



# HOUSTON POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL

Community, Service, Integrity

Brett Hurley, Chief of Police

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## **LAW ENFORCEMENT CODE OF ETHICS**

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

**I will** keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed, both in my personal and official life. I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept forever secret unless revelation is necessary in the performance of my duty.

**I will** never act officiously or permit personal feelings, prejudices, 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 appropriate without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

**I recognize** the badge of my office as a symbol of public faith, and I accept it, as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...**Law Enforcement.**

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**I. USE OF FORCE AND DEADLY FORCE POLICY**  
MN STAT 626.8452

**1) PURPOSE**

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

MN STAT 626.8452 DEADLY FORCE AND FIREARMS USE;  
POLICIES AND INSTRUCTION REQUIRED;

MN STAT 626.8475 DUTY TO INTERCEDE AND REPORT;

MN STAT 609.06 AUTHORIZED USE OF FORCE;

MN STAT 609.065 JUSTIFIABLE TAKING OF LIFE; and

MN STAT 609.066 AUTHORIZED USE OF FORCE BY PEACE OFFICERS.

**2) POLICY**

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

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

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

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

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

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

Section (4) Procedure, paragraphs (g.1-2), are effective March 1, 2021 and thereafter.

### 3) DEFINITIONS

- a) **Bodily Harm:** Physical pain or injury.
- b) **Great Bodily Harm:** Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.
- c) **Deadly Force:** Force used by an officer that the 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.
- d) **De-Escalation:** Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.
- e) **Other Than Deadly Force:** Force used by an officer that does not have the purpose of causing, nor create a substantial risk of causing, death or great bodily harm.
- f) **Choke Hold:** A method by which a person applies sufficient pressure to a person to

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

- g) *Authorized Device:*** A device an officer has received permission from the agency to carry and use in the discharge of that officer's duties, and for which the officer has:
- a. obtained training in the technical, mechanical and physical aspects of the device; and
  - b. developed a knowledge and understanding of the law, rules and regulations regarding the use of such a device.

#### **4) PROCEDURE**

##### **a) General Provisions**

1. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
2. 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.
3. 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.
4. All uses of force shall be documented and investigated pursuant to this agency's policies.

##### **b) Duty to Intercede**

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

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

##### **c) Duty to Report**

An officer who observes another officer use force that exceeds the degree of force permitted by law has the duty to report the incident in writing within 24

hours to the chief law enforcement officer of the agency that employs the reporting officer.

**d) De-escalation:**

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

**e) Use of Other Than Deadly Force**

**II.**

1. 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:
  - a. effecting a lawful arrest; or
  - b. the execution of legal process; or
  - c. enforcing an order of the court; or
  - d. executing any other duty imposed upon the public officer by law; or
  - e. defense of self or another.

**f) Use of Certain Types of Force**

**III.**

1. Except in cases where deadly force is authorized as articulated in MN STAT. 609.066 to protect the peace officer or another from death or great bodily harm, officers are prohibited from using:
  - a. Chokeholds,
  - b. Tying all of a person's limbs together behind a person's back to render the person immobile, or;
  - c. Securing a person in any way that results in transporting the person face down in a vehicle.
2. Less than lethal measures must be considered by the officer prior to applying these measures.

**g) Use of Deadly Force**

**IV.**

1. An officer is authorized to use deadly force if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary. Use of deadly force is justified when one or both of the following apply;

**V.**

- a. To protect the peace officer or another from death or great bodily harm, provided that the threat:

**VI.**

- i. can be articulated with specificity;
- ii. is reasonably likely to occur absent action by the law enforcement officer; and
- iii. must be addressed through the use of deadly force without unreasonable delay; or

**VII.**

- b. To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.

**VIII.**

2. An officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (1a), items (i) to (iii).

**IX.**

3. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.
4. In cases where deadly force is authorized, less than lethal measures must be considered first by the officer.

**X.**

**h) Training**

1. All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.
2. In addition, training shall be provided on a regular and periodic basis and designed to
  - a. Provide techniques for the use of and reinforce the importance of de-escalation
  - b. Simulate actual shooting situations and conditions; and
  - c. Enhance officers' discretion and judgement in using other than deadly

force in accordance with this policy.

3. 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.
4. 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.
5. Officers will carry and use only authorized devices unless circumstances exist which pose an immediate threat to the safety of the public or the officer requiring the use of a device or object that has not been authorized to counter such a threat.
6. With agency approval officers may modify, alter or cause to be altered an authorized device in their possession or control.

**i) Recordkeeping Requirements**

The chief law enforcement officer shall maintain records of the agency's compliance with use of force training requirements.

Approved by the POST Board August 17, 2020 Rev. 12/20/2021

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# **POLICE PURSUIT POLICY**

Minn. Stat. § 626.8458

## **I. POLICY**

The primary purpose of this policy is to ensure officers, and any member of the Houston Police Department respects the sanctity of life when making decisions regarding vehicle pursuits. Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The intent of this policy is to provide officers with guidance in balancing the safety of the public, safety of other officers and themselves, and law enforcement's duty to apprehend violators of the law, while minimizing the potential for pursuit related crashes.

