Professional Standards Manager for investigation pursuant to the Personnel Complaints Policy.

1004.8 RECORDS RETENTION AND RELEASE

The Professional Standards Manager shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1004.9 TRAINING

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

Reporting of Employee Convictions and Court Orders

1005.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

1005.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

Minnesota and federal law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Minn. Stat. § 518B.01).

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

1005.3 CRIMINAL CONVICTIONS

Any person convicted of a felony is prohibited from being a peace officer in the State of Minnesota. Any license of a peace officer convicted of a felony is automatically revoked (Minn. Stat. § 626.8431).

Even when legal restrictions are not imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by a member of this department may prohibit him/her from carrying out law enforcement duties.

Minn. Stat. § 624.713 prohibits ineligible persons from possessing a handgun or semi-automatic assault weapon.

1005.3.1 COURT ORDERS

All employees shall promptly notify the department if they are subject to a court order which may impact their ability to carry out the essential functions of their job. If an employee has a question on a court order they should contact the Administrative Services Manager.

1005.4 REPORTING PROCEDURE

All members of this department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing of any past or current criminal arrest or conviction regardless of whether the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired

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officers) in writing if the member or retiree becomes the subject of a domestic violence restraining court order or similar court order.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on administrative leave, reassignment and/or termination.

All employees shall promptly notify their supervisor if they become the subject of any criminal investigation.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

1005.5 CHEMICAL DEPENDENCY TREATMENT

If an officer is informally admitted to a treatment facility or program pursuant to Minn. Stat. § 253B.04 for chemical dependency he/she is not eligible to possess a firearm, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility (Minn. Stat. § 624.713 Subd. 1(6)).

Officers in this situation shall promptly notify the department.

Drug- and Alcohol-Free Workplace

1006.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103).

1006.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

1006.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Shift Commander or appropriate supervisor as soon as the member is aware that the member will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, the member shall be immediately removed and released from work (see the Work Restrictions section in this policy).

1006.3.1 USE OF MEDICATIONS

Members should not use any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to the member's immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the Department while taking any medication that has the potential to impair the member's abilities, without a written release from the member's physician.

1006.3.2 MEDICAL CANNABIS

Possession, use, or being under the influence of medical cannabis on-duty is prohibited and may lead to disciplinary action.

1006.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

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Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

1006.5 EMPLOYEE ASSISTANCE PROGRAM

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Department of Human Resources, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

1006.6 WORK RESTRICTIONS

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

1006.7 REQUESTING SCREENING TESTS

In relation to this policy, the City defines **under the influence** as:

- (a) The employee tests positive for alcohol or drugs (any amount).
- (b) The employee's actions, appearance, speech, and/or bodily odors reasonably cause the department to conclude the employee is impaired because of illegal drug use or alcohol use.

The Department shall request or require drug or alcohol testing in the following circumstances (Minn. Stat. § 181.951; Minn. Stat. § 181.952):

Reasonable suspicion - A supervisor shall require an employee to undergo drug and alcohol testing if there is a reasonable suspicion of any of the following:

- (a) The employee is **under the influence** of drugs or alcohol.
- (b) The employee has violated department rules prohibiting the use, possession, sale or transfer of drugs or alcohol while he/she is working, is on department property or is operating a vehicle owned by the department

A supervisor may request or require an employee to undergo drug and alcohol testing if:

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- (a) The employee has sustained an injury arising out of and in the course of employment, or has caused another employee to sustain an injury (full definition of personal injury in Minn. Stat. § 176.011, Subd. 16).
- (b) The employee has caused a work-related accident, or his/her use of a vehicle, firearm or safety equipment involved a work-related accident.
- (c) Following a conditional job offer.

The Department may request or require drug or alcohol testing in the following circumstances (Minn. Stat. § 181.951; Minn. Stat. § 181.952):

- (a) As part of an employee's routine physical examination
- (b) Under a random testing program of employees
- (c) When the employee has been referred for an evaluation or treatment, or is participating in a treatment program under an employee benefit plan

1006.8 PROCEDURE FOR TESTING

Before requesting an employee or job applicant undergo drug or alcohol testing, the City shall provide the individual with a form on which to:

- (a) Acknowledge that the individual has seen a copy of the City's drug and alcohol testing policy.
- (b) Indicate consent to undergo the drug and alcohol testing.

See attachment: [DrugAlcoholAcknowledgment.pdf](#)

Right of Refusal

Employees and job applicants have the right to refuse to submit to an alcohol or drug test under this policy. However, such a refusal may subject the employee to discipline, including termination. If a job applicant refuses to submit to applicant testing, any conditional offer of employment will be withdrawn.

Any intentional act or omission by the employee or job applicant that prevents the completion of the testing process constitutes a refusal to test.

A job applicant or employee who substitutes, or attempts to substitute, alters, or attempts to alter a testing sample is considered to have refused to take a drug and/or alcohol test. In such a case, the employee may be subject to termination of employment, and in the case of a job applicant, the job offer will be immediately withdrawn.

Refusal on Religious Grounds

An employee or job applicant who, on religious grounds, refuses to undergo drug or alcohol testing of a blood sample will not be considered to have refused testing, unless the employee or job applicant also refuses to undergo drug or alcohol testing of a urine sample.

Cost of Required Testing

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The City will pay for the cost of all required drug and alcohol testing for job applicants and employees, except for confirmatory retests, in which case the job applicant or employee is responsible for all associated costs.

1006.8.1 DRUG AND ALCOHOL TESTING PROGRAM

The following applies to the department's drug and alcohol testing procedures (Minn. Stat. § 181.951; Minn. Stat. § 181.952; Minn. Stat. § 181.953):

- (a) Initial screening tests must be verified by a confirmatory test for the purpose of discipline.
- (b) In reasonable suspicion cases, employees will be driven to the employer-approved medical facility for a confirmatory test by their supervisor or designee.
- (c) Employees will have an opportunity to participate in an appropriate alcohol or drug program for their first confirmed positive test. The program may be in lieu of other discipline unless the employee fails the program or refuses to participate (Minn. Stat. § 181.953).
- (d) A confirmed positive test may result in discipline, up to and including termination.
- (e) An employee or job applicant will have the opportunity to explain a positive test result and may request and pay for a second confirmatory retest.
- (f) All disciplinary procedural safeguards in this manual apply, including the post-discipline appeal procedures (see the Personnel Complaints Policy).
- (g) Employees and job applicants shall receive required written notice, including posting, of the drug- and alcohol-testing policies and procedures as set forth in Minn. Stat. § 181.952.
- (h) The safeguards of Minn. Stat. § 181.953 will be followed for any testing and any related discipline process.

Notice of the adopted drug and alcohol testing policy shall be posted in an appropriate and conspicuous location and copies shall be available for inspection to all employees and job applicants (Minn. Stat. 181.952).

Employees shall review the City's Drug and Alcohol policy:

[See attachment: DrugAlcoholPolicy.pdf](#)

1006.9 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

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1006.10 CONFIDENTIALITY

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained in the member's confidential medical file in accordance with the Personnel Records Policy.

Sick Leave

1007.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the City personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) and the Minnesota Pregnancy and Parenting Leave Act (29 USC § 2601 et seq.; Minn. Stat. § 181.941).

1007.2 POLICY

It is the policy of the Rochester Police Department to provide eligible employees with a sick leave benefit.

1007.3 USE OF SICK LEAVE

Sick leave will be granted upon approval of the department head, appointing authority or person designated to act in their absence for the following reasons:

- (a) For absence due to personal illness or injury which prohibits an employee from performing his/her regular duties.
- (b) For absences due to an illness of or injury to the employee's child for such reasonable periods as the employee's attendance with the child may be necessary.
- (c) For personal or child medical and dental appointments.
- (d) Up to a combined total of 160 hours of accrued sick leave per twelve month period may be used for absences due to the following:
 1. An illness of or injury to the employee's spouse, adult child, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent.
 2. For reasonable absences of the employee or his/her eligible relatives (spouse, adult child, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent) who are providing or receiving assistance because the employee, or an eligible relative, is a victim of sexual assault, domestic abuse, or stalking.
 3. The 160 hour limit does not apply to personal sick leave use or use to care for the employee's child as provided above.
- (e) Employees are obligated to disclose use of sick leave (relative to section d above) to their supervisor to demonstrate compliance.
- (f) For absence due to a compensable injury arising out of and in the course of City employment (employees may request that their sick leave be used to make up the difference between their regular pay and Worker's Compensation).

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Sick Leave

Employees who are incapacitated and unable to work shall notify their immediate supervisor at or before the scheduled reporting time, giving reason for absence and expected length of absence. Sick leave will be charged as it is actually used, but in no case will the charge be less than fifteen (15) minutes.

Prior to returning to work, an employee may be required to provide a physician's statement indicating the nature of their illness or injury and attesting to the employee's ability to return to work and safely perform the essential functions of the job with or without reasonable accommodation. Sick leave use may be denied and/or return to work may be delayed for any employee required to provide a physician's statement until such a statement, sufficiently addressing the information requested by the City, is provided.

The City has the right to obtain a second medical opinion to determine the validity of an employee's sick leave claim. The City will arrange and pay for a second medical evaluation when it is required by the City.

Sick leave taken immediately preceding termination of employment or retirement of an employee must be substantiated by written medical report.

1007.3.1 NOTIFICATION

All members should notify the appropriate supervisor as soon as they are aware that they will not be able to report to work before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor.

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall provide the Department with notice of the impending absence as soon as practicable.

1007.4 EXTENDED ABSENCE

Members absent from duty for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of three or fewer days.

1007.5 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Department of Human Resources as appropriate.

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- (c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
 - 1. Negatively affected the member's performance or ability to complete assigned duties.
 - 2. Negatively affected department operations.
- (d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.

Communicable Diseases

1008.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

1008.1.1 DEFINITIONS

Definitions related to this policy include:

Communicable disease - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

Exposure - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Rochester Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

1008.2 POLICY

The Rochester Police Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

1008.3 SAFETY ADMINISTRATOR

The City of Rochester will assign a person as the Safety Administrator. The Safety Administrator shall develop an exposure control plan that includes:

- (a) Exposure-prevention and decontamination procedures.
- (b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.
- (c) The provision that department members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them.
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
 1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
 2. Exposure control mandates in 29 CFR 1910.1030 (Minn. R. 5206.0600).

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3. Reporting cases and suspected cases of communicable diseases to the Department of Public Health (Minn. R. 4605.7070; Minn. Stat. § 144.4804).
4. Notifying appropriate medical facilities regarding member exposures and providing assistance locating source individuals, as applicable (Minn. Stat. § 144.7414)

The Safety Administrator should also act as the liaison with the Minnesota Occupational Safety and Health Administration (MNOSHA) and may request voluntary compliance inspections. The ECO should annually review and update the exposure control plan and review implementation of the plan.

1008.4 EXPOSURE PREVENTION AND MITIGATION

1008.4.1 GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (29 CFR 1910.1030; Minn. R. 5206.0600):

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or department vehicles, as applicable.
- (b) Wearing department-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.
- (c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.
- (d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.
- (e) Using an appropriate barrier device when providing CPR.
- (f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.
 1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.
- (h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.
- (i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.

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- (j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

1008.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (29 CFR 1910.1030; Minn. R. 5206.0600).

1008.5 POST EXPOSURE

1008.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

- (a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).
- (b) Obtain medical attention as appropriate.
- (c) Notify a supervisor as soon as practicable.

1008.5.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (29 CFR 1910.1030; Minn. R. 5206.0600):

- (a) Name of the member exposed
- (b) Date and time of the incident
- (c) Location of the incident
- (d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure
- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease, Personal Injury and Death Reporting Policy).

1008.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Department members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary.

The Safety Administrator should request a written opinion/evaluation from the treating medical professional that contains only the following information (29 CFR 1910.1030; Minn. R. 5206.0600):

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- (a) Whether the member has been informed of the results of the evaluation.
- (b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the Safety Administrator.

1008.5.4 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (29 CFR 1910.1030; Minn. R. 5206.0600).

1008.5.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate. Source testing is the responsibility of the Safety Administrator. If the Safety Administrator is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

- (a) Obtaining consent from the individual.
- (b) Seeking testing through the procedures of Minn. Stat. § 144.7401 to Minn. Stat. § 144.7415 through a licensed hospital or other emergency medical care facility.

Since there is the potential for overlap between the different manners in which source testing may occur, the Safety Administrator is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The Safety Administrator should seek the consent of the individual for testing and consult the City Attorney to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

1008.6 CONFIDENTIALITY OF REPORTS

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well (Minn. Stat. § 144.7411).

1008.7 TRAINING

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (29 CFR 1910.1030; Minn. R. 5206.0700):

- (a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.
- (b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.

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- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

Smoking and Tobacco Use

1009.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Rochester Police Department facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

1009.2 POLICY

The Rochester Police Department recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy (Minn. Stat. § 144.414).

1009.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Department.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles.

1009.4 ADDITIONAL PROHIBITIONS

No employee shall smoke, even while out of view of the public or off-duty, in areas properly posted with "No Smoking" notices nor shall any employee use tobacco products on public school property (Minn. Stat. § 609.681; Minn. Stat. § 144.4165). The Chief of Police or the authorized designee should ensure that proper signage is in place for notice of areas where tobacco use is restricted (Minn. R. 4620.0500).

Personnel Complaints

1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Rochester Police Department (Minn. R. 6700.2200). This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1010.2 POLICY

The Rochester Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any memorandum of understanding.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

1010.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Misconduct means:

- (a) A violation of any agency policy and procedure governing conduct of agency members
- (b) The use of unnecessary or excessive force
- (c) The conviction of any criminal offense
- (d) Abuse of authority
- (e) Conduct which violates a person's rights
- (f) Abusive or insulting language or conduct which is derogatory of a person's race, religion, sex, national origin or sexual preference
- (g) Sexual harassment as that term is defined under Minnesota law
- (h) Intimidation or retribution toward a complainant or witness involved in any complaint proceeding

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

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1010.3.1 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.
- (f) The Minnesota Board of Peace Officer Standards and Training (POST) may refer complaints alleging a violation of a statute or rule that the board is empowered to enforce (Minn. Stat. § 214.10, Subd. 10).
- (g) Any person making a complaint may be accompanied by an attorney or other representative, including at the time the complaint is made.
- (h) Any person wishing to file a complaint against the Chief of Police should be referred to the City Administrator for investigation by an outside agency.

1010.4 ACCEPTANCE OF COMPLAINTS

1010.4.1 COMPLAINT FORMS

Complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website.

Complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1010.4.2 ACCEPTANCE

All complaints will be accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

1010.4.3 SUPERVISOR RESPONSIBILITIES

Supervisors at all levels are responsible for maintaining an appropriate level of accountability and discipline and the primary responsibility for the investigation of minor complaints shall rest with the member's immediate supervisor. A supervisor who becomes aware of a complaint shall take

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reasonable steps to prevent aggravation of the situation and has the authority to take appropriate action, where the misconduct reported may be subject to the disciplinary process.

1010.5 DOCUMENTATION

Supervisors shall ensure that all complaints are documented in Blue Team. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Department should audit the log and send an audit report to the Chief of Police or the authorized designee.

1010.6 ADMINISTRATIVE INVESTIGATIONS

Complaints of a more serious nature, which could result in suspension, demotion or termination will be investigated by the Professional Standards Manager.

Complaints which could result in less serious formal discipline, but which are complex in nature or the facts are in dispute, will also be investigated by the Professional Standards Manager.

The Chief of Police may also direct that a particular complaint requires an administrative investigation.

1010.6.1 EXTERNAL INVESTIGATIONS

The Chief of Police may request that an outside agency conduct an investigation anytime the Chief of Police determines an external investigation is appropriate.

This department should not conduct an investigation when the Chief of Police is the subject of the complaint. An external investigation should be requested through the City Administrator.

1010.6.2 EMPLOYEE RIGHTS AND RESPONSIBILITIES DURING ADMINISTRATIVE INVESTIGATIONS

- (a) Every department employee is required to establish and maintain a working knowledge of all City and Department rules, regulations, policies and procedures. In the event of alleged misconduct or a performance complaint, it will be presumed that the employee was familiar with the City and Department rules, regulations, policies and procedures in question.
- (b) Any statement the employee makes, including answers to questions, and any evidence which is gained as a result of such statements, cannot be used against the employee in any subsequent criminal proceedings.
- (c) All employees are required to fully and truthfully cooperate in administrative investigations.
- (d) Refusal to answer questions truthfully will subject the employee to discipline, up to and including termination.
- (e) While an administrative investigation is ongoing, no employee against whom a complaint has been made, nor the employee's representative or attorney, shall contact

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any complainant or witness concerning the complaint or its investigation unless authorized to do so in writing by the Chief of Police, nor shall any employee interfere with the investigation.

- (f) No employee shall intimidate, threaten or harass any complainant or witness or attempt to persuade such complainant or witness to withhold or falsify any testimony in administrative investigations, or to absent him or herself from any administrative proceeding.
- (g) An employee under administrative investigation may not review his or her internal investigation file, or any documents or evidence pertaining to the investigation until the investigation is completed.

Whether conducted by a supervisor or an assigned member of the Professional Standards Manager, the following shall apply to members covered by the Peace Officer Discipline Procedures Act (Minn. Stat. § 626.89):

- (a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty (Minn. Stat. § 626.89, Subd. 7). If the member is off-duty, he/she shall be compensated.
- (b) Unless waived by the member, interviews of an accused member shall be at the Rochester Police Department or at a place agreed upon by the accused member (Minn. Stat. § 626.89, Subd. 4).
- (c) No more than two interviewers should ask questions of an accused member.
- (d) Prior to any interview, a member should be informed of the nature of the investigation.
 - 1. The member shall be given a copy of any written complaint signed by the complainant (Minn. Stat. § 626.89, Subd. 5).
- (e) All interviews should be for a reasonable period and the member's personal needs should be accommodated (Minn. Stat. § 626.89, Subd. 7).
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - 1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
 - 2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

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- (h) The interviewer shall record all interviews of members and witnesses. The member may also record the interview. A complete copy or transcript of the interview must be made available to the member upon written request without charge or undue delay. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview (Minn. Stat. § 626.89, Subd. 8).
- (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative or attorney present before or during the interview (Minn. Stat. § 626.89, Subd. 9). When a member requests a representative or attorney, no interview may be taken until a reasonable opportunity is provided for the member to obtain that person's presence. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All members shall provide complete and truthful responses to questions posed during interviews.
- (k) No member may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation.
- (l) Before a formal statement is taken, the member shall be advised in writing or on the record that admissions made may be used as evidence of misconduct or a basis for discipline (Minn. Stat. § 626.89, Subd. 10).
- (m) A member may not be required to produce financial records (Minn. Stat. § 626.89, Subd. 11).
- (n) A member's photograph will not be released unless allowed by law (Minn. Stat. § 626.89, Subd. 12).

1010.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

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1010.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

The Chief of Police may authorize that any investigation be re-opened any time substantial new evidence is discovered concerning the complaint.

1010.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation.

1010.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation shall provide the complainant with periodic updates on the status of the investigation, as appropriate, and consistent with the provisions of the Minnesota Government Data Practices Act (Minn. Stat. § 13.43, Subd. 2; Minn. R. 6700.2200).

1010.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

1010.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.

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- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1010.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The Rochester Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

The Chief of Police may postpone making a decision on an administrative investigation until any related criminal charges are resolved. The complainant and involved member should be informed of this decision.

1010.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review and include their comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

1010.10.1 DISCIPLINE

Disciplinary action may include, but is not limited to (Minn. R. 6700.2200):

- (a) Oral reprimand.
- (b) Written reprimand.
- (c) Suspension.
- (d) Demotion.
- (e) Discharge.

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1010.10.2 CAPTAIN RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Captain of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

When forwarding any written recommendation to the Chief of Police, the Captain shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1010.10.3 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Captain for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
 - 1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
 - 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

1010.10.4 MINNESOTA POST INVESTIGATIONS

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

1010.10.5 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief of Police or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint. Notice must be consistent with the provisions of the MGDP (Minn. Stat. § 13.43, Subd. 2; Minn. R. 6700.2200).

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1010.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

1010.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1010.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement and/or personnel rules (Minn. R. 6700.2200).

Employees covered by the Veterans Preference Act are entitled to written notice of the right to request a hearing within 30 days of receipt of the notice of intent to terminate, suspend or demote. Failure to request the hearing in the time specified waives the right to the hearing and all other legal remedies. Any hearing shall be held in compliance with law (Minn. Stat. § 197.46).

1010.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy except for employees covered by the Veterans Preference Act (Minn. Stat. § 197.46). However, any of these individuals released for misconduct should be afforded an

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opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee (Minn. R. 6700.2200).

Any probationary period may be extended at the discretion of the Chief of Police in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate.

1010.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

1010.15.1 CONFIDENTIALITY OF PERSONNEL FILES

All active investigations of alleged misconduct and personnel complaints shall be considered confidential and maintained separately from peace officer personnel files. The contents of such files shall not be revealed to other than the involved member or authorized personnel, except pursuant to lawful process, such as Minn. R. 6700.2500. Data in closed files shall be treated as private or public data depending on whether discipline was imposed upon the member.

1010.15.2 LETTERS OF DISCIPLINE AND REPRIMANDS

Letters of discipline and reprimands may only be placed in a member's personnel file after they are received by the member (see generally Minn. Stat. § 626.89, Subd. 13).

Seat Belts

1011.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in department vehicles (Minn. Stat. § 169.686).

1011.1.1 DEFINITIONS

Definitions related to this policy include:

Child restraint system - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213 (Minn. Stat. § 169.685).

1011.2 POLICY

It is the policy of the Rochester Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

1011.3 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including those who are not members of the Department, are properly restrained (Minn. Stat. § 169.686).

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the department member or the public. Members must be prepared to justify any deviation from this requirement.

1011.4 TRANSPORTING CHILDREN

All children younger than 8 years of age and shorter than 4 feet 9 inches tall shall be restrained in a child passenger safety seat system (Minn. Stat. § 169.685, Subd. 5(b)).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible.

Seat Belts

1011.5 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

1011.6 INOPERABLE SEAT BELTS

Department vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Department vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

1011.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

1011.8 VEHICLE AIRBAGS

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

Body Armor

1012.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

1012.2 POLICY

It is the policy of the Rochester Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

1012.3 ISSUANCE OF BODY ARMOR

The Training Unit shall ensure that body armor is issued to all officers when the officer begins service at the Rochester Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Training Unit shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

1012.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

- (a) Officers shall only wear agency-approved body armor.
- (b) Officers shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Officers may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity.
- (d) Body armor should be worn when taking part in Department range training.
- (e) An officer may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

1012.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic inspections. Employees are responsible for ensuring fit, cleanliness and reporting signs of damage, abuse and wear.