## **II. GUIDING PRINCIPLES**

- A decision to pursue should be based upon the totality of information and circumstances reasonably known to the officer at the time the decision is made, recognizing that law enforcement must often make immediate decisions with partial information.
- The safety of all persons involved in or by a police pursuit is of primary importance. It also must balance the risks of the pursuit to the public and peace officers with the consequences of failing to pursue (Minn. Stat. § 626.8458 Sub. 2 (1)).
- No officer will be disciplined for terminating a pursuit.
- Officers, when responding to an emergency call or pursuing a fleeing vehicle shall, when approaching a stop sign or red light, slow down as necessary for safety, but may proceed cautiously if they sound a siren or display at least one red light to the front (Minn. Stat. §169.03(2)).
- The speed limitations do not apply to an authorized emergency vehicle responding to an emergency call or vehicle pursuit, although this does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of persons using the street, nor does it protect the driver of an authorized emergency vehicle from the consequence of a reckless disregard of the safety of others (Minn. Stat. §169. 177). Officer(s) should consider reducing their speeds and ensuring that the way is clear before proceeding thru an intersection or other locations where there is an increased likelihood of a collision with another vehicle or pedestrian. Evaluation of vehicle speeds should take into consideration public safety, officer safety and the safety of the occupants of the fleeing vehicle.
- Involved officers should frequently re-evaluate factors and conditions to assess the continuation of the pursuit.

### III. DEFINITIONS

- A. Pursuit:** An active attempt by a sworn member operating a patrol unit or specialty unmarked unit to apprehend a driver of a motor vehicle who, having been given a visual and audible signal by a peace officer directing said driver to bring their vehicle to a stop, increases speed, extinguishes motor vehicle headlights or taillights, refuses to stop the vehicle, or uses other means with intent to attempt to elude a peace officer (Minn. Stat. §609.487).
- B. Termination of a Pursuit:** A pursuit is terminated when the pursuing officer(s) notify dispatch, turn off their emergency lights and sirens, and reduce speed to the posted speed limit.
- C. Divided Highway:** Any highway that is separated into two or more roadways by:
1. A physical barrier, or
  2. A clearly indicated dividing section constructed so as to impede vehicular traffic.
- D. Channeling:** To direct vehicular traffic into a progressively narrowing passageway or lane location on the roadway.
- E. Compelling Path:** The use of channeling technique with a modified roadblock located at its narrowed end. The compelling path differs from a termination roadblock in that the driver or any vehicle traveling the path has an exit option at the narrowed end.
- F. Pursuit Intervention Technique (PIT):** A driving maneuver designed to stop a fleeing motorist by applying precision vehicle-to-vehicle-contact resulting in a predictable spin of the suspect's vehicle, bringing it to a stop.
- G. Flee:** The term "flee" means to increase speed, extinguish motor vehicle headlights or taillights, refuse to stop the vehicle, or use other means with intent to attempt to elude a peace officer following a signal given by any peace officer to the driver of a motor vehicle (Minn. Stat. § 609.487 Subd. 1).
- H. Primary Unit:** The law enforcement unit that initiates a pursuit or any other unit that assumes control of the pursuit.
- I. Support Units:** The primary responsibility is to remain in close proximity to the pursuing vehicle(s) so that officers are immediately available to render aid or assistance to anyone who may require it as a result of the pursuit. Support officers may also assume responsibility for radio traffic, and do not take over/assume control of the pursuit.

- J. Other Assisting Units:** Units not actively involved in the pursuit itself but assisting by deploying stop sticks, blocking intersections, compelling paths, or otherwise working to minimize risk.
- K. Ramming:** The deliberate act of impacting a fleeing offender's vehicle with another vehicle to functionally damage or otherwise force the violator to stop.
- L. Portable Tire Deflation Device:** A device that extends across the roadway and is designed to puncture the tires of the fleeing offender's pursued vehicle.
- M. 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 roadblock.
- N. 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.
- O. Paralleling:** The practice of non-pursuing squad vehicles driving on streets nearby to the active pursuit, in a manner parallel to the pursuit route. Parallel driving does not exempt officers from obeying traffic laws. Minn. Stat. § 169.14, subd. 1.

#### **IV. PROCEDURE**

##### **A. Pursuit Considerations – Minn. Stat §626.8458 Subd. 2 (2).**

1. Pursuit is justified when the need for immediate apprehension or the risk to public safety outweighs the risk created as a result of the pursuit.
2. Factors to be considered when weighing risks:
  - Severity of the offense (in cases of non-violent offenses, officers should consider terminating the pursuit).
  - Speed of the pursuit
  - Area of the pursuit (including the geographical area, time of day, amount of vehicular and pedestrian traffic)
  - Divided highways and one-way roads (Minn. Stat. § 169.03 Subd. 3)
  - Approach to intersections that are controlled by traffic signals, signs, or other location where there is an increased likelihood of a collision (Minn. Stat. §169.03)
  - Environmental conditions (weather, visibility, road surface conditions)

- Special hazards (school zones, road construction, parades, special events)
- The ability to identify the offender at a later time
- Age of the suspect and occupants
- Other persons in or on the suspect vehicle

3. Standards applied to the ongoing evaluation of a pursuit, as well as the decision to continue a pursuit shall include the following considerations:

- The immediate need to apprehend the offender outweighs the risk created by the pursuit.
- The dangers created by the pursuit exceed the dangers posed by allowing the offender to escape.
- Involved officers should frequently re-evaluate factors and conditions to assess the continuation of the pursuit.

**B. Procedures & Tactics for an Officer Engaging in a Pursuit**– Minn. Stat. § 626.8458 Subd. 2 (3)

1. Emergency vehicles shall be driven in a safe manner and with due regard for public safety.
2. Emergency vehicles operating in emergency mode are permitted to violate certain traffic regulations, when necessary, as long as the operator continues to exercise due care in vehicle operation.

**C. Responsibilities of the Primary Unit – Minn. Stat. § 626.8458 Subd. 2 (4)**

The driver of the primary unit shall notify dispatch of the pursuit and shall provide at least the following critical information to dispatch when possible:

- Travel direction/location/traffic and road conditions
- Reason for initial contact (specific violations)
- Identity of fleeing driver, if known
- Plate number, if available, and/or vehicle description
- Speed of fleeing vehicle

1. Provide relevant evolving information to dispatch
2. No officer will intentionally make vehicle-to-vehicle contact unless this action is in conformance with agency policy on use of force (see agency policy on use of force)
3. Roadblocks must conform to the agency’s policy on use of force
4. Only law enforcement vehicles with emergency lights and siren will be used as pursuit vehicles
5. Unmarked and low-profile agency vehicles may engage in pursuits until a marked vehicle can take over as the primary vehicle. Officers shall not become engaged in pursuits while operating a non-

departmental (private) motor vehicle or departmental vehicles not equipped with required emergency equipment.

#### **D. Procedures & Tactics for support units**

1. 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.
2. When possible, non-pursuing personnel needed at the termination of the pursuit should respond in a non-emergency manner, obeying all non-emergency traffic laws.
3. All participating units should operate under emergency conditions.

#### **E. Supervision of Pursuit Activities**

1. The use of a detached supervisor that is not directly involved in the pursuit, when available, should be considered.

Based on the known information the supervisor, when available, shall monitor the pursuit in order to take appropriate action to continue or terminate the pursuit (Minn. Stat. §626.8458 Subd. 2 (4)).

2. Procedures regarding control over pursuit activities should include:
  - Verbally acknowledge they are monitoring the pursuit.
  - Assess critical information necessary to evaluate the continuation of the pursuit. Evaluate and ensure pursuit is within policy.
  - Direct that the pursuit should be discontinued if it is not justified to continue under the guidelines of this policy or for any other reason.
  - Communicate to all involved units if the pursuit should be terminated
3. Options to keep in mind during a pursuit include, but are not limited to:
  - Parallel pursuits
  - Channeling techniques
  - Creating a compelling path
  - Air support
  - Spike strips or other tire deflation device
  - Pursuit Intervention Techniques (PIT)
  - Blocking or Vehicle Intercept
  - Boxing-in
  - Other apprehension or GPS tracking methods - Minn. Stat. §626.8458 Subd 2 (3)
4. ***Post-pursuit chain of command notifications are required and shall be identified in each agency's policy.***

## **F. Dispatch Responsibilities**

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

- Coordinate pursuit communications of the involved units and personnel.
- Notify and coordinate with other involved or affected agencies as practicable.
- Ensure that a supervisor, if available, is notified of the pursuit.
- Assign an incident number and log all pursuit activities.
- Broadcast pursuit updates as well as other pertinent information as necessary.

## **G. Factors Influencing the Termination of a Pursuit:**

**The driver of the primary unit and the supervisor shall continually evaluate the risks and likelihood of a successful apprehension of the suspect and shall consider terminating the pursuit under the following conditions.**

1. The officer deems the conditions of the pursuit too risky for the safe continuation of the pursuit.
2. A supervisor orders it terminated.
3. Information is communicated that indicates the pursuit is out of compliance with policy.
4. Communication is broken.
5. Visual contact is lost for a reasonable period of time or the direction of travel cannot be determined.
6. The suspect is known and could be apprehended later, and delaying apprehension does not create a substantial known risk of injury or death to another.

## **H. Interjurisdictional Pursuit – Minn. Stat. § 626.8458 Subd. 2 (5).**

1. The primary unit shall update critical information to the dispatcher before leaving its jurisdiction.
2. The primary law enforcement vehicle shall remain the primary vehicle in other jurisdictions unless the controlling pursuit authority transfers its authority to another jurisdiction.
3. Upon receiving notification the pursuit is entering another agency's jurisdiction, the dispatcher shall forward all critical information possessed by the dispatcher to that agency.
4. When a pursuit enters this law enforcement agency's jurisdiction:
  - The dispatcher shall update the critical information to the shift supervisor or other authorized individual identified by the law enforcement agency.
  - The controlling pursuit authority shall determine if the pursuit is in conformance with policy and shall provide appropriate direction to their units.
5. 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)).