Body Armor

1012.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

1012.4 TRAINING SUPERVISOR RESPONSIBILITIES

The Training Unit should:

- (a) Monitor technological advances in the body armor industry for any appropriate changes to Department approved body armor.
- (b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.
- (c) Provide training that educates officers about the safety benefits of wearing body armor.

Personnel Records

1013.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel data. Personnel data includes any file maintained under an individual member's name.

Without regard to where and how stored, all data about a current or former employee or applicant for employment shall be defined and classified as personnel data consistent with Minn. Stat. § 13.43. All data relating to a criminal investigation of a current or former employee or applicant shall be defined and classified as criminal data consistent with Minn. Stat. § 13.82.

1013.2 POLICY

It is the policy of this department to maintain personnel data and preserve the confidentiality of personnel data pursuant to the Constitution and the laws of Minnesota (Minn. Stat. § 13.43).

1013.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

- (a) Personal data.
- (b) Payroll information.
- (c) Personnel action reports reflecting assignments, promotions and other changes in employment/appointment status. These should be permanently retained.
- (d) Discipline records, including copies of sustained personnel complaints.
- (e) Commendations and awards.
- (f) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

1013.4 DIVISION FILE

Division files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Division file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

1013.5 TRAINING FILE

An individual training file shall be maintained by the Training Unit for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

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- (a) The involved member is responsible for providing the Training Unit or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training Unit or supervisor shall ensure that copies of such training records are placed in the member's training file.

1013.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Professional Standards Manager in conjunction with the office of the Chief of Police. Additional access to these files shall be granted upon direction of the Chief of Police.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition. Investigations of complaints that result in the following findings shall not be placed in the member's department file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

1013.7 MEDICAL FILE

A private medical file shall be maintained by Human Resources separately from all other personnel data and shall contain all documents relating to the member's medical condition and history, including but not limited to:

- (a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).
- (b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.
- (c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.
- (e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

1013.8 EMPLOYEE ASSISTANCE PROGRAMS

Employee assistance records must be kept separate from personnel records and shall not become part of an employee's personnel file (Minn. Stat. § 181.980, Subd. 3).

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1013.9 SECURITY

Personnel data should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel data maintained in an electronic format should have adequate password protection.

Any personnel data not deemed public data is private and shall not be subject to disclosure except as provided in this policy, the Records Maintenance and Release Policy, according to applicable discovery procedures or with the member's written consent (Minn. Stat. § 13.43; Minn. Stat. § 181.967, Subd. 4).

Nothing in this policy is intended to preclude review of personnel data by the City Administrator, City Attorney or other attorneys or representatives of the City in connection with official business.

1013.9.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for personnel data shall promptly notify the Administrative Services Manager or other person charged with the maintenance of such data.

Upon receipt of any such request, the Administrative Services Manager shall notify the affected member as soon as practicable that such a request has been made.

The Administrative Services Manager shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member's personnel data shall be logged in the corresponding file.

1013.9.2 RELEASE OF PRIVATE DATA

Except as provided by this policy, pursuant to lawful process, pursuant to state law or court order, no private data shall be disclosed without the written consent of the employee or written authorization of the Chief of Police designee (Minn. Stat. § 13.43; Minn. Stat. § 181.967, Subd. 4).

1013.10 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS

Upon request, any member may request access to his/her own personnel file as set forth in Minn. Stat. § 181.961.

Any member seeking the removal of any item from his/her personnel files shall file a written request to the Chief of Police through the chain of command. The Department shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Department shall be retained with the contested item in the member's corresponding personnel file. If the contested item is ultimately removed, the written responses shall also be removed (Minn. Stat. § 181.962, Subd. 1). An employee not satisfied with this resolution may seek such other remedies as are authorized by the MGDPA.

Members may be restricted from accessing files containing any of the following information:

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- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.
- (d) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (e) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for department planning purposes.
- (f) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (g) Records relevant to any other pending claim between the Department and the member that may be discovered in a judicial proceeding.

1013.11 RETENTION AND PURGING

Unless provided otherwise in this policy, personnel data shall be maintained in accordance with the established records retention schedule.

- (a) During the preparation of each member's performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.
- (b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Chief of Police.
- (c) If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

Request for Change of Assignment

1014.1 PURPOSE AND SCOPE

It is the intent of the Department that all requests for change of assignment are considered equally. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

1014.2 REQUEST FOR CHANGE OF ASSIGNMENT

Personnel wishing a change of assignment should make a formal written request through their immediate supervisor. Requests for a change of assignment shall be forwarded through the chain of command for review.

1014.3 SUPERVISOR'S REVIEW

The officer's immediate supervisor shall meet with the employee's chain of command in regard to formal change of assignment requests. The needs of the department will be considered along with an employee's request and supervisor recommendations. Changes of assignment remain management rights.

Commendations and Awards

1015.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Rochester Police Department and individuals from the community.

1015.2 POLICY

It is the policy of the Rochester Police Department to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations and awards.

1015.3 COMMENDATIONS

Commendations for members of the Department or for individuals from the community may be initiated by any department member or by any person from the community.

1015.4 CRITERIA

A meritorious or commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- Any action or performance that is above and beyond the typical duties.

1015.4.1 DEPARTMENT MEMBER DOCUMENTATION

Members of the Department should document meritorious or commendable acts. The documentation should contain:

- (a) Identifying information:
 1. For members of the Department - name, division and assignment at the date and time of the meritorious or commendable act
 2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.

1015.4.2 COMMUNITY MEMBER DOCUMENTATION

Documentation of a meritorious or commendable act submitted by a person from the community should be accepted in any form. However, written documentation is preferred. Department members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

- (a) Identifying information:
 1. For members of the Department - name, division and assignment at the date and time of the meritorious or commendable act

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2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.

1015.4.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the Department should be forwarded to the appropriate Captain for his/her review. The Captain should sign and forward the documentation to the Chief of Police for his/her review.

The Chief of Police or the authorized designee will present the commendation to the department member during a planned Awards Ceremony. Documentation of the award / commendation will be entered into the member's personnel file.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Chief of Police for his/her review. An appropriate venue or ceremony to acknowledge the individual's actions should be arranged. Documentation of the commendation shall be maintained in a file designated for such records.

1015.5 AWARDS

Awards may be bestowed upon members of the Department and individuals from the community. These awards include:

- Police Award of Honor.
- Police Commendation Award.
- Department Lifesaving Award.
- Department Letter of Recognition.

Criteria for each award consist of the following:

- Police Award of Honor – Awarded to sworn police officers for acts of outstanding bravery or heroism in the line of duty, or to the survivors of officers killed in the line of duty. The recipients of the Police Award of Honor will receive a plaque and a blue uniform ribbon.
- Police Commendation Award - Awarded to department employees demonstrating exemplary performance of their normal duties, or for outstanding accomplishments in the areas of improved operations. Recipients of the Police Commendation Award will receive a plaque and a red uniform ribbon. Non-sworn, non-uniformed members of the Department who may receive the Police Commendation Award shall be presented with a plaque.
- Department Life Saving Award - Awarded to a member of the Department who saves another person's life. The award will consist of a letter of recognition and a red/white ribbon to be displayed on the uniform. Subsequent awards will be consistent with the above, except that the ribbon shall have a star placed in the center of the ribbon. The third and subsequent awards shall have a Roman Numeral identifier centered on the

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ribbon. Non-sworn, non-uniformed members of the Department who may receive the Departmental Life Saving Award shall be presented with a plaque.

- Department Letter of Recognition - Awarded to a member of the Department who distinguished himself/herself for an act or achievement that is beyond the normal performance required of that member, and which reflects well upon the department.

The selection, presentation and display of any awards are determined by the Chief of Police.

Fitness for Duty

1016.1 PURPOSE AND SCOPE

All officers are required to be free from any physical, emotional or mental condition that might adversely affect the exercise of peace officer duties. The purpose of this policy is to ensure that all officers of this department remain fit for duty and able to perform their job functions.

1016.2 EMPLOYEE RESPONSIBILITIES

- (a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of the position.
- (b) Each member of this department shall perform his/her respective duties without physical, emotional and/or mental constraints.
- (c) During working hours, all employees are required to be alert, attentive and capable of performing assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

1016.3 SUPERVISOR RESPONSIBILITIES

- (a) A supervisor observing an employee, or receiving a report of an employee, who is perceived to be unable to safely perform his/her duties due to a physical, medical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with a lieutenant or the employee's Captain, a determination should be made whether the employee should be temporarily relieved from his/her duties.
- (e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

Fitness for Duty

1016.4 NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition that warrants a temporary relief from duty may be required to use sick leave or other time off in order to obtain medical treatment or other reasonable rest period.

1016.5 WORK RELATED CONDITIONS

Any employee suffering from a work-related condition that warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

A Supervisor may relieve an employee of duty (administrative leave) or reassign the employee to a non-enforcement position when:

- (a) The individual is involved in a serious or traumatic event such as a fatal accident, shooting, etc.
- (b) A Supervisor is initiating a request for disciplinary action.

A Supervisor shall relieve an employee of duty (administrative leave) or reassign the individual to a non-enforcement position when:

- (a) An officer is an active participant in a serious or traumatic event, such as a fatal accident or shooting.
- (b) An employee is believed to be suffering from physical or mental problems that may affect the employee's performance, or the safety of the employee or others.
- (c) An employee is believed to be under the influence of a drug or alcohol which would influence performance.

Prior to relieving an employee of duty or reassignment, the Supervisor shall notify the employee of the reason for the change. The employee's commanding officer shall be notified of the status change immediately.

The Supervisor shall document the action and forward the report to the Chief through the chain of command.

Since traumatic events affect each person differently, employees are encouraged to arrange counseling or similar assistance through their supervisors when they feel the need. Employees may be required by the Department to seek help through the Employee Assistance Program.

An employee placed on administrative leave for medical or psychological reasons may be required to submit to an examination by a physician or psychologist at city expense, before returning to work.

1016.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with the Department of Human Resources

Fitness for Duty

to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.

- (b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, list any functional limitations that limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action or grievance, the examining physician or therapist may be required to disclose any and all information that is relevant to such proceeding.
- (c) To facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's private medical file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and may subject the employee to discipline up to and including termination.
- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.
- (g) If an employee is deemed unfit for duty by the Department, the employee may submit a report from the employee's personal physician, psychiatrist, psychologist or other health care provider that will be taken into consideration.

1016.7 LIMITATION ON HOURS WORKED

Absent emergency operations members should not work more than:

- 16 hours in one day (24 hour) period or
- 30 hours in any two day (48 hour) period or
- 84 hours in any seven day (168 hour) period

Except in very limited circumstances members should have a minimum of eight hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, special events, contract work, general overtime and any other work assignments.

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1016.8 APPEALS

Employees disputing the application or interpretation of this policy may submit a grievance as provided in the Grievance Procedure Policy or the applicable collective bargaining agreement.

Meal Periods and Breaks

1017.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as reasonably possible shall conform to the policy governing all City employees pursuant to Minn. Stat. § 177.253, Minn. Stat. § 177.254 and Minn. R. § 5200.0120.

1017.1.1 MEAL PERIODS

Each employee who works for eight or more consecutive hours is entitled to sufficient time to eat a meal (Minn. Stat. § 177.254). Licensed employees and dispatchers shall remain on-duty subject to call during meal periods. All other employees are not on call during meal periods unless directed otherwise by a supervisor.

Uniformed officers shall request clearance from Dispatch prior to taking a meal period. Officers shall take their meal periods within the City limits unless on assignment outside of the City.

The time spent for the meal period shall not exceed the authorized time allowed.

1017.1.2 10 MINUTE BREAKS

Each employee is allowed adequate time from work within each four consecutive hours of work to utilize the nearest convenient restroom (Minn. Stat. § 177.253).

Lactation Break Policy

1018.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child.

1018.2 POLICY

It is the policy of this department to provide, in compliance with the Fair Labor Standards Act and Minnesota law, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing child, pursuant to Minn. Stat. § 181.939 and 29 USC § 207.

1018.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time.

Lactation breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods. Employees desiring to take a lactation break shall notify Dispatch or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Minn. Stat. § 181.939).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

1018.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private (Minn. Stat. § 181.939). Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207). The location must have access to an electrical outlet.

The area assigned for this purpose should not be used for storage of any devices, supplies, or expressed milk and should be returned to its original state after each use.

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

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Lactation Break Policy

1018.5 STORAGE OF EXPRESSED MILK

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

Payroll Records

1019.1 PURPOSE AND SCOPE

This policy provides the guidelines for completing and submitting payroll records of department members who are eligible for the payment of wages.

1019.2 POLICY

The Rochester Police Department maintains timely and accurate payroll records.

1019.3 RESPONSIBILITIES

Members are responsible for the accurate completion and timely submission of their payroll records for the payment of wages.

Supervisors are responsible for approving the payroll records for those under their commands.

1019.4 TIME REQUIREMENTS

Members who are eligible for the payment of wages are paid on a scheduled, periodic basis, generally on the same day or date each period, with certain exceptions, such as holidays. Payroll records shall be completed and submitted to Administration as established by the City payroll procedures.

1019.5 RECORDS

Police Administration in coordination with City Finance shall ensure that accurate and timely payroll records are maintained as required by 29 CFR 516.2 for a minimum of three years (29 CFR 516.5).

Overtime Compensation Requests

1020.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate eligible employees who work authorized overtime either by payment of wages as agreed and in effect through the collective bargaining agreement, or by the allowance of accrual of compensatory time off. In order to qualify for either the employee must complete and submit a Request for Overtime Payment as soon as practicable after overtime is worked.

1020.1.1 DEPARTMENT POLICY

Because of the nature of law enforcement work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

Eligible employees are not authorized to volunteer work time to the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, approval shall be sought as soon as practicable during the overtime shift and in no case later than the end of shift in which the overtime is worked.

The individual employee may request compensatory time in lieu of receiving overtime payment. The employee may not exceed the number of hours identified in the collective bargaining agreement.

1020.2 REQUEST FOR OVERTIME COMPENSATION

Employees shall submit all overtime compensation requests to their immediate supervisors as soon as practicable for verification and forwarding to the Administration Division. For extra duty overtime, compensation requests shall be submitted to the responsible supervisor.

Failure to submit a request for overtime compensation in a timely manner may result in discipline.

1020.2.1 EMPLOYEES' RESPONSIBILITY

Employees shall complete the requests immediately after working the overtime. Employees submitting overtime forms for on-call pay when off-duty shall submit forms to the appropriate supervisor after returning to work.

1020.2.2 SUPERVISOR RESPONSIBILITIES

The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

1020.3 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the collective bargaining agreement provides that a minimum number of hours will be paid. The supervisor will enter the actual time worked.

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Overtime Compensation Requests

1020.3.1 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour.

1020.3.2 VARIATION IN TIME REPORTED

Where two or more employees are assigned to the same activity, case or court trial and the amount of time for which payment is requested varies from that reported by the other employee, the approving supervisor may require each employee to include the reason for the variation.

Outside Employment

1021.1 PURPOSE AND SCOPE

To avoid actual or perceived conflicts of interest for Department employees engaging in outside employment, all employees shall initially obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy.

1021.1.1 DEFINITIONS

Outside Employment - The employment of any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

Outside Overtime - Overtime involving any member of this department who performs duties or services on behalf of an outside organization, company or individual within this jurisdiction on behalf of the Department. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

1021.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining approval of the Chief of Police. Failure to obtain approval for outside employment or engaging in outside employment prohibited by this policy is grounds for disciplinary action.

To obtain approval for outside employment, the employee must complete a memo outlining specifics regarding the outside employment. The memo will then be forwarded through the appropriate chain of command to the Chief of Police for consideration.

If approved, the employee will be granted permission for outside employment. Outside employment must be renewed on an annual basis.

1021.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's request for outside employment is denied or rescinded by the Department, the employee may file a written notice of appeal to the Chief of Police within 10 days of the date of denial.

1021.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment may be revoked or suspended after the employee has received written notification of the reasons for revocation or suspension. Revocation will be implemented after the employee has exhausted the appeal process.

The outside employment may be revoked:

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Outside Employment

- (a) If an employee's performance declines to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of minimum acceptable competency and the outside employment may be related to the employee's performance. The Chief of Police may, at his/her discretion, notify the employee of the intent to revoke any previously approved outside employment. After the appeal process has concluded, the revocation will remain in force until the employee's performance directly related to the outside employment has been reestablished to the minimum level of acceptable competency.
- (b) If, at any time during the term of a valid outside employment, an employee's conduct or outside employment conflicts with the provisions of Department policy, or any law.
- (c) The outside employment creates an actual or apparent conflict of interest with the Department or City.

1021.3 PROHIBITED OUTSIDE EMPLOYMENT

The Department expressly reserves the right to deny any Outside Employment submitted by an employee seeking to engage in any activity that:

- (a) Involves the employee's use of Department time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage.
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act that the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department.
- (c) Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department.
- (d) Involves time demands that would render performance of the employee's duties for this department below minimum standards or would render the employee unavailable for reasonably anticipated overtime assignments and other job-related demands that occur outside regular working hours.

1021.3.1 OUTSIDE SECURITY EMPLOYMENT

Due to the potential conflict of interest no member of this department should engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position without prior approval.

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1021.3.2 OUTSIDE OVERTIME PROCEDURE

All personnel scheduled to work outside overtime shall check in at the beginning and end of service with the Patrol Lieutenant or their designee.

Any employee making an arrest or taking other official law enforcement action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to Department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

1021.3.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Captain, undercover officers or officers assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity that might reasonably disclose the officer's law enforcement status.

1021.4 DEPARTMENT RESOURCES

Employees are prohibited from using any Department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee's position with this department. An exception may be granted by the Chief of Police where a public benefit determination is made.

1021.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his/her outside employment, the employee shall promptly submit written notification of such termination to the Chief of Police through the appropriate chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material shall report the change.

1021.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY OR ADMINISTRATIVE LEAVE

Department members engaged in outside employment who are placed on disability or administrative leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether they intend to continue to engage in outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any work-related doctor's orders and make a recommendation to the Chief of Police whether such outside employment should continue or be suspended or revoked.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding outside employment, a notice of intent to revoke the employee's outside employment will be forwarded to the involved employee. The revocation process outlined in this policy shall be followed.

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Outside Employment

Criteria for revoking or suspending the outside employment permit while on disability status or administrative leave include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled employee.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty employee.
- (c) The employee's failure to make timely notice of his/her intentions to their supervisor.
- (d) The outside employment is not compatible with the reason the employee is on administrative leave.

Occupational Disease, Personal Injury and Death Reporting

1022.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, personal injuries and deaths.

1022.1.1 DEFINITIONS

Definitions related to this policy include (Minn. Stat. § 176.011):

Occupational disease – A mental impairment or physical disease arising out of and in the course of employment peculiar to the occupation in which the member is engaged and due to causes in excess of the hazards ordinary of employment. The term includes diagnosis of post-traumatic stress disorder (PTSD) by a psychiatrist or psychologist; however, mental impairment is not considered a disease if it results from a disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement or similar action taken in good faith by the Department.

Personal injury – Any mental impairment or physical injury arising out of and in the course of employment, including personal injury caused by occupational disease, while engaged in, on or about the premises where the member's services require the member's presence as part of that service at the time of the injury and during the hours of that service. Personal injury does not include an injury caused by the act of a third person or fellow department member who intended to injure the member because of personal reasons, and not directed against the member as a member of the Rochester Police Department, or because of the employment with the Rochester Police Department. Mental impairment is not considered a personal injury if it results from a disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement or similar action taken in good faith by the Department.

1022.2 POLICY

The Rochester Police Department will address occupational diseases, personal injuries and deaths appropriately, and will comply with applicable state workers' compensation requirements (Minn. Stat. § 176.231).

1022.3 RESPONSIBILITIES

1022.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or personal injury must report each accident or injury verbally to their immediate supervisor at the time of occurrence, but no later than the end of the work shift.

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Occupational Disease, Personal Injury and Death Reporting

1022.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational disease or personal injury should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related Citywide disease- or injury-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Workplace Accident and Injury Reduction policies apply and take additional action as required.

1022.3.3 POLICE ADMINISTRATION RESPONSIBILITIES

The Chief of Police's authorized designee shall review and forward copies of the report to the Department of Human Resources. Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

1022.4 OTHER DISEASE OR INJURY

Diseases, injuries or deaths caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the appropriate Captain through the chain of command and a copy sent to the Administration Captain.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

1022.5 SETTLEMENT OFFERS

When a member sustains an occupational disease or personal injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

1022.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational disease or personal injury, the member shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief of Police. The purpose of such notice is to permit the City to determine whether the offered settlement will affect any claim the City may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, and to protect the City's right of subrogation, while ensuring that the member's right to receive compensation is not affected.

Personal Appearance Standards

1023.1 PURPOSE AND SCOPE

To project uniformity and neutrality toward the public and other members of the Department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment.

1023.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer health safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

1023.2.1 HAIR, SIDEBURNS, MUSTACHES AND BEARDS

The hair of all personnel shall be kept well-groomed and properly trimmed.

Facial hair should not be worn in any manner that could interfere with proper fitting of a gas mask or other respirator.

1023.2.2 FINGERNAILS

Fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, fingernails shall be trimmed so that no point of the nail extends beyond the tip of the finger.

1023.2.3 JEWELRY AND ACCESSORIES

Jewelry and cosmetics should be conservative in style. No jewelry or ornament which impedes an employee's performance may be worn. Any accessory that is considered controversial or offensive shall not be worn.

Jewelry or other ornaments shall not be affixed to the uniform or equipment of an employee in uniform. Pins or buttons indicating community involvement or support may be worn only with specific authorization and direction as to where on the uniform the item will be worn, and for what time period. Neck jewelry shall not be visible on uniformed employees. Tie clasps are optional and, if worn, shall be in good taste, inoffensive, non-controversial, and shall not advertise or endorse any product or service.

Only female officers may wear earrings while on duty. For safety reasons earrings should be the "post" or "stud" type with no hanging ornamentation.

Also with safety in mind, it is recommended that the wearing of rings be restricted to the fingers, and that small smooth rings be chosen for duty wear.