If a pursuit from another agency enters the Department's jurisdiction, Dispatch should update the on-duty supervisor. No pursuit will continue into another state unless permission is received from a supervisor, if available and as soon as is practical. Prior to, or as soon as possible after crossing the state line, the dispatcher will notify the appropriate out of state authority to coordinate the pursuit and the channels to be used for communications.

## **I. Fresh pursuit outside state boundaries**

Subject to the conditions identified under H.5. above the officer may continue the pursuit across state lines with those states, which grant reciprocity. This would include North Dakota, South Dakota, Iowa, and Wisconsin (Minn. Stat. §626.65, Uniform Law on Fresh Pursuit; Reciprocal.)

## **J. Air Support**

1. 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.

## **K. Pursuit Summary Report**

1. The primary officer and the supervisor shall file a pursuit summary report.
2. To ensure compliance with Minn. Stat. § 626.5532, the chief law enforcement officer shall ensure the completion of the State pursuit report form and forward it to the Commissioner of Public Safety within 30 days following the pursuit.
3. As required in Minn. Stat. §626.5532, the report must contain the following elements:
  - a) the reason(s) for, and the circumstances surrounding the pursuit;
  - b) the alleged offense;
  - c) the length of the pursuit in distance and time;
  - d) the outcome of the pursuit;
  - e) any injuries or property damage resulting from the pursuit; and
  - f) any pending criminal charges against the driver.
  - g) other information deemed relevant by the Commissioner of Public Safety.

## **L. Care and Consideration of Victims**

If during a pursuit an officer observes or is made aware of an injury to an individual, the officer shall immediately notify the dispatcher to have the appropriate emergency units respond. Rendering assistance includes, but is not limited to:

Minn. Stat. §626.8458 Subd. 2 (6)

- Calling an ambulance
- Rendering first aid until the officers are no longer needed at the injury scene
- Summoning additional units to the scene for assistance with the injured persons and/or traffic control

## **M. 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 discharge 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.

## **N. 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 shall be consistent with the agency use of force policy and Minn. Stat. §609.06.

## **O. Evaluation and Critique**

After each pursuit, the supervisor and law enforcement agency units involved with the pursuit will evaluate the pursuit and make recommendations to the chief law enforcement officer on ways to improve the agency's pursuit policy and tactics.

## **P. Training**

In accordance with POST requirements, all sworn members shall be given initial and periodic updated training in the department's pursuit policy and safe emergency vehicle operation tactics.-

In accordance with Minn. Stat. §626.8458, the chief law enforcement officer shall provide in-service training in emergency vehicle operations and in the conduct of police pursuits to every peace officer and part-time peace officer employed by the agency who the chief law enforcement officer determines may be involved in a police pursuit given the officer's responsibilities.

This training shall comply with learning objectives developed and approved by the board and shall minimally consist of at least eight hours of classroom and skills-based training every five years. Continual training should also be considered for those officers authorized to use the PIT maneuver, tire deflation device deployment, GPS tracking, and related pursuit intervention procedures, tactics, and technologies.

If the chief law enforcement officer determines an officer will not be involved in police pursuits, the CLEO must notify POST of the officer's exemption status.

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Approved by POST Board 7-25-24; Adopted by the Houston Police Department 7-29-24

## ALLEGATIONS OF MISCONDUCT POLICY

*MN RULES 6700.2200 through 6700.2600*

### I. PURPOSE

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

### II. POLICY

It is the policy of the Houston Police Department to accept and to fairly and impartially investigate all complaints of misconduct to determine the validity of allegations; and to impose any corrective actions that may be justified in a timely and consistent manner.

### III. DEFINITIONS

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

- A. Administrative Investigation:** An internal investigation conducted in response to a complaint with the goal of determining whether an employee engaged in misconduct.
- B. Chief Law Enforcement Officer** means the chief of police, sheriff, state law enforcement director or designee. Within this model policy, the chief law enforcement officer will be referred to as CLEO.
- C. Law Enforcement Officer** means an individual who holds a peace officer license in the State of Minnesota. Within this model policy, a law enforcement officer will be referred to as LEO.
- D. Complainant** means a person who submits a complaint to the Agency or CLEO alleging misconduct by an agency member.
- E. Complaint** means a statement alleging behavior that constitutes misconduct.
- F. Member** means all voluntary and compensated personnel of the agency.
- G. Discipline** means any of the following or combination thereof:

- Oral Reprimand

- Written Reprimand
- Suspension
- Demotion
- Discharge

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

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

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

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

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

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

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

**N. Misconduct** means:

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

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

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

#### **IV. PROCEDURE**

##### **A. ACCEPTANCE AND FILING OF COMPLAINTS**

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

## **B. INVESTIGATION OF A COMPLAINT**

1. Upon receipt of the complaint, the CLEO must make an initial determination as to whether or not the facts alleged require an administrative investigation. If the CLEO decides that an investigation is not required, the disposition of the complaint must be cleared as “unfounded”, “not sustained”, or “exonerated.” The complainant and the respondent will be notified of this decision and the basis for determination. If the complainant supplies additional information within thirty (30) days of that initial determination, the CLEO may reverse this decision and order an administrative investigation.
2. If the CLEO determines an administrative investigation is required, an appropriate designee will be assigned to investigate the complaint. When the CLEO believes an external investigation is appropriate or when the CLEO is the subject of the complaint, the investigation will be assigned to an external agency that has no discernible conflict of interest.
3. The investigator must inform the complainant of his or her name, business phone number and the status of the complaint as soon as possible after being assigned the investigation.
4. The investigator must thoroughly investigate all allegations contained in the complaint and any other potential misconduct discovered in the course of the investigation. If the investigation reveals potential misconduct by another agency member, the investigator must report that fact to the CLEO or, in the case of a complaint against a CLEO, the appropriate city administrator, manager, mayor, county attorney, county administrator or board of county commissioners.
5. All agency members must cooperate with the investigation. When the respondent is a licensed peace officer, the investigation must comply with the requirements of MN STAT 626.89 and acts amendatory thereto.
6. The investigator must prepare a report that contains all relevant information organized into the following three (3) sections:
  - Allegations*: An itemized summary of the acts of misconduct alleged in the complaint. Reference must be made to those rules, procedures, orders, statutes, or constitutional provisions that would be violated if the allegations are taken as true.
  - Investigation*: A chronological summary of the investigation including all pertinent facts obtained through interviews with the complainant, accused agency member(s), and all available witnesses. Written statements, descriptions and

analysis of any physical evidence, and all other relevant information must be included.

*-Conclusions:* The investigator's findings and conclusions as to whether any misconduct occurred and the underlying reasons for the findings and conclusions.

7. The investigation must be completed within thirty (30) days of the filing of the complaint unless the CLEO or Receiving Authority determines there is good cause to grant an extension. The complainant and respondent must be informed of any extension.

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

1. Upon completion of the investigation, the investigator must submit the report, case file and all investigative notes to the CLEO or Receiving Authority. The CLEO or Receiving Authority may require additional investigation or make one of the following decisions:
  - Unfounded
  - Exonerated
  - Not Sustained
  - Sustained
  - Policy Failure
2. The CLEO or Receiving Authority may postpone making a decision until any related criminal charges are resolved. The complainant and respondent must be informed of this decision.
3. If the decision is "unfounded," "exonerated," "not sustained" or "policy failure" the CLEO or Receiving Authority must immediately notify the complainant and the respondent of the decision.
4. If the complaint is "sustained" the CLEO or Receiving Authority will:
  - Issue findings of fact including a summary of the acts constituting misconduct and the specific statutes, policies, regulations and procedures violated; and
  - Take appropriate remedial and/or disciplinary action.
  - Advise the complainant of any public information regarding the disposition
5. Prior to the implementation of remedial and/or disciplinary action the respondent will be provided with a copy of the findings of fact. The CLEO, Receiving Authority and/or designee must review the findings of fact with the respondent and explain the reasons for the remedial and/or disciplinary action.

6. The investigation may be re-opened by the CLEO or Receiving Authority at any time if substantial new evidence is discovered concerning the complaint.

7. When a “sustained” disposition is final the respondent may appeal the disposition pursuant to the rules and law governing the accused member’s employment.

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

1. Disclosure to the public, complainant and respondent of data collected, created or received by the agency in connection with this policy and procedure must be governed by the provisions of the MN Government Data Practices Act. Retention of data collected or maintained in connection with this policy must be retained in accordance with the agency’s “Record Retention Schedule.”

2. All data collected, created or received by the agency in connection with this policy and procedure must be maintained in accordance with the agency’s “Record Retention Schedule.”

3. The placement of the disposition report or other data in an employee’s personnel file must be governed by the agency’s personnel policy.

4. Access to data collected, created, or received in connection with this policy and procedure may only be authorized by the CLEO or the agency’s Data Practices “Responsible Authority,” and as provided by Chapter 13, the “Minnesota Government Data Practices Act,” or valid court order.

#### **E. POST BOARD REPORTING REQUIREMENTS**

1. Under Minn. Rule 6700.1610, a licensed peace officer must self-report to the POST Board any violations of the Standards of Conduct for peace officers listed in Minn. Rule 6700.1600.

2. Any person with knowledge of peace officer misconduct constituting grounds for action under Minn. Stat. chapter 214, or Minn. Rules 6700.1600, may report the violation to the Board.

3. Minnesota Stat. 626.8457 Subd. 3 requires CLEOs to submit individual peace officer public and private data related to allegations of misconduct to the POST Board in “real time” via the POST Board Misconduct Reporting System.