1023.3 TATTOOS

At no time while the member is on-duty or representing the Department in any official capacity shall any offensive tattoo or body art be visible. Examples of offensive tattoos include but are not

Personal Appearance Standards

limited to those that exhibit or advocate discrimination; those that exhibit gang, supremacist, or extremist group affiliation; and those that depict or promote drug use, sexually explicit acts, or other obscene material.

1023.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body that is visible in any authorized uniform or attire, and is a deviation from normal anatomical features and that is not medically required is prohibited. Such body alteration includes, but is not limited to:

- (a) Tongue splitting.
- (b) Abnormal shaping of the ears, eyes, nose or teeth.

Uniform Regulations

1024.1 PURPOSE AND SCOPE

The uniform policy of the Rochester Police Department is established to ensure that uniformed officers, special assignment personnel and non-licensed employees will be readily identifiable to the public through the proper use and wearing of department uniforms. Employees should also refer to the following associated policies:

- Firearms
- Department Owned and Personal Property
- Body Armor
- Personal Appearance Standards

Authorized uniform and equipment specification requirements are maintained by the Training Unit. Requests for modification to the uniform shall be made to the uniform committee.

The Rochester Police Department will provide uniforms for all employees who are required to wear them in the manner, quantity and frequency agreed upon in the respective employee group's collective bargaining agreement. The uniforms for officers of this department shall be a consistent color pursuant to Minn. Stat. § 626.88 Subd. 2.

1024.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Uniform standards:

- (a) All peace officers of this department shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.
- (b) Employees shall be responsible for the maintenance, care and replacement of their respective uniforms.
- (c) The department is responsible for paying for the costs associated with the issue and maintenance of the patrol uniform in accordance with bargaining unit contracts.
- (d) Uniforms shall be kept neat, clean, and free from wrinkles.
- (e) Uniforms with holes, tears, or showing obvious signs of wear or repair shall not be worn. Uniforms shall not be patched.
- (f) Leather and metal-wear shall be clean and serviceable. Cracked, worn-out leather shall be replaced.
- (g) Blue/Black nylon, kydex or similar material must be approved by the Training Division and kept in a clean and serviceable condition.
- (h) Authorized RPD uniforms shall not be altered in any way to change their general appearance or function.
- (i) The only attachments to be worn on the uniform shirt are:
 1. Rank and service insignia

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2. Badge
 3. Name plate
 4. Authorized RPD patch on each sleeve
 5. Award bars
 6. RPD-approved pins (e.g. American flag, Unit/Rapport pins)
- (j) If the uniform is worn while in transit while driving a personal vehicle an outer garment should be worn over the uniform shirt so as not to bring attention to the employee while off-duty.
- (k) Employees are not to purchase or drink alcoholic beverages while wearing any distinguishable part of the Department uniform.
- (l) Test-wear items approved by the Training Division may be worn for testing purposes.
- (m) Personnel shall wear only the uniform specified for their rank and assignment.
- (n) The long-sleeve uniform shirt shall be worn with either the authorized uniform tie or authorized mock neck shirt/undershirt in black or dark blue in color.
- (o) If an undershirt is worn and is visible, it shall be black or dark blue.

Sworn employees assigned to patrol duties shall wear the appropriate authorized RPD uniform unless exempted in writing by the Chief of Police.

1024.2.1 DEPARTMENT ISSUED IDENTIFICATION

The Department issues each employee an official Department identification card bearing the employee's name, identifying information and photo likeness. All employees should be in possession of their Department-issued identification card at all times while on-duty or when carrying a concealed weapon.

- (a) Whenever on-duty or acting in an official capacity representing the Department, employees shall display their Department issued identification in a courteous manner to any person upon request and as soon as practicable.
- (b) Officers working specialized assignments may be excused from the possession and display requirements when directed by a supervisor.

1024.3 UNIFORM CLASSES

The Rochester Police Department utilizes a Class A, Class B, Class C, and Class D uniform system to address the specific needs of the Department.

- (a) The Class A uniform is the full dress uniform and shall only be worn in its entirety. It may be worn for specific events at the direction of the Chief or his/her designee. Notes: Dress uniform, no rip stop fabric, long sleeve, tie, award/unit pins mandatory, no external body carriers
- (b) The Class B uniform is authorized to be worn as the Command Staff uniform of the day. It may also be worn by any officer for duty or special events when a more formal

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uniform is desired or requested. (eg. Special events, court, requested extra duty, etc) unless otherwise directed by the Chief of Police or his/her designee. Notes: More formal uniform, short or long-sleeves, tie optional-no tie with short sleeves, award/unit/rapport pins optional, no external body carrier

- (c) The Class C uniform is authorized to be worn as the uniform of the day year round, unless otherwise directed by the Chief of Police or his/her designee. Notes: Duty uniform, cargo pockets, no tie, award/unit/rapport pins optional
- (d) The Class D uniform encompasses the category of utility and specialty unit apparel, to be determined by the Chief of Police or designee.

See attachment: [Uniform procedure.pdf](#)

1024.3.1 SPECIALIZED UNIT UNIFORMS

The Chief of Police may authorize special uniforms to be worn by officers in specialized units such as Canine Team, ERU, Bicycle Patrol, and other specialized assignments.

1024.3.2 INCLEMENT WEATHER GEAR

Authorized uniform jackets and rain gear are issued through the Training Unit.

1024.4 INSIGNIA AND PATCHES

- (a) Shoulder patches - The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all uniform shirts and jackets, three-quarters of an inch below the shoulder seam of the shirt, and be bisected by the crease in the sleeve.
- (b) The regulation nameplate, or an authorized sewn-on cloth nameplate, shall be worn at all times while in uniform. The nameplate shall display the employee's initial(s) and last name. If the employee desires other than the legal first name, the employee must receive approval from the Chief of Police.
- (c) When a jacket is worn, the nameplate or an authorized sewn on cloth nameplate shall be affixed to the jacket in the same manner as the uniform.
- (d) Assignment Insignias - Assignment insignias may be worn as designated by the Chief of Police.
- (e) Flag pin - - A flag pin may be worn, centered above the nameplate (Minn. Stat. § 15.60). Flag pins will be issued by the department and shall be worn while in uniform.
- (f) Badge - The Department-issued badge, or an authorized sewn-on cloth replica, must be worn and be visible at all times while in uniform. Licensed non-uniform personnel will wear or carry their badge in a manner that it is in reasonable proximity to their firearm and able to be displayed whenever appropriate.
- (g) Rank insignia - The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Chief of Police may authorize exceptions.

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1024.4.1 MOURNING BADGE

Uniformed employees may wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

- (a) An officer of this department - From the time of death until midnight on the 14th day after the death.
- (b) An officer from this state - From the time of death until midnight on the day of the funeral.
- (c) Funeral attendee - While attending the funeral of a fallen officer.
- (d) National Peace Officers Memorial Day (May 15) - From midnight through the following midnight.
- (e) As directed by the Chief of Police or designee.

1024.5 CIVILIAN ATTIRE

There are assignments within the Department that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which wearing civilian attire is necessary.

- (a) All employees shall wear clothing that fits properly, is clean and free of stains and not damaged or excessively worn.
- (b) The following items shall not be worn on-duty:
 - 1. T-shirt alone.
 - 2. Open-toed sandals or flip flops.
 - 3. Swimsuit, tube tops or halter tops.
 - 4. Spandex type pants or see-through clothing.
 - 5. Distasteful printed slogans, buttons or pins.
 - 6. Shorts.
 - 7. Sweat shirts, sweat pants or similar exercise clothing.
- (c) Variations from this order are allowed at the discretion of the Chief of Police or designee when the employee's assignment or current task is not conducive to wearing such clothing.
- (d) No item of civilian attire may be worn on-duty that would adversely affect the reputation of the Rochester Police Department or the morale of the employees.
- (e) Licensed employees carrying firearms while wearing civilian attire should wear clothing that effectively conceals the firearm when outside a controlled law enforcement facility or work area.

[See attachment: Dress Standards](#)

Uniform Regulations

1024.6 POLITICAL ACTIVITIES, ENDORSEMENTS, ADVERTISEMENTS OR OTHER APPEARANCES IN UNIFORM

Unless specifically authorized by the Chief of Police, Rochester Police Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a badge, patch or other official insignia of the Department, or cause to be posted, published or displayed, the image of another employee, or identify him/herself as an employee of the Rochester Police Department to do any of the following:

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose, any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication, or any motion picture, film, video, public broadcast, photo, any website or any other visual depiction.

1024.7 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Rochester Police Department employees may not wear any uniform item, accessory or attachment unless specifically authorized by the Chief of Police or designee.

Rochester Police Department employees may not use or carry any tool or other piece of equipment unless specifically authorized by the Chief of Police or designee.

Police Explorers

1025.1 PURPOSE AND SCOPE

Explorers work under direct supervision and perform a variety of routine and progressively advanced tasks in an apprenticeship program in preparation for a career in law enforcement.

1025.2 REQUIREMENTS

Explorers are required to maintain a minimum grade point average of 2.0 ("C" grade) for all courses taken. Explorers must be between ages 14 (having completed 8th grade) through 20 years old.

1025.3 PROGRAM COORDINATOR

The Chief of Police shall appoint an Explorer Program Coordinator. The Program Coordinator will be responsible for tracking the educational and job performance of explorers as well as making their individual assignments throughout the Department. The Program Coordinator will also monitor the training provided for explorers and review all decisions affecting job assignments, status for compensation, school attendance and performance evaluations.

1025.3.1 PROGRAM ADVISORS

The Program Coordinator may select individual officers to serve as advisors for the Explorer Program. These officers will serve as mentors for each explorer. Explorers will bring special requests, concerns and suggestions to their program advisor for advice or direction before contacting the program coordinator. One advisor may be designated as the coordinator's assistant to lead scheduled meetings and training sessions involving the explorers. Multiple explorers may be assigned to each program advisor. Program advisors are not intended to circumvent the established chain of command. Any issues that may be a concern of the individual's supervisor should be referred back to the program coordinator.

1025.4 ORIENTATION AND TRAINING

Newly appointed explorers will receive an orientation of the organization and facilities before reporting to their first assignment. On--the--job training will be conducted in compliance with the Explorer Training Manual. Training sessions will be scheduled as needed to train explorers for as many assignments as possible. In addition to job--specific training, information will be offered to prepare explorers to compete successfully in the police cadet, community service officer, and police officer selection process, as well as law enforcement skills training. All training will focus on improving job performance, as well as preparation to become police officers. These meetings will also offer an opportunity to receive continuous feedback regarding progress of the program.

1025.5 EXPLORER UNIFORMS

Each explorer will be provided uniforms and equipment necessary to represent and serve the department.

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Police Explorers

1025.6 RIDE-ALONG PROCEDURES

All explorers are authorized to participate in the Ride-Along Program, provided Ride-Along standards are met, on their own time and as approved by their immediate supervisor and the appropriate patrol supervisor. Applicable waivers must be signed in advance of the ride-along. Explorers shall wear their uniform while participating in a ride-along.

1025.7 PERFORMANCE EVALUATIONS

Performance feedback for explorers shall be provided continuously to improve and enhance skills and performance. Feedback may be verbal or written as determined by the Program Coordinator and Advisors.

Nepotism and Conflicting Relationships

1026.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

1026.1.1 DEFINITIONS

Business relationship - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder or investor in an outside business, company, partnership, corporation, venture or other transaction where the Department employee's annual interest, compensation, investment or obligation is greater than \$250.

Conflict of interest - Any actual or perceived situation in which a department employee's action, inaction, or decisions are or may be influenced by the employee's divided loyalty due to a personal or business relationship.

Nepotism - The practice of showing favoritism to relatives in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

Personal relationship - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

Public official - A supervisor, officer or employee vested with authority by law, rule or regulation, or to whom authority has been delegated.

Relative - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

Subordinate - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

Supervisor - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

1026.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following restrictions apply:

- (a) Employees are prohibited from directly supervising or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

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Nepotism and Conflicting Relationships

1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
 2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.
-
- (b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
 - (c) Whenever reasonably possible Training Officers (TOs) and other trainers will not be assigned to train relatives. TOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.
 - (d) To avoid actual or perceived conflicts of interest members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of, or as a direct result of, any official contact.
 - (e) Except as required in the performance of official duties or in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive, member of a criminal gang, or registered predatory offender or who engages in intentional violations of state or federal laws.

1026.2.1 EMPLOYEE RESPONSIBILITY

An employee shall notify his/her supervisor when a personal or business relationship creates a conflict of interest or other violation of this policy.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide other official information or services to any relative or other individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her supervisor.

1026.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever reasonably possible. Supervisors shall

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Nepotism and Conflicting Relationships

also promptly notify the Chief of Police of such actual or potential violations through the chain of command.

Department Badges

1027.1 PURPOSE AND SCOPE

The Rochester Police Department badge and uniform patch as well as the likeness of these items and the name of the Rochester Police Department are property of the Department and their use shall be restricted as set forth in this policy.

1027.2 POLICY

The uniform badge shall be issued to Department members as a symbol of authority. The use and display of Department badges shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried or worn by members while on-duty or otherwise acting in an official or authorized capacity.

1027.2.1 FLAT BADGE

Licensed officers, with the written approval of the Chief of Police, may purchase at their own expense a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of Department policy as the uniform badge.

- (a) An officer may sell, exchange or transfer the flat badge he/she purchased to another officer within the Rochester Police Department with the written approval of the Chief of Police.
- (b) Should the flat badge become lost, damaged or otherwise removed from the officer's control he/she shall make the proper notifications as outlined in the Department-Owned and Personal Property Policy.
- (c) An honorably retired officer may keep his/her flat badge upon retirement.
- (d) The purchase, carrying or display of a flat badge is not authorized for non-licensed personnel.

1027.2.2 NON-SWORN PERSONNEL

Badges and Department identification cards issued to non- licensed personnel shall be clearly marked to reflect the position of the assigned employee (e.g. parking control, dispatcher).

- (a) Non-licensed personnel shall not display any Department badge except as a part of his/her uniform and while on-duty or otherwise acting in an official and authorized capacity.
- (b) Non-licensed personnel shall not display any Department badge or represent him/herself, on- or off-duty, in such a manner which would cause a reasonable person to believe that he/she is a licensed officer.

Department Badges

1027.2.3 RETIREE UNIFORM BADGE

Upon honorable retirement employees may be presented their assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia, as other uses of the badge may be unlawful or in violation of this policy.

1027.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all licensed employees and non-sworn uniformed employees for official use only. The Department badge, shoulder patch or the likeness thereof, or the Department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda and electronic communications, such as electronic mail or websites and web pages.

The use of the badge, uniform patch and Department name for all material (e.g., printed matter, products or other items) developed for Department use shall be subject to approval by the Chief of Police.

Employees shall not loan the badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

1027.4 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the Department badge shall not be used without the express authorization of the Chief of Police and shall be subject to the following:

- (a) The employee associations may use the likeness of the Department badge for merchandise and official association business provided it is used in a clear representation of the association and not the Rochester Police Department. The following modifications shall be included:
 - 1. The text on the upper and lower ribbons is replaced with the name of the employee association.
 - 2. The badge number portion displays the acronym of the employee association.
- (b) The likeness of the Department badge for endorsement of political candidates shall not be used without the express approval of the Chief of Police.

Temporary Modified-Duty Assignments

1028.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules, or current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

1028.2 POLICY

Subject to operational considerations, the Rochester Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

1028.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the Minnesota Human Rights Act (Minn. Stat. § 363A.01 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Rochester Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

1028.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

Employees seeking a temporary modified-duty assignment should submit a written request to their chain of command or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

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Temporary Modified-Duty Assignments

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Captain will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee may confer with the Department of Human Resources or the City Attorney as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by command staff, with notice to the Chief of Police.

1028.5 ACCOUNTABILITY

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with a supervisor.

1028.5.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to their Captain that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days or as directed.

1028.5.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

Temporary Modified-Duty Assignments

- (a) Periodically apprising the Captain of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Captain and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

1028.6 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

1028.7 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment.

1028.7.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City's personnel rules and regulations regarding family and medical care leave.

1028.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment may have their probation extended by a period of time equal to their assignment to temporary modified duty.

1028.9 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

Performance History Audits

1029.1 PURPOSE AND SCOPE

Performance History Audits are collections of data designed to assist supervisors in evaluating the performance of their employees as it relates to identified administrative priorities. Performance History Audits can help identify commendable performance as well as early recognition of training needs and other potential issues. While it is understood that the statistical compilation of data may be helpful to supervisors, it cannot account for and must be carefully balanced with the many variables in law enforcement, such as:

- An officer's ability to detect crime.
- An officer's work ethic.
- An officer's work assignment and shift.
- An officer's physical abilities.
- Randomness of events.

1029.2 RESPONSIBILITIES

Under the authority of the Chief of Police, the Professional Standards Manager is responsible for collecting performance indicators and other relevant data to generate and provide a bi-annual Performance History Audit Report for each officer to the Chief of Police. Though generated bi-annually, each Performance History Audit will contain data from a one-year time period.

1029.3 COMPONENTS OF PERFORMANCE HISTORY AUDITS

Performance History Audit will include the following components:

- Performance indicators
- Data analysis
- Follow-up monitoring

1029.4 PERFORMANCE INDICATORS

Performance indicators represent the categories of employee performance activity that the Chief of Police of Rochester Police Department has determined may be relevant data for the generation and analysis of Performance History Audits. Performance indicators may include, but are not limited to:

- (a) The frequency and findings of use-of-force incidents.
- (b) Frequency of involvement and conduct during vehicle pursuits.
- (c) Frequency and findings of citizen complaints.
- (d) Number of commendations, compliments and awards (citizen and Department).

Performance History Audits

- (e) Claims and civil suits related to the employee's actions or alleged actions.
- (f) Canine bite incidents.
- (g) Internal affairs investigations.
- (h) Intentional or unintentional firearm discharges (regardless of injury).
- (i) Vehicle collisions.
- (j) Missed court appearances.
- (k) Documented counseling memos.

1029.5 COMPILATION OF DATA

The Professional Standards Manager will utilize secure systems and other methods to compile and track performance indicators for each officer during each quarter in order to prepare Performance History Audit Reports.

1029.6 DATA ANALYSIS AND ACTION

Upon receipt the Chief of Police, in consultation with Command Staff and the Professional Standards Manager, will review each Performance History Audit Report and determine whether it should be provided to an officer's immediate supervisor for further consideration. The officer's immediate supervisor will carefully review the Performance History Audit Report with the officer to assess any potential trends or other issues that may warrant informal counseling, additional training or a recommendation for other action, including discipline.

If it is determined that an officer's performance warrants action beyond informal counseling, steps to initiate the appropriate action shall take place.

If discipline or other adverse action is initiated against an officer as a result of a Performance History Audit, the officer shall be entitled to all rights and process set forth in the Personnel Complaints Policy.

1029.7 PRIVACY OF DATA

Information, data and copies of material compiled to develop Performance History Audits Reports shall be considered private as part of the employee's personnel file and will not be subject to discovery or release except as provided by law. Access to the data in the system will be governed under the same process as access to an officer's personnel file as outlined in the Personnel Records Policy.

1029.8 RETENTION AND PURGING

Except as incorporated in separate training or disciplinary records, all performance indicators and Performance History Audit Reports shall be purged from the Professional Standards Manager

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Performance History Audits

and all other locations within the Department consistent with the organization's records retention schedule.

Employee Speech, Expression and Social Networking

1030.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balance of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

1030.1.1 APPLICABILITY

This policy applies to all forms of communication including but not limited to film, video, print media, public or private speech, use of all Internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, wikis, video and other file sharing sites.

1030.2 POLICY

Because public employees occupy a trusted position in the community their statements have the potential to contravene the policies and performance of this department. Due to the nature of the work and influence associated with the law enforcement profession it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public the Rochester Police Department will carefully balance the individual employee's rights against the organization's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

1030.3 SAFETY

Employees should carefully consider the implications of their speech or any other form of expression. Speech and expression that may negatively affect the safety of Rochester Police Department employees such as posting personal information in a public forum can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be expected to compromise the safety of any employee, employee's family or associates or persons that this agency has had professional contact with such as crime victims or staff of other organizations.

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Employee Speech, Expression and Social Networking

Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an employee.
- Disclosing the address, telephone number or email address of an employee.
- Otherwise disclosing where another employee can be located off-duty.

1030.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT

To meet the organization's safety, performance and public-trust needs the following are prohibited unless the speech is otherwise protected (for example an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Rochester Police Department or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to or related to the Rochester Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Rochester Police Department or its employees. Examples may include:
 1. Statements that indicate disregard for the law or the state or U.S. Constitution.
 2. Expression that demonstrates support for criminal activity.
 3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example posting statements or expressions to a website that glorify or endorse dishonesty or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen to jeopardize employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Rochester Police Department.
- (f) Use or disclosure, through whatever means, of any not public data, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain or data classified as not public by state or

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federal law or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.

- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Rochester Police Department on any personal or social networking or other website or web page without the express authorization of the Chief of Police.
- (h) Accessing websites for non-authorized purposes or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty except in the following circumstances:
 1. When brief personal communications may be warranted by the circumstances (e.g., inform family of extended hours).
 2. During authorized breaks; such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

1030.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the Rochester Police Department or identify themselves in any way that could be reasonably perceived as representing the Rochester Police Department in order to do any of the following, unless specifically authorized by the Chief of Police:

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support, or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or any website.

Additionally, when it can reasonably be construed that an employee acting in his/her individual capacity or through an outside group or organization (e.g. bargaining group) is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Rochester Police Department.

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Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off-duty. However employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

1030.5 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to e-mails, texts, or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, Twitter) that is accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

1030.6 CONSIDERATIONS

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Department.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

1030.7 TRAINING

Subject to available resources the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

POST Licensing

1031.1 PURPOSE AND SCOPE

Maintaining a valid POST license is a critical element of an officer's ability to continue their employment and is their sole professional responsibility. Every officer and every part-time officer is required to complete the continuing education requirements to maintain a valid license every three years (Minn. R. § 6700.0900; Minn. R. 6700.1000).

1031.2 RENEWAL SCHEDULE

Any officer whose license expires is not authorized to work as a peace officer until the license status is valid. Officers renew their POST licenses according to a schedule established by Administrative Rule (Minn. R. 6700.1000).

1031.2.1 LICENSE RENEWAL CREDITS

A peace officer license may be renewed only upon the licensee or the licensee's appointing authority providing the POST board proof the licensee has successfully completed board-approved continuing education and posting of fees on or before June 30 of the year a license is due for renewal. Licensee required hours of continuing credit are (Minn. R. 6700.1000, Subd. 3):

- 16 hours for a peace officer or a part-time peace officer who has been licensed for at least six months but less than 18 months.
- 32 hours for a peace officer or a part-time peace officer who has been licensed for at least 18 months but less than 30 months.
- 48 hours for a peace officer or a part-time peace officer who has been licensed for at least 30 months.

1031.3 LICENSE PROCESS

A general schedule for the license renewal process is:

- February - The Department or officer will receive employment verification.
- March - The Department or officers are sent a license renewal application.
- June - A final notice will be sent from POST for those who have not renewed.
- June 30 - The deadline date for license renewal after which officers whose license expires will no longer be authorized to practice law enforcement or carry a firearm.

1031.4 INACTIVE LICENSE

Officers who fail to complete the requirements will have their license placed in the "Inactive" status. The employee may then be placed in a temporary administrative assignment until their license is "Valid". Those employees may also face administrative discipline up to and including termination.

Workplace Accident and Injury Reduction

1032.1 PURPOSE AND SCOPE

The purpose of this policy is to establish an ongoing and effective plan to reduce the incidence of illness and injury for members of the Rochester Police Department, in accordance with the requirements of Minn. Stat. § 182.653.

This policy specifically applies to illness and injury that results in lost time or that requires medical treatment beyond first aid. Although this policy provides the essential guidelines for a plan that reduces illness and injury, it may be supplemented by procedures outside the Policy Manual.

This policy does not supersede, but supplements any related Citywide safety efforts.

1032.2 POLICY

The Rochester Police Department is committed to providing a safe environment for its members and visitors and to minimizing the incidence of work-related illness and injuries. The Department will establish and maintain a Workplace Accident and Injury Reduction (AWAIR) program and will provide tools, training and safeguards designed to reduce the potential for accidents, illness and injuries. It is the intent of the Department to comply with all laws and regulations related to occupational safety.

1032.3 A WORKPLACE ACCIDENT AND INJURY REDUCTION PROGRAM

The City of Rochester Safety Administrator is responsible for developing an AWAIR program that shall include:

- (a) Workplace safety and health training programs.
- (b) Regularly scheduled safety meetings.
- (c) Posted or distributed safety information.
- (d) A system for members to anonymously inform management about workplace hazards.
- (e) Establishment of a safety and health committee that will (Minn. Stat. § 182.676; Minn. R. 5208.0010 et seq.):
 - (a) Meet regularly.
 - (b) Prepare a written record of safety and health committee meetings.
 - (c) Review the results of periodic scheduled inspections.
 - (d) Review investigations of accidents and exposures.
 - (e) Make suggestions to command staff for the prevention of future incidents.
 - (f) Review investigations of alleged hazardous conditions.
 - (g) Submit recommendations to assist in the evaluation of member safety suggestions.

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- (h) Assess the effectiveness of efforts made by the Department to meet applicable standards.
- (f) Establishing a process to ensure illnesses and injuries are reported as required under Minnesota Occupational Safety and Health Administration (MNOSHA) (29 CFR 1904.39; Minn. Stat. § 182.674; Minn. R. 5205.0010).
- (g) Descriptions of the following (Minn. Stat. § 182.653):
 1. How managers, supervisors and members are responsible for implementing the program and how continued participation of management will be established, measured and maintained
 2. The methods used to identify, analyze and control new or existing hazards, conditions and operations
 3. How the plan will be communicated to all affected members so that they are informed of work-related hazards and controls
 4. How workplace accidents will be investigated and corrective action implemented
 5. How safe work practices and rules will be enforced

The Safety Administrator must conduct and document a review of the AWAIR program at least annually and document how the program procedures are applied (Minn. Stat. § 182.653).

1032.3.1 SAFETY AND HEALTH COMMITTEE

The Safety Administrator will facilitate the safety and health committee and ensure applicable rules are addressed (Minn. R. 5208.0010 et seq.). The committee's purpose is to assist in the implementation of the AWAIR program and to bring workplace safety concerns or complaints to the attention of the department administration. Members of the committee must be selected by department members (Minn. Stat. § 182.676).

Duties of the committee should, at a minimum, include (Minn. R. 5208.0050):

- (a) Reviewing and making recommendations related to AWAIR.
- (b) Coordinating safety inspections.
- (c) Training members about AWAIR and safe working procedures.
- (d) Identifying the hazards associated with a particular task or job.
- (e) Providing input regarding new workplace safety rules.
- (f) Preparing AWAIR presentations for staff meetings.
- (g) Assisting in workplace accident investigations.
- (h) Reviewing and making recommendations for incidents involving work-related deaths, injuries and illnesses.

1032.4 SAFETY ADMINISTRATOR RESPONSIBILITIES

The responsibilities of the Safety Administrator include but are not limited to:

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- (a) Managing and implementing a plan to reduce the incidence of member illness and injury.
- (b) Ensuring that a system of communication is in place that facilitates a continuous flow of safety and health information between supervisors and members. This system shall include:
 - 1. New member orientation that includes a discussion of safety and health policies and procedures.
 - 2. Regular member review of the AWAIR program.
- (c) Ensuring that all safety and health policies and procedures are clearly communicated and understood by all members.
- (d) Taking reasonable steps to ensure that all members comply with safety rules in order to maintain a safe work environment. This includes but is not limited to:
 - 1. Informing members of the AWAIR guidelines.
 - 2. Recognizing members who perform safe work practices.
 - 3. Ensuring that the member evaluation process includes member safety performance.
 - 4. Ensuring department compliance to meet standards regarding the following:
 - (a) Bloodborne pathogen precautions (29 CFR 1910.1030; Minn. Stat. § 182.6555; Minn. R. 5206.0600)
 - (b) Personal Protective Equipment (PPE) (see the Personal Protective Equipment Policy) (29 CFR 1910.134; Minn. R. 5205.0010)
 - (c) Appropriate barriers in law enforcement vehicles (Minn. R. 5205.0755)
 - (d) Emergency Action Plan (29 CFR 1910.38(a); Minn. R. 5205.0010)
 - (e) Walk-Working Surfaces (Minn. R. 5205.0010; 29 CFR 1910.21 et seq.)
 - (f) Personal Fall Protection Systems (Minn. R. 5205.0010; 29 CFR 1910.140)
- (e) Making available a form to document inspections, unsafe conditions, or work practices, and actions taken to correct unsafe conditions and work practices.
- (f) Making available a form to document individual incidents or accidents.
- (g) Making available a form to document the safety and health training of each member. This form will include the member's name or other identifier, training dates, type of training, and training providers.
- (h) Conducting and documenting a regular review of the illness and injury prevention plan.

1032.5 SUPERVISOR RESPONSIBILITIES

Supervisor responsibilities include, but are not limited to:

- (a) Ensuring member compliance with AWAIR guidelines and answering questions from members about this policy.

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- (b) Training, counseling, instructing or making informal verbal admonishments any time safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Standards of Conduct Policy.
- (c) Establishing and maintaining communication with members on health and safety issues. This is essential for an injury-free, productive workplace.
- (d) Completing required forms and reports relating to illness and injury prevention; such forms and reports shall be submitted to the Police Administration .
- (e) Notifying the Police Administration when:
 - 1. New substances, processes, procedures or equipment that present potential new hazards are introduced into the work environment.
 - 2. New, previously unidentified hazards are recognized.
 - 3. Occupational illnesses and injuries occur.
 - 4. New and/or permanent or intermittent members are hired or reassigned to processes, operations or tasks for which a hazard evaluation has not been previously conducted.
 - 5. Workplace conditions warrant an inspection.

1032.6 HAZARDS

All members should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Members should make their reports to a supervisor (as a general rule, their own supervisors).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner, based on the severity of the hazard. These hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering members or property, supervisors should protect or remove all exposed members from the area or item, except those necessary to correct the existing condition.

Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

All significant actions taken and dates they are completed shall be documented and notification made to Police Administration.

1032.7 INSPECTIONS

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards and permit mitigation of those hazards. A hazard assessment checklist should be used for documentation and to ensure a thorough assessment of the work environment.

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1032.7.1 EQUIPMENT

Members are charged with daily vehicle inspections of their assigned vehicles and of their PPE prior to working in the field. Members shall notify a supervisor if an unsafe condition cannot be immediately corrected.

1032.7.2 FREQUENCY OF INSPECTIONS

Safety inspections shall be conducted by the City safety and health committee at a frequency decided by the committee, but at least quarterly (Minn. R. 5208.0040).

1032.8 INVESTIGATIONS

Any member sustaining any work-related illness or injury, as well as any member who is involved in any accident or hazardous substance exposure while on-duty shall report such event as soon as practicable to a supervisor. Members observing or learning of a potentially hazardous condition are to promptly report the condition to their immediate supervisors.

A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

- (a) A visit to the accident scene as soon as possible.
- (b) An interview of the injured member and witnesses.
- (c) An examination of the workplace for factors associated with the accident/exposure.
- (d) Determination of the cause of the accident/exposure.
- (e) Corrective action to prevent the accident/exposure from reoccurring.
- (f) Documentation of the findings and corrective actions taken.

Additionally, the supervisor should proceed with the steps to report an on-duty injury, as required under the Occupational Disease, Personal Injury and Death Reporting Policy, in conjunction with this investigation to avoid duplication and ensure timely reporting.

1032.9 TRAINING

The Safety Administrator should work with the Training Unit to provide all members, including supervisors, with training on general and job-specific workplace safety and health practices. Training shall be provided:

- (a) To supervisors to familiarize them with the safety and health hazards to which members under their immediate direction and control may be exposed.
- (b) To all members with respect to hazards specific to each member's job assignment.
- (c) To all members given new job assignments for which training has not previously been provided.
- (d) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.
- (e) Whenever the Department is made aware of a new or previously unrecognized hazard.

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- (f) Annually for training related to infectious agents and hazardous substances as required by MNOSHA (Minn. Stat. § 182.653).

1032.9.1 TRAINING TOPICS

The Training Unit shall ensure that training includes:

- (a) Reporting unsafe conditions, work practices and injuries, and informing a supervisor when additional instruction is needed.
- (b) Use of appropriate clothing, including gloves and footwear.
- (c) Use of respiratory equipment.
- (d) Availability of toilet, hand-washing and drinking-water facilities.
- (e) Provisions for medical services and first aid.
- (f) Handling of bloodborne pathogens and other biological hazards.
- (g) Prevention of heat and cold stress.
- (h) Identification and handling of hazardous materials, including chemical hazards to which members could be exposed, and review of resources for identifying and mitigating hazards (e.g., hazard labels, Safety Data Sheets (SDS)).
- (i) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.
- (j) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.
- (k) Back exercises/stretchers and proper lifting techniques.
- (l) Avoidance of slips and falls.
- (m) Good housekeeping and fire prevention.
- (n) Other job-specific safety concerns.

1032.10 RECORDS

Records and training documentation relating to the AWAIR program will be maintained in accordance with the established records retention schedule.

All safety and health committee recommendations and reports shall be kept for two years. The reports shall be made available to the Minnesota Department of Labor and Industry upon request (Minn. R. 5208.0050).

Line-of-Duty Deaths

1033.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Rochester Police Department in the event of the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member's survivors.

The Chief of Police may also apply some or all of this policy in situations where members are injured in the line of duty and the injuries are life-threatening.

1033.1.1 DEFINITIONS

Definitions related to this policy include:

Line-of-duty death - The death of a sworn member during the course of performing law enforcement-related functions while on- or off-duty, or a non-sworn member during the course of performing their assigned duties.

Survivors - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

1033.2 POLICY

It is the policy of the Rochester Police Department to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this department to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

1033.3 INITIAL ACTIONS BY COMMAND STAFF

- (a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information through the chain of command.
 1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Captain of Investigations section of this policy).
- (b) The on-duty supervisor should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.
- (c) If the member has been transported to the hospital, the on-duty supervisor or the authorized designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.
- (d) The Chief of Police or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve

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the temporary Hospital Liaison) and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

1033.4 NOTIFYING SURVIVORS

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

The Chief of Police or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Chief of Police or the authorized designee should select at least two members to conduct notification of survivors.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of survivors or language barriers.
- (d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in department vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital and should remain at the hospital while the survivors are present.
- (e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.
- (f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.
- (g) Offer to call other survivors, friends or clergy to support the survivors and to avoid leaving survivors alone after notification.
- (h) Assist the survivors with meeting childcare or other immediate needs.

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- (i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.
- (j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Department Liaison.
- (k) Provide their contact information to the survivors before departing.
- (l) Document the survivor's names and contact information, as well as the time and location of notification. This information should be forwarded to the Department Liaison.
- (m) Inform the Chief of Police or the authorized designee once survivor notifications have been made so that other Rochester Police Department members may be apprised that survivor notifications are complete.

1033.4.1 OUT-OF-AREA NOTIFICATIONS

The Department Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

- (a) The Department Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the department member that the survivors can call for more information following the notification by the assisting agency.
- (b) The Department Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the Department to pay travel expenses without the authorization of the Chief of Police.

1033.5 NOTIFYING DEPARTMENT MEMBERS

Supervisors or members designated by the Chief of Police are responsible for notifying department members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shift. Members reporting for duty from their residence should be instructed to contact their supervisor as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support group, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.

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1033.6 LIAISONS AND COORDINATORS

The Chief of Police or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including, but not limited to:

- (a) Department Liaison.
- (b) Hospital Liaison.
- (c) Survivor Support Liaison.
- (d) Critical Incident Stress Management (CISM) coordinator.
- (e) Funeral Liaison.
- (f) Mutual aid coordinator.
- (g) Benefits Liaison.
- (h) Finance coordinator.

Liaisons and coordinators will be directed by the Department Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available department resources. The Department Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed.

1033.6.1 DEPARTMENT LIAISON

The Department Liaison should be a Captain or of sufficient rank to effectively coordinate department resources, and should serve as a facilitator between the deceased member's survivors and the Department. The Department Liaison reports directly to the Chief of Police. The Department Liaison's responsibilities include, but are not limited to:

- (a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests. Consideration should be given to organizing the effort using the National Incident Management System (NIMS).
- (b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.
- (c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.
- (d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.
- (e) Coordinating all official law enforcement notifications and arrangements.
- (f) Making necessary contacts for authorization to display flags at half-mast.
- (g) Ensuring that department members are reminded of appropriate information-sharing restrictions regarding the release of information that could undermine future legal proceedings.
- (h) Coordinating security checks of the member's residence as necessary and reasonable.

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- (i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

1033.6.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

- (a) Arrange for appropriate and separate waiting areas for:
 1. The survivors and others whose presence is requested by the survivors.
 2. Department members and friends of the deceased member.
 3. Media personnel.
- (b) Ensure, as much as practicable, that any suspects who are in the hospital and their families or friends are not in close proximity to the member's survivors or Rochester Police Department members (except for members who may be guarding the suspect).
- (c) Ensure that survivors receive timely updates regarding the member before information is released to others.
- (d) Arrange for survivors to have private time with the member, if requested.
 1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
 2. The Hospital Liaison should accompany the survivors into the room, if requested.
- (e) Stay with survivors and ensure that they are provided with other assistance as needed at the hospital.
- (f) If applicable, explain to the survivors why an autopsy may be needed.
- (g) Ensure hospital bills are directed to the Department, that the survivors are not asked to sign as guarantor of payment for any hospital treatment and that the member's residence address, insurance information and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include, but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting his/her actions at the conclusion of his/her duties.

1033.6.3 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Department Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term department contact for survivors.

The Survivor Support Liaison should be selected by the deceased member's Captain. The following should be considered when selecting the Survivor Support Liaison:

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- The liaison should be an individual the survivors know and with whom they are comfortable working.
- If the survivors have no preference, the selection may be made from names recommended by the deceased member's supervisor and/or coworkers. The deceased member's partner or close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.
- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include, but are not limited to:

- (a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes and other locations, as appropriate.
- (b) Communicating with the Department Liaison regarding appropriate security measures for the family residence, as needed.
- (c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
- (d) Providing assistance with travel and lodging arrangements for out-of-town survivors.
- (e) Returning the deceased member's personal effects from the Department and the hospital to the survivors. The following should be considered when returning the personal effects:
 1. Items should not be delivered to the survivors until they are ready to receive the items.
 2. Items not retained as evidence should be delivered in a clean, unmarked box.
 3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
 4. The return of some personal effects may be delayed due to ongoing investigations.
- (f) Assisting with the return of department-issued equipment that may be at the deceased member's residence.
 1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.
- (g) Working with the CISM coordinator to ensure that survivors have access to available counseling services.
- (h) Coordinating with the department's Captain of Investigations (PIO) to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes (see the Captain of Investigations section of this policy).
- (i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal and administrative investigations.

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- (j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.
- (k) Introducing survivors to prosecutors, victim's assistance personnel and other involved personnel as appropriate.
- (l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).
- (m) Inviting survivors to department activities, memorial services or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Department recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

If needed, the Survivor Support Liaison should be issued a personal communication device (PCD) owned by the Department to facilitate communications necessary to the assignment. The department-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

1033.6.4 CRITICAL INCIDENT STRESS MANAGEMENT COORDINATOR

The CISM coordinator should work with the Chief of Police or the authorized designee, liaisons, coordinators and other resources to make CISM and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the CISM coordinator include, but are not limited to:

- (a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for CISM and counseling services, including:
 - 1. Members involved in the incident.
 - 2. Members who witnessed the incident.
 - 3. Members who worked closely with the deceased member but were not involved in the incident.
- (b) Ensuring that members who were involved in or witnessed the incident are relieved of department responsibilities until they can receive CISM support as appropriate and possible.
- (c) Ensuring that CISM and counseling resources (e.g., peer support, debriefing, grief counselors) are available to members as soon as reasonably practicable following the line-of-duty death.
- (d) Coordinating with the Survivor Support Liaison to ensure survivors are aware of available CISM and counseling services and assisting with arrangements as needed.

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- (e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional CISM or counseling services are needed.

1033.6.5 FUNERAL LIAISON

The Funeral Liaison should work with the Department Liaison, Survivor Support Liaison and survivors to coordinate funeral arrangements to the extent the survivors wish. The Funeral Liaison's responsibilities include, but are not limited to:

- (a) Assisting survivors in working with the funeral director regarding funeral arrangements and briefing them on law enforcement funeral procedures.
- (b) Completing funeral notification to other law enforcement agencies.
- (c) Coordinating the funeral activities of the Department, including, but not limited to the following:
 - 1. Honor Guard
 - (a) Casket watch
 - (b) Color guard
 - (c) Pallbearers
 - (d) Bell/rifle salute
 - 2. Bagpipers/bugler
 - 3. Uniform for burial
 - 4. Flag presentation
 - 5. Last radio call
- (d) Briefing the Chief of Police and command staff concerning funeral arrangements.
- (e) Assigning an officer to remain at the family home during the viewing and funeral.
- (f) Arranging for transportation of the survivors to and from the funeral home and interment site using department vehicles and drivers.

1033.6.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the Department Liaison and the Funeral Liaison to request and coordinate any assistance from outside law enforcement agencies needed for, but not limited to:

- (a) Traffic control during the deceased member's funeral.
- (b) Area coverage so that as many Rochester Police Department members can attend funeral services as possible.

The mutual aid coordinator should perform his/her duties in accordance with the Outside Agency Assistance Policy.

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1033.6.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and assist them in applying for benefits. Responsibilities of the Benefits Liaison include, but are not limited to:

- (a) Confirming the filing of workers' compensation claims and related paperwork (see the Occupational Disease, Personal Injury and Death Reporting Policy).
- (b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the:
 - 1. Public Safety Officers' Benefits (PSOB) Programs.
 - 2. Public Safety Officers' Educational Assistance (PSOEA) Program.
 - 3. Social Security Administration.
 - 4. Department of Veterans Affairs.
- (c) Researching and assisting survivors with application for state and local government survivor benefits.
 - 1. Survivor benefits (Minn. Stat. § 353.657).
 - 2. Disability survivor benefits (Minn. Stat. § 353.656).
 - 3. Continued health insurance coverage benefit (Minn. Stat. § 299A.465).
 - 4. Death benefit (Minn. Stat. § 299A.44).
 - 5. Education benefit (Minn. Stat. § 299A.45).
- (d) Researching and assisting survivors with application for other survivor benefits such as:
 - 1. Private foundation survivor benefits programs.
 - 2. Survivor scholarship programs.
- (e) Researching and informing survivors of support programs sponsored by Police associations and other organizations.
- (f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.
 - 1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.
- (g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.
- (h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

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1033.6.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief of Police and the Department Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

- (a) Establishing methods for purchasing and monitoring costs related to the incident.
- (b) Providing information on finance-related issues, such as:
 - 1. Paying survivors' travel costs if authorized.
 - 2. Transportation costs for the deceased.
 - 3. Funeral and memorial costs.
 - 4. Related funding or accounting questions and issues.
- (c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.
- (d) Providing accounting and cost information as needed.

1033.7 DESIGNATED LINE OF DUTY DEATH PIO

In the event of a line-of-duty death, the department's designated PIO should be the contact point for the media. As such, the PIO should coordinate with the Department Liaison to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Ensure that department members are instructed to direct any media inquiries to the PIO.
- (c) Prepare necessary press releases.
 - 1. Ensure coordination with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
 - 2. Ensure that important public information is disseminated, such as information on how the public can show support for the Department and deceased member's survivors.
- (d) Arrange for community and media briefings by the Chief of Police or the authorized designee as appropriate.
- (e) Respond, or coordinate the response, to media inquiries.
- (f) If requested, assist the member's survivors with media inquiries.
 - 1. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.
- (g) Release information regarding memorial services and funeral arrangements to department members, other agencies and the media as appropriate.
- (h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

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The identity of deceased members should be withheld until the member's survivors have been notified. If the media has obtained identifying information for the deceased member prior to survivor notification, the PIO should request that the media withhold the information from release until proper notification can be made to survivors. The PIO should ensure that media are notified when survivor notifications have been made.

1033.8 DEPARTMENT CHAPLAIN

The Department chaplain may serve a significant role in line-of-duty deaths. His/her duties may include, but are not limited to:

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting department members with counseling or emotional support, as requested and appropriate.

Further information on the potential roles and responsibilities of the chaplain is in the Chaplains Policy.

1033.9 INVESTIGATION OF THE INCIDENT

The Chief of Police shall ensure that line-of-duty deaths are investigated thoroughly and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

1033.10 LINE-OF-DUTY DEATH OF A LAW ENFORCEMENT ANIMAL

The Chief of Police may authorize appropriate memorial and funeral services for law enforcement animals killed in the line of duty.