4. A chief law enforcement officer must update data within 30 days of final disposition of a complaint or investigation.

5. Law enforcement agencies and political subdivisions are prohibited from entering into a confidentiality agreement that would prevent disclosure of the data identified in

Minn. Stat. 626.8457 Subd. 3 paragraph (b) to the Board. Any such confidentiality agreement is void as to the requirements of this section.

Adpt 08/11/2021

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**PROFESSIONAL CONDUCT OF PEACE OFFICERS POLICY**  
MN STAT 626.8457

**I. POLICY**

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

**II. PROCEDURE**

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

**A. PRINCIPLE ONE**

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

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

**2. Rules**

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

## **B. PRINCIPLE TWO**

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

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

### **2. Rules**

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

## **C. PRINCIPLE THREE**

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

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

## **2. Rules**

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

## **D. PRINCIPLE FOUR**

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

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

## **2. Rules**

- a)** Peace officers shall not consume alcoholic beverages or chemical substances while on duty except as permitted in the performance of official duties, and under no circumstances while in uniform, except as provided for in **c**).
- b)** Peace officers shall not consume alcoholic beverages to the extent the officer would be rendered unfit for the officer's next scheduled shift. A peace officer shall not report for work with the odor of an alcoholic beverage on the officer's breath.
- c)** Peace officers shall not use narcotics, hallucinogens, or other controlled substances except when legally prescribed. When medications are prescribed, the officer shall inquire of the prescribing physician whether the medication will impair the officer in the performance of the officer's duties. The officer shall immediately notify the officer's supervisor if a prescribed medication is likely to impair the officer's performance during the officer's next scheduled shift.
- d)** Peace officers, whether on or off duty, shall not engage in any conduct which the officer knows, or should reasonably know, constitutes sexual harassment as defined under Minnesota law, including but not limited to; making unwelcome sexual advances, requesting sexual favors, engaging in sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature.
- e)** Peace officers shall not commit any acts which constitute sexual assault or indecent exposure as defined under Minnesota law. Sexual assault does not include a frisk or other search done in accordance with proper police procedures.

- f) Peace officers shall not commit any acts which, as defined under Minnesota law, constitute (1) domestic abuse, or (2) the violation of a court order restraining the officer from committing an act of domestic abuse or harassment, having contact with the petitioner, or excluding the peace officer from the petitioner's home or workplace.
- g) Peace officers, in the course of performing their duties, shall not engage in any sexual contact or conduct constituting lewd behavior including but not limited to, showering or receiving a massage in the nude, exposing themselves, or making physical contact with the nude or partially nude body of any person, except as pursuant to a written policy of the agency.
- h) Peace officers shall avoid regular personal associations with persons who are known to engage in criminal activity where such associations will undermine the public trust and confidence in the officer or agency. This rule does not prohibit those associations that are necessary to the performance of official duties or where such associations are unavoidable because of the officer's personal or family relationships.

**E. PRINCIPLE FIVE**

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

- 1. **Rationale:** Peace officers are the most visible form of local government. Therefore, peace officers must make a positive impression when interacting with the public and each other.
- 2. **Rules**
  - a) Peace officers shall exercise reasonable courtesy in their dealings with the public, other officers, superiors and subordinates.
  - b) No peace officer shall ridicule, mock, deride, taunt, belittle, willfully embarrass, humiliate, or shame any person to do anything reasonably calculated to incite a person to violence.
  - c) Peace officers shall promptly advise any inquiring citizen of the agency's complaint procedure and shall follow the established agency policy for processing complaints.

**F. PRINCIPLE SIX**

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

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

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

## **G. PRINCIPLE SEVEN**

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

1. **Rationale:** For the public to maintain its faith in the integrity and impartiality of peace officers and their agencies officers must avoid taking or influencing official actions where those actions would or could conflict with the officer's appropriate responsibilities.
2. **Rules**
  - a) Unless required by law or policy a peace officer shall refrain from becoming involved in official matters or influencing actions of other peace officers in official

matters impacting the officer's immediate family, relatives, or persons with whom the officer has or has had a significant personal relationship.

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

## **H. PRINCIPLE EIGHT**

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

1. **Rationale:** Peace officers are entrusted with vast amounts of private and personal information or access thereto. Peace officers must maintain the confidentiality of such information to protect the privacy of the subjects of that information and to maintain public faith in the officer's and agency's commitment to preserving such confidences.
2. **Rules**
  - a) Peace officers shall not knowingly violate any legal restriction for the release or dissemination of information.
  - b) Peace officers shall not, except in the course of official duties or as required by law, publicly disclose information likely to endanger or embarrass victims, witnesses or complainants.
  - c) Peace officers shall not divulge the identity of persons giving confidential information except as required by law or agency policy.