1033.11 NON-LINE-OF-DUTY DEATH

The Chief of Police may authorize certain support services for the death of a member not occurring in the line of duty.

Wellness Program

1034.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance on establishing and maintaining a proactive wellness program for department members.

The wellness program is intended to be a holistic approach to a member's well-being and encompasses aspects such as physical fitness, mental health, and overall wellness.

Additional information on member wellness is provided in the:

- Chaplains Policy.
- Line-of-Duty Deaths Policy.
- Drug- and Alcohol-Free Workplace Policy.
- Peer Support Policy

1034.2 POLICY

It is the policy of the Rochester Police Department to prioritize member wellness to foster fitness for duty and support a healthy quality of life for department members. The Department will maintain a wellness program that supports its members with proactive wellness resources, critical incident response, and follow-up support.

1034.3 WELLNESS COORDINATOR

The Chief of Police should appoint a trained wellness coordinator. The coordinator should report directly to the Chief of Police or the authorized designee and should collaborate with advisers (e.g., Department of Human Resources, legal counsel, licensed psychotherapist, qualified health professionals), as appropriate, to fulfill the responsibilities of the position, including but not limited to:

- (a) Identifying wellness support providers (e.g., licensed psychotherapists, external peer support providers, physical therapists, dietitians, physical fitness trainers holding accredited certifications).
 1. As appropriate, selected providers should be trained and experienced in providing mental wellness support and counseling to public safety personnel.
 2. When practicable, the Department should not use the same licensed psychotherapist for both member wellness support and fitness for duty evaluations.
- (b) Verifying members have reasonable access to peer support or licensed psychotherapist support.
- (c) Facilitating the delivery of wellness information, training, and support through various methods appropriate for the situation (e.g., phone hotlines, electronic applications).

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Wellness Program

1034.4 PHYSICAL WELLNESS PROGRAM

The coordinator is responsible for establishing guidelines for an on-duty physical wellness program, including:

- (a) Allowable physical fitness activities.
- (b) Permitted times and locations for physical fitness activities.
- (c) Acceptable use of department-provided physical fitness facilities and equipment.
- (d) Making physical wellness information and education (e.g., nutrition, sleep habits, proper exercise, injury prevention) available to members.
- (e) Standards for fitness incentive programs.
- (f) Maintenance of physical wellness logs (e.g., attendance, goals, standards, progress).

1034.5 WELLNESS PROGRAM AUDIT

At least annually, the coordinator or the authorized designee should audit the effectiveness of the department's wellness program and prepare a report summarizing the findings. The report shall not contain the names of members participating in the wellness program, and should include the following information:

- Data on the types of support services provided
- Wait times for support services
- Participant feedback, if available
- Program improvement recommendations
- Policy revision recommendations

The coordinator should present the completed audit to the Chief of Police for review and consideration of updates to improve program effectiveness.

1034.6 TRAINING

The coordinator or the authorized designee should collaborate with the Training Unit to provide all members with regular education and training on topics related to member wellness, including but not limited to:

- The availability and range of department wellness support systems.
- Suicide Prevention.
- Recognizing and managing mental distress, emotional fatigue, post-traumatic stress, and other possible reactions to trauma.
- Alcohol and substance disorder awareness.
- Countering sleep deprivation and physical fatigue.
- Anger management.

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Wellness Program

- Marriage and family wellness.
- Benefits of exercise and proper nutrition.
- Effective time and personal financial management skills.

Training materials, curriculum, and attendance records should be forwarded to the Training Unit as appropriate for inclusion in training records.

Attachments

DrugAlcoholAcknowledgement.pdf

CITY OF ROCHESTER

DRUG AND/OR ALCOHOL ACKNOWLEDGEMENT AND CONSENT

The City policy requires that any employee or job applicant complete this form before undergoing a test for drug or alcohol use.

I, _____, voluntarily authorize the collection of my blood and/or urine in such a manner as the authorized testing laboratory deems appropriate for drug or alcohol testing purposes. In addition, I authorize the City to receive the results of the test from the designated laboratory analyzing the sample(s).

I have been given and have seen a copy of the Drug and Alcohol Testing policy of the City and consent to be tested. I understand that the results of this testing may affect my employment status with the City.

Signature: _____

Date: _____

Witness: _____

Date: _____

|

Eyewitness Identification Procedures Model Policy.pdf

EYEWITNESS IDENTIFICATION PROCEDURES MODEL POLICY

Minn. Stat. 626.8433

POLICY:

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

Purpose:

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

Definitions:

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

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

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

Administrator: The law enforcement official conducting the identification procedure.

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

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

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

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

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

Procedure:

1. Show-ups

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

- a. Document the witness's description of the perpetrator prior to conducting the show up.
- b. Conduct a show-up only when the suspect is detained within a reasonably time frame after the commission of the offense and within a close physical proximity to the location of the crime.
- c. Do not use a show-up procedure if probable cause to arrest the suspect has already been established.
- d. If possible, avoid conducting a show-up when the suspect is in a patrol car, handcuffed, or physically restrained by officers, unless safety concerns make this impractical.
- e. Caution the witness that the person he or she is about to see may or may not be the perpetrator—and it is equally important to clear an innocent person. The witness should also be advised that the investigation will continue regardless of the outcome of the show-up.
- f. Do not conduct the show-up with more than one witness present at a time.
- g. Separate witnesses and do not allow communication between them before or after conducting a show-up.
- h. If one witness identifies the suspect, use a line-up or photo array for remaining witnesses.
- i. Do not present the same suspect to the same witness more than once.

- j. Do not require show-up suspects to put on clothing worn by, speak words uttered by, or perform other actions of the perpetrator.
- k. Officers should scrupulously avoid words or conduct of any type that may suggest to the witness that the individual is or may be the perpetrator.
- l. Ask the witness to provide a confidence statement.
- m. Remind the witness not to talk about the show-up to other witnesses until police or prosecutors deem it permissible.
- n. Videotape the identification process using an in-car camera or other recording device when feasible.
- o. Document the time and location of the show-up, the officers present, the result of the procedure, and any other relevant information.

Line-up and Photo Array Procedures

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

- a. Line-ups will not typically be utilized for investigations, unless conducting a photo array is not possible.
- b. Whenever possible, a blind presentation shall be utilized. In cases where a blind presentation is not feasible for a photo array, a blinded presentation should be used. Live line-ups must be conducted using a blind presentation.
- c. The line-up or photo array should consist of a minimum of six individuals or photographs. Use a minimum of five fillers and only one suspect.
- d. Fillers should be reasonably similar in age, height, weight, and general appearance and be of the same sex and race, in accordance with the witness's description of the offender.
- e. Avoid the use of fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
- f. Create a consistent appearance between the suspect and the fillers with respect to any unique or unusual feature (e.g., scars, tattoos, facial hair) used to describe the perpetrator by artificially adding or concealing that feature on the fillers.
- g. If there is more than one suspect, include only one in each line-up or photo array.

- h. During a blind presentation, no one who is aware of the suspect's identity should be present during the administration of the photo array. However, during a line-up, the suspect's attorney should be present.
- i. Place suspects in different positions in each line-up or photo array, both across cases and with multiple witnesses in the same case.
- j. Witnesses should not be permitted to see or be shown any photos of the suspect prior to the line-up or photo array.
- k. The witness shall be given a copy of the following instructions prior to viewing the line-up or photo array and the administrator shall read the instructions aloud before the identification procedure.

You will be asked to look at a series of individuals.

The perpetrator may or may not be present in the identification procedure.

It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.

I don't know whether the person being investigated is included in this series.

Sometimes a person may look different in a photograph than in real life because of different hair styles, facial hair, glasses, a hat or other changes in appearance. Keep in mind that how a photograph was taken or developed may make a person's complexion look lighter or darker than in real life.

You should not feel that you have to make an identification. If you do identify someone, I will ask you to describe in your own words how certain you are.

The individuals are not configured in any particular order.

If you make an identification, I will continue to show you the remaining individuals or photos in the series.

Regardless of whether you make an identification, we will continue to investigate the incident.

Since this is an ongoing investigation, you should not discuss the identification procedures or results

- l. The line-up or photo array should be shown to only one witness at a time; officers should separate witnesses so they will not be aware of the responses of other witnesses.
- m. Multiple identification procedures should not be conducted in which the same witness views the same suspect more than once.
- n. Officers should scrupulously avoid the use of statements, cues, casual comments, or providing unnecessary or irrelevant information that in any manner may influence the witnesses' decision-making process or perception.
- o. Following an identification, the administrator shall ask the witness to provide a confidence statement and document the witness's response.
- p. The administrator shall ask the witness to complete and sign an Eyewitness Identification Procedure Form.
- q. Line-up and photo array procedures should be video or audio recorded whenever possible. If a procedure is not recorded, a written record shall be created and the reason for not recording shall be documented. In the case of line-ups that are not recorded, agents shall take and preserve a still photograph of each individual in the line-up.

3. Photographic Arrays

a. Creating a Photo Array

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

b. Conducting the Photo Array

1. The photo array should be preserved, together with full information about the identification process as part of the case file and documented in a report.

2. If a blind administrator is not available, the administrator shall ensure that a blinded presentation is conducted using the following procedures.
 - a. Place the suspect and at least five filler photos in separate folders for a total of six (or more depending on the number of fillers used).
 - b. The administrator will take one folder containing a known filler and place it to the side. This will be the first photo in the series. The administrator should then shuffle the remaining folders (containing one suspect and the remainder of fillers) such that he or she cannot see how the line-up members are ordered. These shuffled folders will follow the first filler photo. The stack of photos is now ready to be shown to the witness.
 - c. The administrator should position himself or herself so that he or she cannot see inside the folders as they are viewed by the witness.
3. The witness should be asked if he or she recognizes the person in the photo before moving onto the next photo. If an identification is made before all of the photos are shown, the administrator should tell the witness that he or she must show the witness all of the photos and finish showing the sequence to the witness, still asking after each photo if the witness recognizes the person in the photo.
4. If possible, the array should be shown to the witness only once. If, upon viewing the entire array the witness asks to see a particular photo or the entire array again, the witness should be instructed that he or she may view the entire array only one additional time. If a second viewing is permitted, it must be documented.

4. Line-ups

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

References:

Eyewitness Identification Procedure Form
Sequential Photo Display Form

Uniform procedure.pdf

CLASS 'A' UNIFORM (SPECIAL EVENTS/CEREMONY/FUNERAL)

A. Dress Jacket

Dress jackets authorized for Chief/Captains, and may be worn at the discretion of the Chief, are as follows:

1. Men's

- Flying Cross, 100% Dacron polyester, lined
- Flying Cross, 100% Dacron polyester, unlined

2. Women's

- Flying Cross, Women's, 100% Dacron polyester, lined
- Women's unlined dress coat may be special ordered.

B. Shirt, Long-Sleeve Only

Authorized uniform shirts are as follows:

1. Men's

- Elbeco Distinction West Coast Long Sleeve Shirt Galls Item #SG929 (Men's)

2. Women's

- Elbeco Distinction Ladies Choice West Coast Long Sleeve Shirt #SG944 (Women's)

C. Trousers, Plain/Non-Cargo Only

Authorized uniform trousers are as follows:

1. Men's

- Elbeco Distinction Four-Pocket Trousers Mfr# E494RN

2. Women's

- Elbeco Distinction Four-Pocket Trousers Mfr# E9494LCN

D. Tie

Poly/wool blend, tie, dark navy clip-on/break-away design.

E. Socks

Socks shall be dark navy blue or black.

F. Shoes

Oxford style, black, leather or simulated leather, with black laces and plain, round toes. Highly polished.

G. Service Hat

8-point hat, navy blue with:

1. A half-inch wide black band for Officers.

2. A half-inch wide gold band for Sergeant and above.
3. Gold bullion on visor for the rank of Captain and above.

H. Firearms

When wearing a jacket, the Chief and Captains shall carry only Department-qualified weapons in a concealed manner. Dress jackets are not authorized for Officers below the rank of Captain.

CLASS 'B' UNIFORM (GARRISON/DUTY UNIFORM)

A. Shirt, Long or short sleeve

Authorized uniform shirts are as follows:

1. Men's

Long or short sleeve, navy blue, in any of the following:

- Elbeco Reflex Ripstop Long Sleeve Shirt Galls Item# SH2137Mfg# 4424
- 5.11 Tactical Men's Long Sleeve Class B Stryke PDU Shirt Item# SG274Mfg# 72074 (Men's)
- 5.11 Tactical Men's Long Sleeve Class A Stryke PDU Shirt Galls Item# SG275 (Men's)

2. Women's

Long or short sleeve, navy blue, in any of the following:

- Elbeco Women's Reflex Ripstop Long Sleeve Shirt Galls Item# SH2139Mfg# 4434LC
- 5.11 Tactical Women's Long Sleeve Class B Stryke PDU Shirt Item# SG165Mfg# 62010
- 5.11 Tactical Women's Long Sleeve Class A Stryke PDU Shirt Galls Item# SG164

B. Trousers, Plain or cargo

Authorized uniform trousers are as follows:

1. Men's

- Elbeco Distinction Men's Hidden Cargo Pocket Trousers Galls Item# TR038
- 5.11 Tactical Men's Patrol Duty Uniform PDU Class A Twill Pants Galls Item#TR703
- Elbeco Distinction Cargo Pocket Trousers Galls #TR037

- 5.11 Tactical Men's Class B Stryke PDU Pants Galls # TT350

2. Women's

- Elbeco Distinction Women's Hidden Cargo Pocket Trousers Galls Item# TT755
- 5.11 Tactical Women's Patrol Duty Uniform PDU Class A Twill Pants Galls Item # TR706
- Elbeco Distinction Ladies Choice Cargo Pocket Trousers Galls # TR063
- Elbeco Distinction Women's Hidden Cargo Pocket Trousers Galls # TT755

C. Socks

1. Socks shall be dark navy blue or black unless boots are worn.
2. Socks worn with boots shall not show during normal wear.

D. Shoes and Boots

1. Shoes and boots shall be black, natural or artificial leather, with a smooth and round toe design.
2. Shoes and boots shall be clean, polished, and in good condition.
3. No athletic shoes shall be worn.

E. Service Hat

Midway, 8-point hat, model# MCW 154, navy blue with:

1. A half-inch wide black band for Officers.
2. A half-inch wide gold band for Sergeant and above.

3. Gold bullion on visor for the rank of Captain and above.

F. Uniform Duty Belt

1. Black basket weave garrison duty belt 1.5” wide. Intermediate weapons, flashlights, portable radios, cell phones and/or pagers shall not be worn with the garrison uniform duty belt. If worn, handcuffs, extra magazine, and keys shall be securely fastened.
2. Full duty belts are authorized for the Class B duty uniform

G. Body Armor

External vest carriers are not permitted with the Class B uniform.

CLASS ‘C’ UNIFORM (UNIFORM OF THE DAY)

A. Shirts

Authorized uniform shirts are as follows:

Long or short sleeve, navy blue, in any of the following:

1. Men’s

- Elbeco Reflex Ripstop Long Sleeve Shirt Galls Item# SH2137Mfg# 4424
- 5.11 Tactical Men's Long Sleeve Class B Stryke PDU Shirt Item# SG274Mfg# 72074 (Men’s)
- 5.11 Tactical Men's Long Sleeve Class A Stryke PDU Shirt Galls Item# SG275 (Men’s)
- Elbeco Short Sleeve Undervest Shirt, Item# SH084
- Elbeco Undervest Long Sleeve Shirt, Item# SH086

2. Women’s

- Elbeco Women’s Reflex Ripstop Long Sleeve Shirt Galls Item# SH2139Mfg# 4434LC
- 5.11 Tactical Women's Long Sleeve Class B Stryke PDU Shirt Item# SG165Mfg# 62010 (Women’s)
- 5.11 Tactical Women's Long Sleeve Class A Stryke PDU Shirt Galls Item# SG164
- Elbeco Ladies Choice Short Sleeve Undervest Shirt Elbeco Ladies Choice Short Sleeve Undervest Shirt, Item# SH085
- Elbeco Ladies Choice Long Sleeve Undervest Shirt, Item# SH087

3. Sworn employees may choose to wear either the authorized short-sleeve shirt or the authorized long-sleeve shirt at their discretion.

B. Trousers

Authorized uniform trousers are as follows:

1. Men's

- Elbeco Distinction Cargo Pocket Trousers Galls # TR037
- Elbeco Distinction Hidden Cargo Pocket Trousers Galls # TR038
- Elbeco Reflex Cargo Pocket Trouser Galls # TR1413
- 5.11 Tactical Men's Class B Stryke PDU Pants Galls # TT350

2. Women's

- Elbeco Distinction Ladies Choice Cargo Pocket Trousers Galls # TR063
- Elbeco Distinction Women's Hidden Cargo Pocket Trousers Galls # TT755
- Elbeco Women's Reflex Cargo Pocket Trouser Galls # TR1415
- 5.11 Tactical Men's Class B Stryke PDU Pants Galls # TT350

C. Socks

1. Socks shall be dark navy blue or black unless boots are worn.
2. Socks worn with boots shall not show during normal wear.

E. Shoes and Boots

1. Shoes and boots shall be black natural or artificial leather with a smooth and round toe design.
2. Shoes and boots shall be clean and in good condition.

F. Service Hat

1. Service Hats shall be worn when directed by the Chief of Police or when ordered by a supervisor.
2. The authorized Service Hat is the Midway, 8-point hat, model# MCW 154, navy blue color with:
 - a. A half-inch wide black band for Officers.
 - b. A half-inch wide gold band for Sergeant and above.
 - c. Gold bullion on visor for the rank of Captain and above.
3. Baseball style caps with subdued or full color RPD Patch centered on the front of the cap are authorized with the class C uniform. Baseball caps are subject to the same neat and serviceable standards as any other uniform items.

H. Patrol Duty Belt

G. Body Armor

1. External vest carriers are authorized with the Class C uniform.
2. Vest carriers shall be navy blue in color.
3. External vest carriers with molle webbing are only authorized upon receipt of a Doctor's note outlining medical reasons molle attachments are needed.

CLASS 'D' UNIFORM (SPECIALTY UNITS)

The Class 'D' uniform shall be determined by the Chief of Police or his designee.

BADGES

Uniformed RPD employees shall wear an authorized breast badge on the outermost garment, and it shall be clearly visible and in good repair. Uniformed officers shall also wear an authorized hat badge on 8-point uniform hats that is clearly visible and in good repair. Breast badges may be of either the post or pin type.

RPD will provide two breast badges to officers upon hire and promotion. Sworn RPD employees are authorized to possess a maximum of three breast badges and one flat badge per rank. This number includes the badges issued by the RPD. Authorization from the Chief is required to obtain any additional badges beyond the authorized four badges. Upon retirement, a plaque if desired, the sworn employee will receive a badge for that purpose. This badge is not in addition to the two badges already provided by the department.

Lost or stolen badges shall be documented in an event report. The application for badge replacement, with a copy of the event report attached, shall be submitted to RPD Administration. Lost or stolen badges are replaced at no cost to the employee. RPD Administration maintains a database for tracking the number of badges issued per employee.

Badges in need of repair can be sent out for repair through RPD Services Division. Officers are not responsible for repair costs.

MOURNING BANDS

RPD employees may wear a “mourning band” when an officer has been killed in the line of duty. The mourning band is a black elastic band, ¾-1 inch wide. The band shall be placed on the outermost police badge above the badge number. Bands may not conceal any portion of the badge number. Plainclothes sworn employees may wear their badge on their outer garments with a mourning band while attending the funeral. Civilian employees may wear the mourning band on their RPD employee ID cards. Mourning bands are available from the RPD Services Division.

For Rochester Police Department Officers who are killed in the line of duty, the mourning bands may be worn from the day the officer dies through 30 days after the funeral or as determined by the Chief of Police. For law enforcement officers from other agencies, the mourning bands may be worn from the day the officer dies through the day of the funeral or as determined by the Chief of Police.

UNIFORM SLEEVE PATCHES

- A. The authorized RPD shoulder patch shall be worn on both sleeves of all shirts, jackets, and sweaters of the authorized RPD duty uniform.

- B. The RPD shoulder patch shall be centered on the epaulet and $\frac{3}{4}$ inch below the top of the shirt sleeve seam.

NAME TAGS

- A. Citizens are entitled to know the identity of sworn RPD employees (with very limited exceptions, i.e., in-progress undercover operations). To assist them in obtaining this public information, all employees shall wear a nametag.

 - B. Metal nametags shall be of engraved gold and the name shall be inked to assist in legibility and ease of reading. Nametags that show wear to the extent they no longer have the officer's name in ink shall be replaced.

 - C. The nametag shall be affixed to the outermost garment and shall be in plain view.

 - D. The nametag shall have the employee's capitalized first name or initials (first only or first and middle) and last name.
-
- A. The nametag shall be worn with the bottom of the nametag $\frac{1}{4}$ " above the upper pocket seam, or on indicators, and centered over the right hand jacket or shirt pocket. In the case of a sweater, duty jacket, or external vest carrier, the nametag may be worn on the name tag indicators.

 - B. Metal nametags shall be worn with the Class "A" uniform.

 - C. RPD Class B/C uniform garments may have embroidered names. Embroidery must be $\frac{3}{8}$ " in height in block letters with thread color matching that of the "POLICE" of the RPD patch.

D. External vest carriers may have either metal, embroidered, or sewn on name tapes. Name tapes must have letter 3/8" in height in block letters with thread color matching the border of the RPD patch. Name tapes may be worn in accordance with name tag placement policy or in the place that the manufacturer intended the name tape to be worn.

LEATHER AND ACCESSORIES

All RPD-authorized leather equipment shall be black and of a basket weave design. This includes all leather holders and keepers attached to the gun belt.

All authorized leather equipment shall have gold buckles and snaps, hidden, or Velcro fasteners.

Duty belts shall be leather or simulated leather, 2-1/4 inches in width and worn directly over the trouser belt. Beltkeepers or Velcro may be worn, if needed.

Trouser belts shall be 1 1/2 inches wide with a gold-plated buckle or without a buckle.

A Velcro belt may be worn with a Velcro gun belt.

All leather accessories on the gun belt shall conform to the leather specifications.

Blue/Black nylon, kydex or similar material must be approved by the Training Division and kept in serviceable condition.

OPTIONAL UNIFORM APPAREL - SWORN EMPLOYEES

Authorized optional uniform apparel may be worn by sworn employees. Optional uniform apparel shall conform to the listed standards.

OPTIONAL UNIFORM APPAREL – JACKETS

Uniformed employees electing to wear a jacket shall adhere to the following standards and specifications.

A. Leather jackets shall be worn with metal badge and name plate. Leather jackets are not provided by the department. Any officer electing to purchase will do so at their own cost.

B. Non-leather jackets shall be worn with an embroidered or metal badge and name plate and affixed to the provided tabs.

C. Authorized jacket specifications:

1. Leather

- Taylor's Leatherwear, # 4450 - midnight navy blue or black

2. Non-Leather

- Spiewak WeatherTech Systems AirFlow Duty Jacket, dark navy, Galls Item # JA000
- Spiewak Performance Soft Jacket with Side Vent Zippers, dark navy, Galls Item # JA176
- Elbeco Shield Duty Jacket dark navy, Galls Item # JX009
- Elbeco Shield Performance Softshell Jacket, dark navy, Galls Item # JX012

OPTIONAL UNIFORM APPAREL – RAINCOATS

The RPD-authorized raincoat shall be black, yellow, or fluorescent red-orange in color. If raincoats are worn for an extended period of time, a badge and nametag shall be affixed.

OPTIONAL UNIFORM APPAREL – SWEATERS

Uniformed employees electing to wear a sweater shall adhere to the following standards and specifications.

A. The sweater shall be worn with a metal badge and metal name plates, and an RPD patch on each sleeve.

B. Authorized sweater specifications:

- Galls Commando V Neck Acrylic Wool Sweater, navy blue, Galls Item # SW665

OPTIONAL UNIFORM APPAREL – SCARVES/NECK GAITERS

Scarves/neck gaiters worn with the uniform shall be dark navy blue or black. Scarves/neck gaiters are considered inner garments and shall be worn under the jacket.

OPTIONAL UNIFORM APPAREL – WINTER HATS

Uniformed employees electing to wear a winter hat shall adhere to the following standards and specifications.

A. Winter hats shall only be worn in conjunction with an authorized long-sleeve shirt, sweater or jacket.

B. Authorized hat specifications:

1. Pile Hat

- Navy blue in color
- Navy blue pile ear-flaps

- No rank insignia
- Hat badge shall be centered on the front flap of the pile hat

2. Watch Cap

- Cuffed or uncuffed
- Dark navy or black
- Officers shall not wear watch caps with symbols that may be considered offensive in nature.

OPTIONAL UNIFORM APPAREL – GLOVES AND MITTENS

Gloves and mittens shall be black and professional in appearance.

OPTIONAL UNIFORM APPAREL – BODY ARMOR EXTERNAL VEST CARRIER

Uniformed employees electing to wear a body armor external vest carrier shall wear one that has been approved by the RPD Training Division.

OPTIONAL UNIFORM APPAREL – MOCK NECK SHIRT

A. The mock neck shirt may be worn underneath the long-sleeve uniform shirt (in accordance with the Class B or C Uniform). The mock neck shall not be worn with the short-sleeve uniform shirt or with the Class A uniform.

B. The mock neck shirt shall be dark navy blue or black.

C. “RPD” may be embroidered in block letters with 20mm gold thread matching that of the Police patch border at the employee’s cost.

D. Mock neck shirts are not provided by the department.

PINS AND AWARD BARS

A. Wearing of pins and award bars is mandatory for the Class A uniform. It is optional for the Class B or C uniform.

B. The employee must be authorized to wear the pin or award bars.

C. Unit and Team pins are authorized for current members.

D. Past Unit/Team members may wear the Unit/Team pin at their discretion with the approval of the Current Unit/Team commander.

E. Only the pins authorized in this policy shall be worn with the uniform. New pins shall be approved by the Training Division/Uniform Committee, who shall then bring them to RPD Administration for final approval.

F. Authorized pins/bars:

1. American Flag

American Flag pins are placed centered alone and on top of all award/unit pins.

- Shall be worn on the uniform shirt, jacket, sweater, or external vest carrier.
- 3/8" x 1 3/8" in size when worn with slide bar
- Centered 1/4" above the name plate or award ribbons, whichever is higher or integrated into slide bars.
- American Flag patches are no longer issued on uniform shirts.
- If an Officer wears a uniform with an American flag patch, no pins other than name plate and rapport pins shall be worn.

2. Unit/Team Pins

Unit/Team pins are displayed at the discretion of the Officer and there is no order of importance.

3/8"x 1 3/8" in size

- Crisis Intervention Team (CIT)
- Honor Guard
- ERU
- Negotiator
- K9
- DRE
- Crime Scene
- Training Officer
- Instructor
- Peer Support
- Issued Officer Memorial pins. May be worn for a period of one year from the date authorized by the Chief of Police.
- Specialty pins authorized by the Chief of Police

3. CIT and Military Service Rapport pins:

Circular CIT and military service pins 1" inch in diameter or bar pins are authorized on the Class B or C uniform, only one type of rapport pin will be displayed.

- a. The pins may be displayed on the outermost garment, either jacket or shirt.
 - i. Circular pins shall be centered on the right-hand breast pocket, between the lower edge of the pocket flap and below the top pocket seam. When wearing both the CIT and military service pins, they shall be centered between the button and edges of pocket.
 - ii. Bar pins will be integrated in the awards/unit bars 1/4" above the nameplate.
- b. When wearing an RPD authorized sweater, the pin shall be centered approximately 1 1/2 inches below the name tag.
- c. When wearing the Class A uniform, CIT and Military Service bars will be integrated into the awards/unit bars and not on the pocket flap.
- d. Circular CIT/military service rapport pins are not authorized on the Class A uniform.

- e. Plainclothes officers may wear the pins as a lapel pin or tie tack.

G. Placement of Commendation/Award Bars:

1. Bars shall be centered and placed ¼" inch above the uniform name plate on the right breast.
2. If more than one bar is worn, additional bars shall be placed on the uniform shirt in a horizontal row, with no more than two bars in a row. No more than 8 bars are authorized, not including the American flag pin.
3. The highest Department award earned shall always be worn highest and closest to the center of the uniform.
4. In descending precedence, awards shall be worn highest to lowest and center to outward.
5. Award pins are worn in a position of higher importance than Unit or military service pins.
6. Order of precedence of award pins:
 - a. Medal of Valor
 - b. Life Saving award
 - c. Commendation award
 - d. FBI NA
 - e. Command College
 - f. SPI
 - g. Awards issued by different agencies
7. If three, five, or seven bars are worn, the highest award earned shall be worn centered as the top row.
8. If multiple uniform bars are attached to a holder, the holder must not be visible on the exterior of the uniform shirt.
9. Employees who receive more than one award in any category will receive a bar with an engraving corresponding to the number of awards received in that category.

SERVICE HASH MARKS

- A. Service Hash Marks are authorized to be worn on the Class A uniform only at the completion of four years of continuous service with the RPD. Each Hash Mark designates a four-year increment of continuous service with RPD.

- B. Service Hash Marks are mandatory for the rank of sergeant and above, but are optional for Officers. RPD will pay for the expense associated with the purchase and affixing of service hash marks.
 - 1. Service Hash Marks shall be worn as follows:
 - a. Vertical on the left sleeve of the long-sleeve shirt.

 - b. The first Service Hash Mark shall be attached $\frac{3}{4}$ " up from the top of the sleeve cuff and $\frac{3}{4}$ " from the sleeve gauntlet. Subsequent Hash Marks shall extend vertically up towards the elbow.
 - i. Two or more Service Hash Marks shall be one continuous strip (not added one by one).

 - ii. Service Hash Marks worn shall be deluxe cloth material with royal blue outlined in gold on black.

 - iii. Service Hash Marks shall be available only through Police Administration.

RANK INSIGNIA

- A. Sergeant Insignia
 - 1. It is mandatory that Sergeants wear sleeve Sergeant chevrons on class A-C uniforms.

 - 2. All sergeants shall have triple chevrons sewn on both sleeves of all uniform shirts, sweaters, and jackets.

3. Triple chevrons shall be worn as follows:

- a. The triple chevrons shall be centered $\frac{1}{4}$ inch below the bottom edge of the RPD patch. If short sleeves are not long enough to accommodate the above specifications, all patches may be moved upwards decreasing the required $\frac{3}{4}$ inch from the top of the sleeve to the top of the RPD patch.
- b. The required distance between the patches and chevrons must always be maintained.
- c. Sergeant triple chevrons shall be deluxe cloth material with royal blue stripes outlined in gold on black. Chevrons shall be $3\frac{1}{2}$ inches wide and $3\frac{3}{4}$ inches in length.
- d. Sergeant collar brass is mandatory on the Class A uniform and for temporary wear on the Class B and C uniforms for newly promoted Sergeants.

B. Lieutenant Insignia

Lieutenants shall have one gold-colored bar affixed to each collar of the uniform garments. The bar shall be worn in a vertical position and centered between the top and bottom edge of the collar. The front edge of the bar shall be $\frac{1}{2}$ inch from, and parallel with, the front edge of the collar.

C. Captain Insignia

1. Captains shall have two gold-colored bars affixed to each collar of the uniform garments. The bar shall be worn in a vertical position and centered between the top and bottom edge of the collar. The front edge of the bar shall be $\frac{1}{2}$ inch from, and parallel with, the front edge of the collar.
2. On the Class 'A' Uniform dress coat the Captain insignia shall be worn centered on the shoulder epaulet centered on the cross stitched section of the epaulet near the transition line from the shoulder to sleeve. On the wrist of each sleeve there

shall be one thick gold stripes. On the lapels of the coat there shall be a gold wreath encircling the word "Captain."

D. Chief of Police Insignia

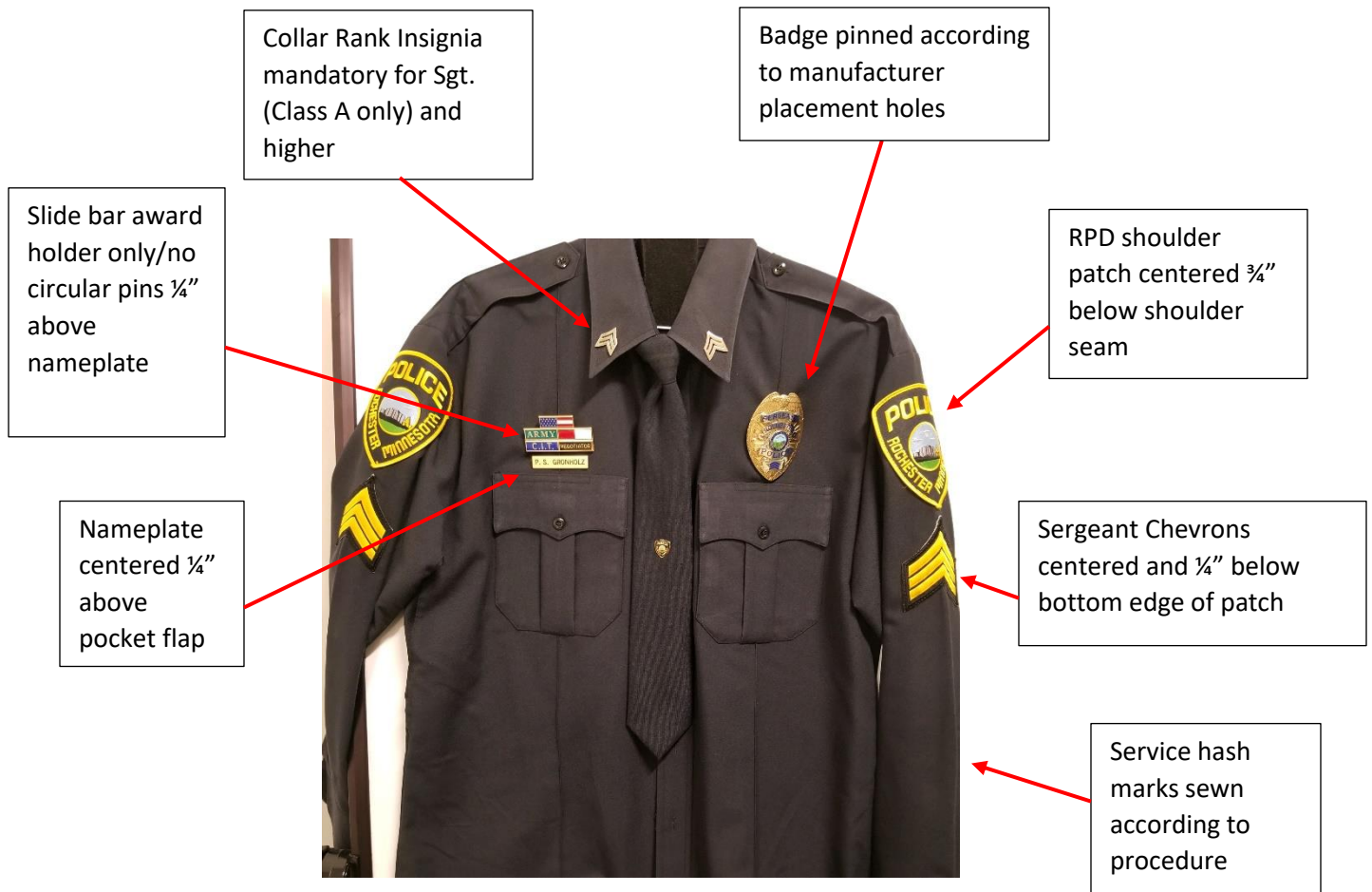
1. The Chief shall have two gold-colored stars affixed to each collar of uniform garments. The stars shall be worn centered between the top and bottom edges of the collar ½ inch from the front edge.

2. On the Class 'A' Uniform dress coat the stars shall be worn centered on the shoulder epaulet centered on the cross stitched section of the epaulet near the transition line from the shoulder to sleeve. On the wrist of each sleeve there shall be one thick gold stripe, two narrow gold stripes and one gold star. On the lapels of the coat there shall be a gold wreath encircling the word "Chief."

E. Master Patrol Officer Insignia

Officers attaining the Master Patrol Officer designation shall wear double chevron rank insignia on each collar of the uniform garments.

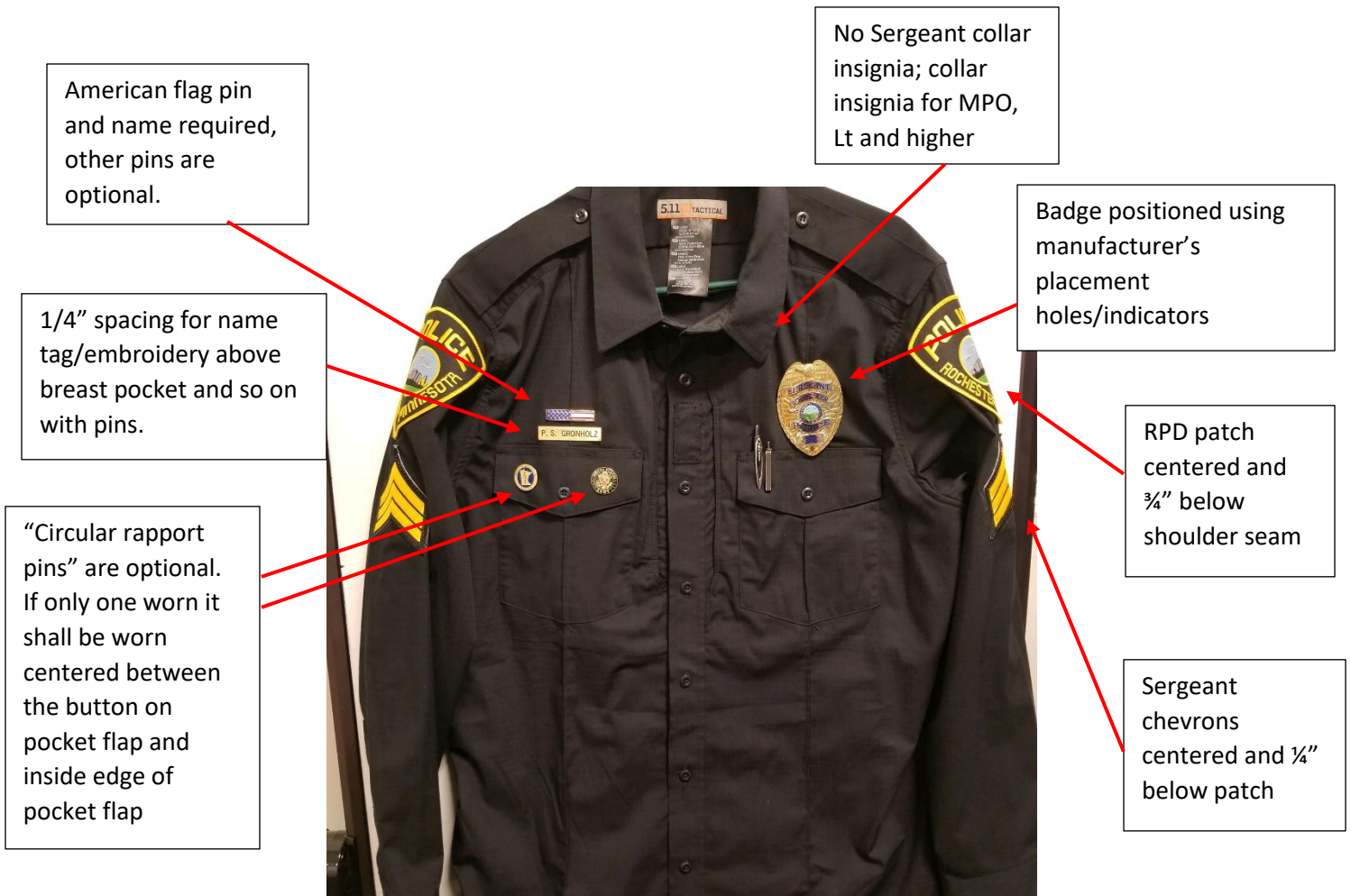
Class "A" Uniform Top



1. No circular rapport (CIT or Military) pins on pocket flaps
2. Elbeco Distinction uniform ONLY (no 5.11's, etc.).
3. Clean, pressed and orderly.
4. Tie must be worn.

*Refer to Uniform Policy 1024.2 for further information.

Class "B" Uniform Top



1. Any "non-Class A" uniform top is authorized (top must match bottom i.e.: rip stop top & rip stop bottom, etc.).
2. Names may be embroidered, First initial, (middle initial optional), Full Last name
3. Award/Unit pins are optional. If wearing more than award/unit pin, pins shall be worn in slide bar fashion.
4. No tie.
5. Outer vest carrier is not authorized.

* Refer to Uniform Policy 1024.2 for further information.

Class “C” Uniform Top/External Vest Carrier

Award/Unit Pins are stacked and optional with the exception of the American flag pin.

Name tag is 1/4” above pocket flap, or affixed to manufacturer’s supplied location. Pins are 1/4” above name tag.

Circular “rapport” pins are optional.



1. Only Name tag and flag are required (other pins are optional).
2. Circular pins are optional on breast pocket flap.
3. External vest carrier is authorized for Class C Uniform only.
4. Uniform top must match bottom (Same brand/style uniform).
5. Sewn/velcro name tape in place of name tag is authorized, name tapes provided by Training.

* Refer to Uniform Policy 1024.2 for further information.

DrugAlcoholPolicy.pdf

Drug and Alcohol Policy

Purpose

The City of Rochester has a vital interest in maintaining safe, healthful, and efficient working conditions for its employees. Alcohol and drug use pose recognized threats to an individual's personal safety and health as well as to the safety and health of others. In addition, alcohol and drug use can impair work performance, increase accidents, workers' compensation and insurance claims, and may result in workplace misconduct.

Policy Scope

This policy applies to all City employees and job applicants who do not require a commercial driver's license as part of their position. Employees and job applicants who do possess a CDL must adhere to the requirements of Drug and Alcohol-Free Workplace, as described within this policy, and are subject to other policy provisions when not performing safety sensitive functions as part of their position. For the purposes of this policy, "job applicant" includes a person who has received a job offer made contingent on the person passing drug or alcohol testing. City employees and job applicants required to hold a commercial driver's license by the United States Department of Transportation ("DOT") for their job will be tested under the City's *DOT Drug and Alcohol Policy*.

In compliance with state law, all employees and job applicants must review this policy and sign the "policy acknowledgement" form.

Drug and Alcohol-Free Workplace

Use and Possession of Alcohol or Drug(s)

Employees are prohibited from the use, possession, transfer, transportation, manufacture, distribution, sale, purchase, solicitation to sell or purchase, or dispensation of alcohol, drugs, or drug paraphernalia while on duty; on City premises; while operating any City vehicle, machinery, or equipment; or when performing any City business, except (1) pursuant to a valid medical prescription used as properly instructed; (2) the use of over-the-counter controlled substance used as intended by the manufacturer; or (3) when necessary for approved law enforcement activity.

The City also prohibits the use, possession of, impairment by any cannabis or medical cannabis products (e.g., hash oils or pills) on the worksite by a person working as an employee at the City or while "on call" and subject to return to work. In accordance with federal law, there is no acceptable concentration of marijuana metabolites in the blood or urine of an employee who performs work on behalf of the City. Therefore, having a medical marijuana card, patient registry number, and/or cannabis prescription from a physician does not allow employees to use, possess, or be impaired while performing work for the City.

Applicants and employees are still subject to being tested under this drug and alcohol testing policy. Employees who test positive for cannabis are subject to corrective discipline up to and including the termination of employment, if the employee used, possessed, or was impaired by cannabis, including medical cannabis, while on the premises of the place of employment or during the hours of employment.

While Impaired of Alcohol or Drug(s)

Employees are prohibited from being under the influence of alcohol or drugs or having a detectable amount of an illegal drug in the blood or urine in all of the following circumstances: (1) when reporting for work; (2) while on duty; (3) while on the City's premises; (4) while operating any city vehicle, machinery, or equipment;

or (5) when performing any City business. Exceptions may exist (1) pursuant to a valid medical prescription used as properly instructed; or (2) the use of over-the-counter controlled substance used as intended by the manufacturer.

Driving While Impaired

A conviction of driving while impaired in a City-owned vehicle or in an employee-owned vehicle while conducting city business, may result in discipline, up to and including discharge.