## **I. APPLICATION**

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

## RESPONSE TO REPORTS OF MISSING AND ENDANGERED PERSONS

### POLICY

MN STAT 299C.51-299C.5655, 390.25 and 626.8454

#### I. POLICY

It is the policy of the Houston Police Department to establish guidelines and responsibilities for the consistent response to, and investigation of, all reports of missing and endangered persons as defined in MN STAT Chapter 299C.52, subd. 1 (c) and (d) (“Minnesota Missing Children and Endangered Persons’ Program” referred to as Brandon’s Law).

This policy addresses investigations where the person has been determined to be both missing and endangered and includes all procedures required by MN STAT 299C.52.

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

#### II. DEFINITIONS

**A. *Missing*** has the meaning given it in MN 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”.

**B. *Endangered*** has the meaning given it in MN STAT 299C,52, subd. 1, (c), “A law enforcement official has recorded sufficient evidence that the missing person is at risk of physical injury or death. The following circumstances indicate that a missing person is at risk of physical injury or death:

- 1) the person is missing as a result of a confirmed abduction or under circumstances that indicate that the person’s disappearance was not voluntary;
- 2) the person is missing under known dangerous circumstances;
- 3) the person is missing more than 30 days;
- 4) the person is under the age of 21 and at least one other factor in this paragraph is applicable;

- 5) there is evidence the person is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person's health if the person does not receive the needed care or medication;
- 6) the person does not have a pattern of running away or disappearing;
- 7) the person is mentally impaired;
- 8) there is evidence that the person may have been abducted by a noncustodial parent;
- 9) the person has been the subject of past threats or acts of violence;
- 10) there is evidence 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; or
- 11) any other factor that the law enforcement agency deems to indicate that the person may be at risk of physical injury or death, including a determination by another law enforcement agency that the person is missing and endangered.

**C. *Child*** has the meaning given it in MN STAT 299C,52, subd. 1 (a), "Any person under the age of 18 years or any person certified or known to be mentally incompetent".

**D. *NCIC*** means The National Crime Information Center.

**E. *CJIS*** means The Criminal Justice Information System.

**F. *DNA*** means "DNA" has the meaning given it in MN STAT 299C,52, subd. 1 (b), Deoxyribonucleic acid from a human biological specimen.

### III. PROCEDURES

This agency will respond according to the following six types of general procedures:

- Initial Response
- Initial Investigation
- Investigation
- 30 Day Benchmark
- Prolonged Investigation, and
- Recovery/ Case Closure

#### A. INITIAL RESPONSE

1. As required by MN 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; or
  - j) for any other reason, except in cases where the law enforcement agency has direct knowledge that the person is, in fact, not missing, and the whereabouts and welfare of the person are known at the time the report is filed.
2. 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.
3. Obtain interpretive services if necessary.
4. Interview the person who made the initial report, and if the person is a child, the child's parent(s) or guardian(s).
5. Determine when, where, and by whom the missing person was last seen.
6. Interview the individual(s) who last had contact with the person.
7. Obtain a detailed description of the missing person, abductor, vehicles, etc. and ask for recent photo of missing person.
8. Immediately enter the complete descriptive and critical information, regarding the missing and endangered person, into the appropriate category of the NCIC Missing Person File.
- a) 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.
  - b) As required by MN 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.
9. Enter complete descriptive information regarding suspects/vehicle in the NCIC system.
10. Request investigative and supervisory assistance.
11. Update additional responding personnel.
12. 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.
13. Notify the family of the Minnesota Missing/Unidentified Persons Clearinghouse services available.
14. 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.

15. Obtain and protect uncontaminated missing person scent articles for possible use by search canines.
16. Activate protocols for working with the media. (AMBER Alert, Minnesota Crime Alert Network)
17. As required by MN 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.
18. Implement multi-jurisdictional coordination/mutual aid plan as appropriate such as when:
  - a) the primary agency has limited resources;
  - b) the investigation crosses jurisdictional lines; or
  - c) jurisdictions have pre-established task forces or investigative teams.
19. Based on the preliminary investigation, determine whether or not a physical search is required.

## **B. INITIAL INVESTIGATION**

1. Conduct a canvas of the neighborhood and of vehicles in the vicinity.
2. Arrange for use of helpful media coverage.
3. Maintain records of telephone communications/messages.
4. Ensure that everyone at the scene is identified and interviewed separately.
5. Search the home, 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.
6. Assign an investigator or officer whose duties will include coordination of the investigation.

## **C. INVESTIGATION**

1. 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.

2. 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.
3. Compile a list of known sex offenders in the region.
4. In cases of infant abduction, investigate claims of home births made in the area.
5. In cases involving children, obtain child protective agency records for reports of child abuse.
6. Review records for previous incidents related to the missing person and prior police activity in the area, including prowlers, indecent exposure, attempted abductions, etc.
7. Obtain the missing person’s medical and dental records, fingerprints and DNA when practical or within 30 days.
8. 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.
9. Update the NCIC file, as necessary with any additional information, regarding the missing person, suspect(s) and vehicle(s).
10. Interview delivery personnel, employees of gas, water, electric and cable companies, taxi drivers, post office personnel, sanitation workers, etc.
11. For persons’ under the age of 21, contact the National Center for Missing and Exploited Children (NCMEC) for photo dissemination and other case assistance.
12. Determine if outside help is needed and utilize local, state and federal resources related to specialized investigative needs, including:
  - a) Available Search and Rescue (SAR) resources
  - b) Investigative Resources
  - c) Interpretive Services
  - d) Telephone Services (traps, traces, triangulation, etc.)
  - e) Media Assistance (Local and National)
13. Secure electronic communication information such as the missing person’s cell phone number, email address(s) and social networking site information.
14. 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.
15. 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.