Criminal Controlled Substance Convictions

Pursuant to the requirements of the Drug-Free Workplace Act of 1988, employees convicted of violating any criminal drug statute while working must notify their supervisor and the City's Human Resources Department in writing no later than five days after such conviction. Within 30 days after receiving notice from an employee of a controlled substance-related conviction, the City will take appropriate personnel action against the employee up to and including discharge or require the employee to satisfactorily participate in a controlled substance abuse assistance or rehabilitation program as an alternative to termination. In the event notice is not provided to the supervisor, and the employee is deemed to be incapable of working safely, the employee will not be permitted to work and will be subject to disciplinary action, including termination of employment.

Failure to Disclose Lawful Controlled Substance

Employees taking a lawful controlled substance, including prescription and over-the-counter controlled substances, which may impair their ability to perform their job responsibilities or pose a safety risk to themselves or others, must advise their supervisor of this before beginning work. It is the employee's responsibility to seek out written information from their health care provider regarding all medication(s) they are taking and report any job performance impairment effects to their supervisor. In the event of such a disclosure, the employee will not be authorized to perform safety-sensitive functions.

Testing Requirements

Under this policy, the City may test any applicant, including applicants for temporary and seasonal positions, to whom an offer of employment has been made and may test any employee for alcohol and/or controlled substance under any of the following circumstances with a properly accredited or licensed testing laboratory, in accordance with Minn. Stat. § 181.953, subd. 1.

(1) Pre-employment Testing

The City may require a job applicant to undergo drug testing after a job offer has been made to the job applicant where the same test is required of all job applicants conditionally offered employment for that position. The job offer is conditioned upon successful completion of a drug test, among other conditions. If the job offer is withdrawn based on drug test results, the City will inform the applicant of the reasons for the withdrawal. A failure of the drug test, a refusal to take the test, or failure to meet other conditions of the offer will result in a withdrawal of the offer of employment even if the applicant's provisional employment has begun. A negative or positive dilute test result (following a second collection), which has been confirmed, will also result in immediate withdrawal of an offer of employment to an applicant.

(2) Reasonable Suspicion Testing

Consistent with Minn. Stat. § 181.951, subd. 3, employees will be subject to alcohol and controlled substance testing when reasonable suspicion exists to believe that the employee:

- Is under the influence of alcohol or a controlled substance; or

- Has violated written work rules prohibiting the use, possession, sale or transfer of drugs or alcohol while working, while on city property, or while operating city vehicles, machinery or any other type of equipment; or
- Has sustained a personal injury as defined in Minn. Stat. § 176.011, subd. 16 or has caused another employee to sustain an injury or;
- Has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

Reasonable suspicion may be based upon, but is not limited to, facts regarding appearance, behavior, speech, breath, odor, possession, proximity to or use of alcohol or a controlled substance or containers or paraphernalia, poor safety record, excessive absenteeism, impairment of job performance, or any other circumstances that would cause a reasonable employer to believe that a violation of the city's policies concerning alcohol or drugs may have occurred. Supervisors are encouraged to document their observations using the Reasonable Suspicion Record Form and contact their HR Business Partner.

In reasonable suspicion cases, employees will be driven to the employer-approved medical facility by their supervisor or a designee.

(3) Treatment Program Testing

In accordance with Minn. Stat. § 181.951, subd. 6., the City may require an employee to undergo drug and alcohol testing if the employee has been referred by the City for chemical dependency treatment or evaluation or is participating in a chemical dependency treatment program under an employee benefit plan. In such a case, the employee may be required to undergo drug or alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed chemical dependency treatment program.

Testing Considerations

Procedure for Testing

Before requesting an employee or job applicant to undergo drug or alcohol testing, the City shall provide the individual with a form on which to:

- (a) acknowledge that the individual has seen a copy of the City's drug and alcohol testing policy
- (b) indicate consent to undergo the drug and alcohol testing

Right of Refusal

Employees and job applicants have the right to refuse to submit to an alcohol or drug test under this policy. However, such a refusal will subject an employee to immediate termination. If the job applicant refuses to submit to applicant testing, any conditional offer of employment will be withdrawn.

Any intentional act or omission by the employee or job applicant that prevents the completion of the testing process constitutes a refusal to test.

A job applicant or employee who substitutes, or attempts to substitute, or alters, or attempts to alter a testing sample is considered to have refused to take a drug and/or alcohol test. In such a case, the employee is subject to immediate termination of employment, and in the case of a job applicant, the job offer will be immediately withdrawn.

Refusal on Religious Grounds

An employee or job applicant who, on religious grounds, refuses to undergo drug or alcohol testing of a blood sample will not be considered to have refused testing, unless the employee or job applicant also refuses to undergo drug or alcohol testing of a urine sample.

Cost of Required Testing

The City will pay for the cost of all required drug and alcohol testing for job applicants and employees, except for confirmatory retests in which case, the job applicant or employee is responsible for all associated costs.

Test Results

Notification of Negative Test Results

In accordance with Minn. Stat. § 181.953, Human Resources will notify a job applicant or employee of a negative drug and/or alcohol test result within three days of receipt of result by the City. In accordance with Minn. Stat. § 181.953, subd. 3, a laboratory must report results to the City within three working days of the confirmatory test result. A “Negative Test Results Notification” form will be sent to the job applicant or employee, and the employee or job applicant may request a copy of the test result report from Human Resources.

Notification of Positive Test Results

In the event of a confirmed positive alcohol and/or drug test result, the City will notify the job applicant employee of a positive drug and/or alcohol result within three days of receipt of the result. Human Resources will send a “Positive Test Results Notification” letter to the employee or job applicant containing further instructions. The employee or job applicant may contact Human Resources to request a copy of the test result report if desired. In accordance with Minn. Stat. § 181.953, subd. 3, a laboratory must report results to the City within three working days of the confirmatory test result.

Right to Provide Information after Receiving Test Results

Within three working days after notice of a positive controlled substance or alcohol test result on a confirmatory test, the employee or job applicant may submit information to the City to explain the positive result. In accordance with Minn. Stat. § 181.953, subd. 10, if an employee or applicant submits explanatory information prior to a test, or within three working days after a positive test result, the City will consider such information prior to taking any adverse employment action.

Right to Confirmatory Retest

A job applicant or employee may request a confirmatory retest of the original sample at their own expense after notice of a positive test result on a confirmatory test. Within five working days after notice of the confirmatory test result, the job applicant or employee must notify the City in writing of their intention to obtain a confirmatory retest. Within three working days after receipt of the notice, the City will notify the original testing laboratory that the job applicant or employee has requested the laboratory to conduct the confirmatory retest or transfer the sample to another qualified laboratory licensed to conduct the confirmatory retest. The confirmatory retest will use the same controlled substance and/or alcohol threshold detection levels as used in the original confirmatory test.

In the case of job applicants, if the confirmatory retest does not confirm the original positive test result, the City’s job offer will be reinstated, and the City will reimburse the job applicant for the actual cost of the confirmatory retest. In the case of employees, if the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test will be taken against the employee, the employee will be reinstated with any lost wages or salary for time lost pending the outcome of the confirmatory retest result, and the City will reimburse the employee for the actual cost of the confirmatory retest.

Access to Reports

In accordance with Minn. Stat. § 181.953, subd. 10, an employee will have access to information contained in their personnel file relating to positive test results and to the testing process.

Dilute Specimens

The City will follow guidance from their Medical Review Officer (MRO) regarding tests identified as dilute.

Consequences for Employees Engaging in Prohibited Conduct

Job Applicants

The City's conditional offer of employment will be withdrawn from any job applicant who refuses to be tested or tests positive for illegal drugs as verified by a confirmatory test.

Employees

The City will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee based on a positive test result from an initial screening test that has not been verified by a confirmatory test. The City may however, place an employee on administrative leave, or transfer that employee to another position at the same rate of pay pending the outcome of the requested confirmatory retest, provided the City believes that it is reasonably necessary to protect the health or safety of the employee, co-employees, or the public. The employee will be asked to return home and will be provided appropriate arrangements for return transportation to their residence.

The City will not discharge an employee for a first confirmatory positive test until the employee has been given an opportunity to participate in either a drug or alcohol counseling or rehabilitation program, as determined by the City after consultation with a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency. Participation by the employee in any recommended substance abuse treatment program will be at the employee's own expense or pursuant to the coverage under an employee benefit plan. The certified chemical use counselor or physician trained in the diagnoses and treatment of chemical dependency will determine if the employee has followed the rehabilitation program as prescribed.

Should the employee refuse to participate in the counseling or rehabilitation program, or fail to successfully complete the program¹, the employee will be terminated immediately.

Other Misconduct

Nothing in this policy limits the right of the City to discipline or terminate an employee on grounds other than a positive confirmatory test result. This includes, but is not limited to, the conviction of any criminal drug statute for a violation occurring in the workplace or violation of other city personnel policies.

Emergency Call Back to Work Provisions

If an employee is called back to work and is under the influence of drugs and/or alcohol, they must notify their supervisor and not report to work.

Non-Discrimination

¹ Failure to successfully complete the program is evidenced by withdrawal from the program before its completion or by a refusal to test or positive test result on a confirmatory test after completion of the program.

The City of Rochester policy on work-related substance abuse is non-discriminatory in intent and application; however, in accordance with Minn. Stat., ch. 363, disability does not include conditions resulting from alcohol or other drug abuse which prevents an employee from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of individuals.

The City will not retaliate against any employee for asserting his or her rights under this policy.

City's Employee Assistance Program

The City has a formal employee assistance program (EAP) to assist employees in addressing serious personal or work-related problems at any time. The City's EAP provides confidential, cost-free, short-term counseling to employees and their families. Employees who may have an alcohol or other drug abuse problem are encouraged to seek assistance before a problem interferes with their employment with the City.

Definitions

Alcohol: Means the intoxicating agent in beverage alcohol or any low molecular weight alcohols such as ethyl, methyl, or isopropyl alcohol. The term includes but is not limited to beer, wine, spirits, and medications such as cough syrup that contain alcohol.

Alcohol use or usage: Means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

City: Means the City of Rochester.

City premises: Means, but is not limited to, all City job sites and work areas. For the purposes of this policy, city premises also includes any other locations or modes of transportation to and from those locations while in the course and scope of employment of the City.

City vehicle: Means any vehicle which employees are authorized to use solely for City business when used at any time; or any vehicle owned or leased by the City when used for City business.

Collection site: Means a place designated by the City where job applicants and employees present themselves for the purpose of providing a specimen of their breath, urine, and/or blood to be analyzed for the presence of controlled substances and alcohol.

Confirmatory test: Means a controlled substance or alcohol test on a sample to substantiate the results of a prior controlled substance or alcohol test on the same sample, and that uses a method of analysis allowed under one of the programs listed in Minn. Stat. § 181.953, subd. 1.

Drug: Has the same meaning as "controlled substance" defined in Minn. Stat. § 152.01, subd. 4.

Drug and alcohol testing, drug or alcohol testing, and drug or alcohol test: Mean analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. § 181.953, subd.1, for the purpose of measuring their presence or absence of drugs, alcohol, or their metabolites in the sample tested.

Drug paraphernalia: Has the meaning set forth in Minn. Stat. § 152.01, subd. 18.

Employee: Means a person who performs services for compensation for the City and includes independent contractors except where specifically noted in this policy.

Federal Agency or Agency: Means any United States executive department, military department, government corporation, government controlled corporation, any other establishment in the executive branch (including the Executive Office of the President), or any independent regulatory agency.

Initial screening test: Means a drug or alcohol test that uses a method of analysis under one of the programs listed in Minn. Stat. § 181.953, subd. 1.

Positive test result: Means a finding of the presence of alcohol, illegal drugs, or their metabolites that exceeds the cutoff levels determined by a licensed, accredited, or certified laboratory in accordance with Minn. Stat. § 181.953, subd. 1.

Reasonable suspicion: Means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.

Safety-sensitive position: Means a job, including any supervisory or management position, in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person.

Under the influence: Means (1) the employee tests positive for alcohol or drugs, or (2) the employee's actions, appearance, speech, and/or bodily odors reasonably cause the City to conclude that the employee is impaired because of illegal drug use or alcohol use.

Contact for Additional Information

Policy questions or requests for additional information on the City's drug and alcohol testing procedures should be directed to a City supervisor or to the Human Resources Department.

Policy revisions approved by City Administrator:



Alison Zelms

02/25/2021

Date

Current Revision: February 2021
Adopted: May 2008

**MN POST Professional Conduct of
Peace Officers Model Policy.pdf**

PROFESSIONAL CONDUCT OF PEACE OFFICERS MODEL POLICY
MN STAT 626.8457

I. POLICY

It is the policy of the _____ (law enforcement agency) to investigate circumstances that suggest an officer has engaged in unbecoming conduct, and impose disciplinary action when appropriate.

II. PROCEDURE

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

A. PRINCIPLE ONE

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

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

2. Rules

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

B. PRINCIPLE TWO

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

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

2. Rules

- a) Peace officers shall carry out their duties with integrity, fairness and impartiality.

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

C. PRINCIPLE THREE

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

1. **Rationale:** Law enforcement effectiveness requires public trust and confidence. Diverse communities must have faith in the fairness and impartiality of their police. Peace officers must refrain from fostering disharmony in their communities based upon diversity and perform their duties without regard to race, color, creed, religion, national origin, gender, marital status, or status with regard to public assistance, disability, sexual orientation or age.
2. **Rules**
 - a) Peace officers shall provide every person in our society with professional, effective and efficient law enforcement services.
 - b) Peace officers shall not allow their law enforcement decisions to be influenced by race, color, creed, religion, national origin, gender, marital status, or status with regard to public assistance, disability, sexual orientation or age.

D. PRINCIPLE FOUR

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

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

- a) Peace officers shall not consume alcoholic beverages or chemical substances while on duty except as permitted in the performance of official duties, and under no circumstances while in uniform, except as provided for in **c**).
- b) Peace officers shall not consume alcoholic beverages to the extent the officer would be rendered unfit for the officer's next scheduled shift. A peace officer shall not report for work with the odor of an alcoholic beverage on the officer's breath.
- c) Peace officers shall not use narcotics, hallucinogens, or other controlled substances except when legally prescribed. When medications are prescribed, the officer shall inquire of the prescribing physician whether the medication will impair the officer in the performance of the officer's duties. The officer shall immediately notify the officer's supervisor if a prescribed medication is likely to impair the officer's performance during the officer's next scheduled shift.
- d) Peace officers, whether on or off duty, shall not engage in any conduct which the officer knows, or should reasonably know, constitutes sexual harassment as defined under Minnesota law, including but not limited to; making unwelcome sexual advances, requesting sexual favors, engaging in sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature.
- e) Peace officers shall not commit any acts which constitute sexual assault or indecent exposure as defined under Minnesota law. Sexual assault does not include a frisk or other search done in accordance with proper police procedures.
- f) Peace officers shall not commit any acts which, as defined under Minnesota law, constitute (1) domestic abuse, or (2) the violation of a court order restraining the officer from committing an act of domestic abuse or harassment, having contact with the petitioner, or excluding the peace officer from the petitioner's home or workplace.
- g) Peace officers, in the course of performing their duties, shall not engage in any sexual contact or conduct constituting lewd behavior including but not limited to, showering or receiving a massage in the nude, exposing themselves, or making physical contact with the nude or partially nude body of any person, except as pursuant to a written policy of the agency.
- h) Peace officers shall avoid regular personal associations with persons who are known to engage in criminal activity where such associations will undermine the public trust and confidence in the officer or agency. This rule does not prohibit those associations that are necessary to the performance of official duties or where such associations are unavoidable because of the officer's personal or family relationships.

E. PRINCIPLE FIVE

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

1. **Rationale:** Peace officers are the most visible form of local government. Therefore, peace officers must make a positive impression when interacting with the public and each other.
2. **Rules**
 - a) Peace officers shall exercise reasonable courtesy in their dealings with the public, other officers, superiors and subordinates.

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

F. PRINCIPLE SIX

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

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

2. Rules

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

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

G. PRINCIPLE SEVEN

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

1. **Rationale:** For the public to maintain its faith in the integrity and impartiality of peace officers and their agencies officers must avoid taking or influencing official actions

where those actions would or could conflict with the officer's appropriate responsibilities.

2. Rules

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

H. PRINCIPLE EIGHT

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

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

2. Rules

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

I. APPLICATION

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

DressStandards.pdf

CITY OF ROCHESTER ORGANIZATIONAL POLICY

DRESS STANDARDS AND CITY-FUNDED CLOTHING

Purpose

The City of Rochester promotes professionalism in employee appearance while maintaining consistent standards of appropriate dress and parameters for City-funded clothing purchases.

Dress Standards

Employees are expected to use good judgment in selecting appropriate work attire. While the intent of this policy is not to prescribe specific dress requirements for employees, it is important to identify attire that is not acceptable for work. Examples of inappropriate dress include, but are not limited to:

1. Clothing that contains inappropriate, profane, and/or offensive logos or sayings
2. Clothing that is too revealing and/or exposes an employee's midsection, bottom, or cleavage.
3. Clothing that presents a safety hazard in the employee's position
4. Generally, jeans, shorts, and tennis shoes are not acceptable work attire in an office setting. Jeans without rips, tears, or holes and tennis shoes may be worn on casual Fridays or other special dress days/events, as communicated by the City. Employees who perform field work in combination with office work should dress appropriately for the work being performed each day.

Unless otherwise provided within department procedure or under collective bargaining agreement, employees working in an office environment should maintain a *Business Casual* standard of dress.

City-Funded Clothing

In compliance with state requirements for valid public expenditures, City-funded clothing will be issued only when provided under a collective bargaining agreement, safety program, or described within this policy.

In certain cases where clothing is not otherwise provided for through agreement or program, but there is a benefit to the City for having employees display a City logo and/or promote a City-sponsored event, the City may allow for the following:

Marketing

Departments may choose to purchase and issue clothing to employees for the purpose of marketing or working at a City-sponsored event or program. For the purpose of this policy, marketing is limited to events, programs, or initiatives that have a specific duration. Clothing provided for the purpose of marketing or working at a City-sponsored event or program would generally include a t-shirt or polo shirt. Employees may keep City-provided clothing that has a limited purpose and is not reusable.

Display City Logo

- a. If employees are required to enter private or commercial properties as a regular part of their job duties, clothing displaying a City logo will be provided to employees for identification purposes.
- b. In cases that do not meet the first criteria, departments may also choose to pay for the application of a City logo to employee-purchased clothing. The logo applied to clothing articles must be those that

CITY OF ROCHESTER ORGANIZATIONAL POLICY

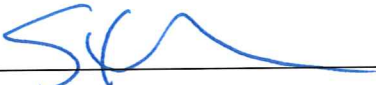
have been officially approved by the Department Head and the City Communication Department Head.

Employees are required to exercise good judgment and professionalism when wearing clothing that displays a City or department logo, whether City-funded or employee-purchased, outside of normal work hours.

City employees may not accept "samples" of clothing, safety equipment, boots, shoes, or other articles. Any such items offered or provided must either be declined, returned to the vendor, or paid for at full price.

Policy Created February 4, 2019

New policy approved by City Administrator:



Steve Rymer

May 31, 2019 _____

RPD TEMPORARY HOLDING AREA PROCEDURE.pdf

ROCHESTER POLICE DEPARTMENT SECURE DETENTION PROCEDURE

EFFECTIVE DATE: 12/9/22

SUBJECT: TEMPORARY HOLDING AREA OPERATION MANUAL

The Rochester Police Department Temporary Holding Area Operation Manual, which was promulgated consistent with Chapter 2945 of the Minnesota Code of Regulations, Department of Corrections, Municipal Jail Facilities and other statutes and regulations applicable thereto shall determine the procedural and operational standards applicable to the operation of the City of Rochester Level IV Municipal Holding Facility. The following statements are derived from that source and are restated here to assure broad publication:

Delegation of Authority:

1. The Patrol Captain shall be the administrator of the secure detention facility.
2. A Patrol Division Supervisor shall be the staff person in charge of the temporary holding area when detainees are present.
3. The Arresting/Transporting Officer, or Sworn Police Officer designee, shall perform all duties necessary to supervise and administer the municipal holding facility while a detainee is present.

Temporary Holding Area Security:

Due to the obvious threat to our officers' safety and in an effort to have a standard for detainee searches, the following procedures will be in effect:

1. All prisoners will be searched by a Sworn Police Officer prior to transport to our facility.
2. Upon arrival at our facility, a Sworn Police Officer will search the detainee and **all property shall be removed and secured** in the booking desk cabinet.
3. Detainees must be thoroughly searched for weapons or other contraband upon entering the temporary holding area and no detainee shall be placed in an interview room without first having been thoroughly searched. Female detainees will be searched by a female officer. If no female officers are available, a limited search can be done and shall be witnessed by another officer. Prior to being placed in a holding room, the arresting or transporting officer will search the prisoner with another Officer present.
4. The individual shall constantly be monitored by an audio/video system during the entire custody.
5. Detainees shall not be left unattended in the temporary holding area at any time.
6. The individual shall have constant auditory access to department members.
7. Whenever a detainee who is being held in our facility is removed from an interview room, the prisoner shall be searched prior to being placed back in the interview room.

8. Transporting/Arresting Officers will remain in the holding facility with the detainee unless properly relieved by another Officer.
9. 2 Sworn Police Officers must be present in the holding facility at all times when detainees are being held in the facility.
10. A detainee that is brought into the holding facility by another agency for the purpose of a DMT test will be searched by that officer in the presence of the RPD Officer in charge of the temporary holding area.
11. That detainee will not be left unattended by that agency or held in our facility except to use the temporary holding area bathroom.
12. Detainees may only be held for up to 4 hours.
13. Only sworn personnel will be allowed into the holding facility when detainees are present.
 - a. Non-sworn personnel needed to perform duties in the holding facility with a detainee present will contact the Secure Detention Officer prior to entering the facility.
 - b. Public tours will not be conducted within the holding facility when detainees are present.

Confidential Informants Model Policy .pdf

CONFIDENTIAL INFORMANTS MODEL POLICY

MN STAT 626.8476

I. POLICY

It is the policy of the (**law enforcement agency**) to establish procedures and protocols that take necessary precautions concerning the recruitment, control and use of confidential informants.

II. DEFINITIONS

- A. Confidential Informant (CI):** A person who cooperates with a law enforcement agency confidentially in order to protect the person or the agency's intelligence gathering or investigative efforts and;
1. seeks to avoid arrest or prosecution for a crime, mitigate punishment for a crime in which a sentence will be or has been imposed, or receive a monetary or other benefit; and
 2. is able, by reason of the person's familiarity or close association with suspected criminals, to:
 - i. make a controlled buy or controlled sale of contraband, controlled substance, or other items that are material to a criminal investigation;
 - ii. supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or
 - iii. otherwise provide information important to ongoing criminal intelligence gathering or criminal investigative efforts.
- B. Controlled Buy:** means the purchase of contraband, controlled substances, or other items that are material to a criminal investigation from a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.
- C. Controlled Sale:** means the sale of contraband, controlled substances, or other items that are material to a criminal investigation to a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.
- D. Mental Harm:** means a psychological injury that is not necessarily permanent but results in visibly demonstrable manifestations of a disorder of thought or mood that impairs a person's judgment or behavior.
- E. Target Offender:** means the person suspected by law enforcement personnel to be implicated in criminal acts by the activities of a confidential informant.
- F. Confidential Informant File:** means a file maintained to document all information that pertains to a confidential informant.
- G. Unreliable Informant File:** means a file containing information pertaining to an individual who has failed at following an established written confidential informant agreement and has been determined to be generally unfit to serve as a confidential informant.
- H. Compelling Public Interest:** means, for purposes of this policy, situations in which failure to act would result or likely result in loss of life, serious injury, or have some serious negative consequence for persons, property, or public safety and therefore demand action.
- I. Overseeing agent:** means the officer primarily responsible for supervision and management of a confidential informant.

III. PROCEDURES

A. Initial Suitability Determination

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

1. An officer requesting use of an individual as a CI must complete an Initial Suitability Report. The report must be submitted to the appropriate individual or entity, as determined by the agency chief executive, to review for potential selection as a CI. The report must include sufficient detail regarding the risks and benefits of using the individual so that a sound determination can be made. The following information must be addressed in the report, where applicable:
 - a. Age, sex, and residence
 - b. Employment status or occupation
 - c. Affiliation with legitimate businesses and illegal or suspicious enterprises
 - d. Extent to which potential information, associations, or other assistance could benefit a present or future investigation
 - e. Relationship with the target of an investigation
 - f. Motivation in providing information or assistance
 - g. Risk of adversely affecting an existing or future investigation
 - h. Extent to which provided information can be corroborated
 - i. Prior record as a witness
 - j. Criminal history, to include whether he or she is the subject of a pending investigation, is under arrest, or has been charged with a crime
 - k. Risk to the public or as a flight risk
 - l. Consultation with the individual's probation, parole, or supervised release agent, if any
 - m. Consideration and documentation of the individual's diagnosis of mental illness, substance use disorder, traumatic brain injury, or disability; and consideration and documentation of the individual's history of mental illness, substance use disorder, traumatic brain injury or disability
 - n. Relationship to anyone in law enforcement
 - o. Risk of physical harm to the potential CI or their immediate family or relatives for cooperating with law enforcement
 - p. Prior or current service as a CI with this or another law enforcement organization
2. Prior to an individual's use as a CI, a supervisor or other designated authority must review the Initial Suitability Report and determine if the individual is authorized to serve as a CI.
3. Any prospective or current CI must be excluded from engaging in a controlled buy or sale of a controlled substance if the prospective or current CI:
 - a. is receiving in-patient treatment or partial-hospitalization treatment administered by a licensed service provider for a substance use disorder or mental illness; or
 - b. is participating in a treatment-based drug court program or treatment court; except that
 - c. the prospective or current CI may provide confidential information while receiving treatment, participating in a treatment-based drug court program or treatment court.

4. Documentation and special consideration must be made of the risks involved in engaging a prospective or current CI in the controlled buy or sale of a controlled substance if the individual is known, or has reported, to have experienced a drug overdose in the previous 12 months.
5. Any prospective or current CI who is known to abuse substances, or is at risk for abusing substances, should be provided referral to prevention or treatment services.
6. Any prospective or current CI that has a physical or mental illness that impairs the ability of the individual to understand instructions and make informed decisions should be referred to a mental health professional or other appropriate medical professional, or a case manager/social worker from the county social services agency, or other substance abuse and mental health services.
7. Each CI's suitability must be reviewed every 6 months, at a minimum, during which time the CI's overseeing agent must submit a Continuing Suitability Report addressing the foregoing issues in III.A.1.a-p, and III.A.3-6, where applicable. An initial suitability determination must be conducted on a reactivated CI regardless of the length of inactivity.
8. Any information that may negatively affect a CI's suitability during the course of their use must be documented in the CI's file and forwarded to the appropriate authorized personnel as soon as possible.
9. Supervisors must review informant files regularly with the overseeing agent and must attend debriefings of CIs periodically as part of the informant management process. If a CI is active for more than 12 months, a supervisory meeting with the CI must be conducted without the overseeing agent.
10. CI contracts must be terminated, and the CI file placed in inactive status when the CI has not been utilized for 6 months or more.

B. Exigent Confidential Informants

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

C. Special CI Approval Requirements

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

1. Juveniles
 - a. Use of a juvenile under the age of 18 for participating in a controlled buy or sale of a controlled substance or contraband may be undertaken only with the written authorization of the individual's parent(s) or guardian(s), except that the juvenile informant may provide confidential information.

- b. Authorization for such use should be granted only when a compelling public interest can be demonstrated, *except that*
 - c. Juveniles under the guardianship of the State may not be used as a CI.
2. Individuals obligated by legal privilege of confidentiality.
 3. Government officials.

D. General Guidelines for Overseeing CIs

General guidelines for overseeing CIs are as follows:

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

- i. CIs who participate in unplanned or unanticipated activities or meet with a subject(s) under investigation in a location outside of the jurisdictional boundary of the handling agency must promptly report that activity or meeting to their overseeing agents.
9. CI activity outside jurisdictional boundaries:
 - a. Investigators handling CIs who engage in operational activity in locations outside the jurisdictional boundaries of the agency must coordinate with counterparts in law enforcement agencies that have jurisdiction in that location where the CI will operate before any activity occurs, or in a timely manner after unanticipated activity occurs and is brought to the attention of the overseeing agent.
 - b. Any decision to defer or delay notice to or coordinate with an outside agency having jurisdiction in the area where a CI has or may operate must be documented, reviewed, and approved by the agency's chief executive or their designee.
10. Officers must take the utmost care to avoid conveying any confidential investigative information to a CI, such as the identity of other CIs, surveillance activities, or search warrants, other than what is necessary and appropriate for operational purposes.
11. No member of this agency must knowingly maintain a social relationship with a CI, or otherwise become personally involved with a CI beyond actions required in the performance of duty.
12. Members of this agency must not solicit, accept gratuities from, or engage in any private business transaction with a CI.
13. Meetings with a CI must be conducted in private with another officer or agent present and with at least one officer or agent of the same sex, except when not practical. The meeting location should minimize the potential for discovery of the informant's cooperation and provide sufficient space to complete necessary administrative duties. The meetings must be documented and subsequently entered into the individual's CI file.
14. Overseeing agents must develop and follow a communications strategy and plan with the CI that minimizes, to the greatest extent possible, the risk of discovery or compromise of the relationship between the agency and the CI. This plan should also aim to prevent the detection, compromise, or interception of communications between the overseeing agent and the CI.
15. Procedures must be instituted to assist CIs with concealing their identity and maintaining their safety. Care should be given not to expose CIs to unnecessary safety risks.
16. Preceding or following every buy or sale of controlled substances, overseeing agents must screen the CI for any personal safety or mental health concerns, risk of substance abuse, and/or potential relapse in any substance abuse recovery.
 - a. At the request of the CI, or if the overseeing agent deems it necessary, reasonable efforts should be taken to provide the CI with referral to substance abuse and/or mental health services.
 - b. Overseeing agents must document:
 - i. the screening,
 - ii. any referral to services provided to, or requested by, the CI, and
 - iii. any refusal by the CI to participate in the screening and/or any refusal by the CI to accept referral to services. Reasons for the CI's refusal must be documented, where applicable.
 - c. No part of this subsection supersedes MN Stat. 253B.05, sub.2.

17. Reasonable protective measures must be provided for a CI when any member of this agency knows or should have known of a risk or threat of harm to a person serving as a CI and the risk or threat of harm is a result of the informant's service to this agency.
18. Overseeing agents must:
 - a. evaluate and document the criminal history and propensity for violence of target offenders; and
 - b. to the extent allowed, provide this information to the CI if there is a reasonable risk or threat of harm to the CI as a result of the CI's interaction with the target offender.
19. Reasonable efforts and precautions must be made to help protect the identity of a CI during the time the person is acting as an informant.
20. Whenever possible, officers must corroborate information provided by a CI and document efforts to do so.
21. The name of a CI must not be included in an affidavit for a warrant unless judicial authority is obtained to seal the document from the public record or the CI is a subject of the investigation upon which the affidavit is based.
22. Overseeing agents are responsible for ensuring that information of potential value to other elements of the agency is provided promptly to authorized supervisory personnel and/or other law enforcement agencies as appropriate.
23. Individuals leaving employment with the agency have a continuing obligation to maintain as confidential the identity of any CI and the information he or she provided unless obligated to reveal such identity or information by law or court order.

E. Establishment of an Informant File System

An informant file system must be established as follows:

1. The agency chief executive must designate a file supervisor who must be responsible for developing and maintaining master CI files and an indexing system.
2. A file must be maintained on each CI deemed suitable by the agency.
3. An additional Unreliable Informant File must be established for CIs deemed unsuitable during initial suitability determinations or at a later time.
4. Each file must be coded with an assigned informant control number for identification within the indexing system and must include the following information, where applicable:
 - a. Name, aliases, and date of birth
 - b. Height, weight, hair color, eye color, race, sex, scars, tattoos, or other distinguishing features
 - c. Emergency contact information
 - d. Name of the officer initiating use of the informant and any subsequent overseeing agents
 - e. Photograph and criminal history record
 - f. Current home address and telephone number(s)
 - g. Residential addresses in the last five years
 - h. Current employer, position, address, and telephone number
 - i. Social media accounts
 - j. Marital status and number of children

- k. Vehicles owned and their registration numbers
 - l. Places frequented
 - m. Gang affiliations or other organizational affiliations
 - n. Briefs of information provided by the CI and the CI's subsequent reliability
 - o. Special skills and hobbies
 - p. Special areas of criminal expertise or knowledge
 - q. A copy of the signed informant agreement
5. CI files must be maintained in a separate and secured area.
 6. The file supervisor must ensure that information concerning CIs is strictly controlled and distributed only to officers and other authorities who have a need and a right to such information.
 7. CI File Review
 - a. Sworn personnel may review an individual's CI file only upon the approval of the agency's chief executive or their designee.
 - b. The requesting officer must submit a written request explaining the need for review. A copy of this request, with the officer's name, must be maintained in the individual's CI file.
 - c. Officers must not remove, copy, or disseminate information from the CI file.
 - d. CI files must be reviewed only in designated areas of the law enforcement facility and returned as soon as possible to their secure file location.
 - e. All disclosures or access to CI files must be recorded by the file supervisor, to include information such as the requesting officer or agency, the purpose of access or disclosure, the information conveyed, and the date and time of access or dissemination.
 - f. No portion of an individual's CI file must be entered into any other electronic or related database without controls sufficient to exclude access to all but authorized personnel with a need and a right to know.

F. Deactivation of Confidential Informants

A CI deactivation procedure must be established as follows:

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

- i. A signature by the overseeing agent.
2. All reasonable efforts must be taken to maintain the safety and anonymity of the CI after deactivation.

G. Monetary Payments

Monetary payments must be managed as follows:

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

TechnologyPolicy.pdf

CITY OF ROCHESTER
ORGANIZATIONAL POLICY

TECHNOLOGY

Scope

The City of Rochester provides hardware, software, programs, applications, templates, internal and external e-mail messages, facsimile (fax) messages, data, data files and voicemail messages developed or stored on city-owned, leased, or rented computer systems or storage media computer systems, voicemail systems, electronic mail ("e-mail"), and other information systems (hereinafter "City technology") to employees at City expense for their use in performing their duties for the City. This policy sets forth the City's guidelines for employee use of all City technology. This policy's goal is to avoid inappropriate use of systems, maintain appropriate security, avoid copyright violations and protect City-owned data and systems.

Ownership

All City technology systems are the property of the City of Rochester. The City retains the right to disclose City technology information to third parties without providing notice to employees. Employee use of City technology is not private. This includes, but is not limited to, the use of internal and external e-mail and Internet use. Use of passwords does not make files or data private. Passwords must be disclosed to supervisors upon request and may be bypassed by the City. E-mail messages are considered to be City property and may be retrieved from storage although the sender and receiver have deleted them. These messages may be used in disciplinary proceedings. By using City technology, employees consent to any monitoring of that technology that may take place.

Supervisors have the authority to inspect the contents of any City technology. The Information Systems Manager shall cause the extraction of stored e-mail messages when requested to do so by authorized supervisory personnel. Reasons for review include, but are not limited to, system hardware or software problems, general system failure, regular system maintenance, a lawsuit against the City, suspicion of a crime or violation of policy, or a need to perform work or provide a service when the employee is unavailable.

General Policy

Policy. It is the City's policy that City technology, like other City assets, is to be used for the benefit of the City. Use of City technology to violate other City policies is prohibited and may lead to disciplinary action up to and including termination. Any and all opinions made using these systems, whether implied or expressed, are those of the individual and not necessarily the opinions of the City or its officers.

Privacy. Employees should be aware that others might read messages created by City technology for a variety of valid reasons. Although this statement is true of many other types of City correspondence, the nature of e-mail messages in particular can lead one to forget or ignore the fact that e-mail cannot be considered the private property of the sender or recipient although passwords or encryption codes are used for security reasons.

E-mails Retained. Employees should also be aware that in the case of threatened or pending litigation involving the City, federal and state rules of civil procedure, statutes and caselaw require the City to collect and retain City employee-sent or City employee-received e-mail messages concerning the litigation until the litigation is finally resolved. These e-mail messages are subject to applicable federal or state civil discovery rules and the City, subject to any applicable privilege, must produce them upon demand. The City's failure to maintain these e-mail messages while litigation is pending subjects it to serious financial and litigation

consequences. Employees will be notified when their e-mail box becomes subject to such automated collection and retention. Employees are prohibited from tampering in anyway with the e-mail system in an attempt to avoid said collection and retention.

Electronic Profile Pictures. For purposes of identification, employees may upload a current personal headshot picture to their Microsoft 365 profile, which will be associated with their City Outlook and Teams account. Employees should use good judgement when selecting a picture and adhere to the following:

- The picture must be a headshot of the employee and shall not contain other people or images such as the employee's family members, cartoons, skylines, pets, scenery, or logos;
- The picture must be clear and unobstructed by optional accessories such as sunglasses or hats;
- Clothing must follow the City's Dress Standards and City-Funded Clothing Policy.

Personal Use. Pursuant to Section 13.45, subd. 3 of the Rochester Code of Ordinances, employees may make incidental and reasonable use of City technology for private purposes. Should employees make incidental use of City technology to transmit personal messages, these messages will be treated no differently than other messages. They may be accessed, reviewed, copied, deleted or disclosed. You should expect that a message may be disclosed to or read by others beyond its original intended recipients.

Authorized Uses. Supervisors or Department Heads may authorize the use of e-mail to send and receive messages and to subscribe to listserves from recognized professional organizations and entities relating to the City's official duties. All employees are authorized to use e-mail as they would use any other official City communication tool. E-mail communication is encouraged when it results in the most efficient or effective means of communications. The sender of e-mail messages must retain the primary responsibility for ensuring that the intended receiver receives the communication.

Use Subject to Authorization. The following uses require the employee's Department Head's written approval and Information System's concurrence:

- The use of hardware, related computer equipment and/or software for e-mail within the City network that the City did not purchase nor does not own.
- The reading of another employee's e-mail.
- The encryption of any e-mail message unless specifically authorized to do so and without depositing the encryption key with the LAN administrator or the employee's immediate supervisor. The fact that an employee is allowed to encrypt e-mail does not mean that the e-mail is intended for personal communication, nor does it mean that encrypted e-mail messages are the employee's private property.

Prohibited Uses

The following actions are prohibited:

- Intercepting, eavesdropping, recording or altering of another person's e-mail message.
- Adopting the identity of another person on any e-mail message, attempting to send e-mail anonymously, or using another person's password without their permission.
- Misrepresenting your affiliation on any e-mail message.
- Using e-mail for any commercial promotional purpose including personal messages offering to buy or sell goods or services.
- Sending or receiving software in violation of copyright law.

- Using City technology for a personal for-profit commercial purpose, or to communicate any material of an obscene or derogatory nature.
- Displaying, printing or transmitting sexually explicit images, messages or cartoons.
- Displaying, printing or transmitting racial, sexual or ethnic slurs, comments, derogatory jokes or cartoons, or anything that might be construed as harassment, abusive, offensive or disrespectful of others. This includes anything that fosters a hostile work environment or perpetuates discrimination on the basis of race, creed, color, age, religion, sex, marital status, status with regard to public assistance, national origin, physical or mental disability or affectional preference.
- Use of the City's Internet mail address for participation in personal or non-City business related e-mail lists.
- Sharing your user ID or password with anyone without specific permission to do so granted by the Department Head or City Administrator. If access to City technology is needed by someone who does not have access, the Information Systems manager should be contacted so properly restricted access is granted. If this access is temporary, the duration of access needs to be communicated at the time of the request.
- Attempting to gain unauthorized access to internal or external computer systems.
- Attempting to decrypt system or user passwords.
- Unauthorized copying of system files or software programs.
- Unauthorized deletion of e-mail messages and data records or files.
- Unauthorized printing, forwarding or disclosing confidential information.
- Attaching any form of electronic equipment device (e.g. thumb drive, iPod or other MP3 player, smartphone, etc.) to City equipment without IT approval.
- Attaching any form of electronic equipment (e.g. laptop, portable network drive, server, other computer, tec.) to the City network without IT approval.

Confidential Information

Minnesota law requires all employees to protect the integrity of the City's confidential information as well as the confidentiality of others. Employees must exercise a greater degree of caution in transmitting confidential information on the City technology system than with other communication means because of the reduced effort required to redistribute such information. Confidential information should never be transmitted or forwarded to other employees inside the City or anyone outside of the City who do not have a need to know the information. To reduce the chance that confidential information may be sent inadvertently to the wrong person, avoid misuse of distribution lists when sending information and make sure any lists are current.

If you are unsure whether information is confidential, you must consult with the City Attorney's Office.

Here is a partial list of some types of information which may be confidential (this is not an exhaustive list):

- Information from a person's personnel file, including home address, phone numbers and social security numbers.
- Information relating to any pending criminal or civil litigation, judicial or administrative proceeding.
- Information which would give a competitive advantage to one competitor or bidder over another.
- Information relating to the location or price of property the City might buy.
- Private correspondence of elected officials.
- Trade secrets, commercial or financial information of outside businesses.
- Information related to the regulation of financial institutions or securities.

- Information or communication from the City Attorney's Office or other City legal counsel.

E-mail messages that contain confidential information may, but is not required to, have a confidentiality legend in all capital letters at the top of the message in a form similar to the following:

**THIS MESSAGE CONTAINS CONFIDENTIAL INFORMATION
OF THE CITY OF ROCHESTER.
UNAUTHORIZED USE OR DISCLOSURE IS PROHIBITED.**

Since copies of e-mail may be placed on back up or other systems you do not control, and may be accessed by Information System personnel or others without a need to know the information, e-mail may be an inappropriate method to communicate certain types of confidential information.

Backing Up/Deleting Files

The Information Systems Department backs up all data except for any files that are stored on the hard drives of employee's computers. Employees are expected to store important work-related data on their network drive to avoid loss through hardware failure. Employees are also expected to delete old files regularly in compliance with the City's record retention schedule to help maintain adequate system storage capacity.

Copying Data/Programs Onto City Computers

All data files, e-mail attachments, and software programs must be checked by virus detection software before copying them onto the City's computer system. This includes downloading software from the Internet, remote bulletin boards and any on-line services.

Checking Out City Technology

When employees check out portable equipment such as laptop computers, VCRs, and computer projection units, they are expected to provide appropriate common sense protection against theft, accidental breakage, environmental damage and other risks. Desktop computers and attached devices are not to be removed from City buildings.

Miscellaneous Considerations for E-mail Messages

E-mail is a valuable form of communication which can help the City improve its quality of service. However, employees should consider the following when considering whether a message is appropriate for e-mail communication:

- Avoid making a statement in an e-mail message about someone if you would not make the statement face-to-face with the person or write it in a formal memo.
- Avoid making a statement in an e-mail message which may be perceived as being ill-considered, uninformed or offensive.
- Avoid using e-mail if a more time or cost-effective communication is available (for instance, when a telephone conversation would be faster).
- Avoid using e-mail as a substitute for manager-subordinate face-to-face communications.
- Avoid using e-mail for the purpose of evaluating one's job performance.

Copyright Infringement

Most computer software and programs are copyrighted, and it is illegal to make multiple copies. Employees may only copy and use software according to the software license agreement.

The ability to attach a document to an e-mail message for distribution greatly enhances the risk of copyright infringement. A user can be liable for the unauthorized copying and distribution of copyrighted material through the e-mail system. Accordingly, you should not copy and distribute through the e-mail system any copyrighted material of a third party (such as software, database files, documentation, articles, graphics files and down-loaded information) unless you confirm in advance from appropriate sources that the City has the right to copy or distribute such material. Any questions concerning copyright information should be directed to the City Attorney's Office.

E-Mail Message Retention – 60 Days

Normally e-mail messages are transitory, of short-term interest, and are considered incidental and non-vital communications. As such, normal e-mail messages are not subject to specific record retention schedules and should be disposed of immediately after action or review. E-mail is not an official communication of the City and must not be used for transmitting information that is part of the official record. In the event that an e-mail message occurs that relates to the transaction of official City business, the message should be reduced to print form or other City-approved archival format (electronic, optical, or otherwise), and should be retained in accordance with applicable retention schedules. Otherwise, Information System staff will delete all messages after 60 days whether opened or unopened. The only exception to this retention limit is for legal discovery as noted in under "General Policy," Item 3., above.

Unauthorized Access

All suspected intrusions to the City's network systems by unauthorized persons or employees are to be reported immediately to the Department Head and Information Systems personnel.

Penalties/Consequences

Violations of this policy will result in disciplinary measures that may include reprimands, suspension of some or all computer usage privileges, and termination. All City technology messages are subject to all applicable state and federal laws. In addition, violations of this policy or misuse of the City technology system that are of a criminal nature may be referred for criminal prosecution.

Revised and approved by the City Administrator:



Steve Rymer
May 19, 2020

Revised/Adopted 10/15/07, Revised/Adopted 6/7/10, Revised 05/07/2020

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