\*\*\*MISSING FOR OVER 30 DAYS\*\*\*

If the person remains missing after 30 days from entry into NCIC the local law enforcement agency will be contacted by the BCA Missing and Unidentified Persons Clearinghouse to request the following information (if not already received):

- a. DNA samples from family members and, if possible, from the missing person.
- b. Dental information and x-rays.
- c. Additional photographs and video that may aid the investigation or identification.
- d. Fingerprints.
- e. Other specific identifying information.

This information will be entered into the appropriate databases by BCA Clearinghouse personnel. If the person is still missing after 30 days, review the case file to determine whether any additional information received on the missing person indicates that the person is endangered and update the record in NCIC to reflect the status change.

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

1. Develop a profile of the possible abductor.
2. Consider the use of a truth verification device for parents, spouse, and other key individuals.
3. Re-read all reports and transcripts of interviews, revisit the crime scene, review all photographs and videotapes, re-interview key individuals and re-examine all physical evidence collected.
4. Review all potential witness/suspect information obtained in the initial investigation and consider background checks on anyone of interest identified in the investigation.
5. Periodically check pertinent sources of information about the missing person for any activity such as phone, bank, internet or credit card activity.
6. Develop a time-line and other visual exhibits.
7. Critique the results of the on-going investigation with appropriate investigative resources.
8. Arrange for periodic media coverage.
9. Consider utilizing rewards and crime-stoppers programs.
10. Update NCIC Missing Person File information, as necessary.
11. Re-contact the National Center for Missing and Exploited Children (NCMEC) for age progression assistance.
12. Maintain contact with the family and/or the reporting party or designee as appropriate.

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

## Alive

1. Verify that the located person is the reported missing person.
2. If appropriate, arrange for a comprehensive physical examination of the victim.
3. Conduct a careful interview of the person, document the results of the interview, and involve all appropriate agencies.
4. Notify the family/reporting party that the missing person has been located. (In adult cases, if the located adult permits the disclosure of their whereabouts and contact information, the family/reporting party may be informed of this information.)
5. Dependent on the circumstances of the disappearance, consider the need for reunification assistance, intervention, counseling or other services for either the missing person or family/reporting party.
6. Cancel alerts (Minnesota Crime Alert, AMBER Alert, etc), remove case from NCIC (as required by MN STAT 299C.53. subd 2) and other information systems and remove posters and other publications from circulation.
7. Perform constructive post-case critique. Re-assess the procedures used and update the department's policy and procedures as appropriate.

## Deceased

1. Secure the crime scene.
2. Contact coroner, medical examiner or forensic anthropologist to arrange for body recovery and examination.
3. Collect and preserve any evidence at the scene.
4. Depending upon the circumstances, consider the need for intervention, counseling or other services for the family/reporting party or designee.
5. Cancel alerts and remove case from NCIC and other information systems, remove posters and other publications from circulation.
6. Perform constructive post-case critique. Re-assess the procedures used and update the department's policy and procedures as appropriate.

## DOMESTIC ABUSE RESPONSE AND ARREST POLICY

Minn. Stat. 629.342

### I. POLICY

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

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

### XI. II. DEFINITIONS

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

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

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

- (1) physical harm, bodily injury, or assault;
- (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or
- (3) Threats of violence, within the meaning of section 609.713, subdivision 1; criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2.

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

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

- D. *Family or Household Member*** has the meaning given it in Minn. Stat. 518B.01, subd. 2(b)(1)-(7): spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they have been married or have lived together at any time, and persons involved in a significant romantic or sexual relationship. It also includes a man and a woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.
- E. *Domestic Call*** means a request for assistance to a law enforcement agency regarding domestic abuse or any other crime against a family of household member.
- F. *Qualified domestic violence-related offense (QDVRO)*** has the meaning given it in Minn. Stat. 609.02, subd. 16 and includes a violation of or an attempt to violate a domestic abuse order for protection; first or second degree murder; first through fifth degree assault; domestic assault; female genital mutilation; domestic assault by strangulation; first through fourth degree criminal sexual conduct; malicious punishment of a child; threats of violence; violation of harassment restraining order; stalking; interference with an emergency call; nonconsensual dissemination of private sexual images; and violation of domestic abuse no contact order; and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

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

- G. *Order for Protection (OFP)*** is an order issued under Minn. Stat. 518B.01 by a judge in civil court upon the request of the petitioner. Any family or household member of the abuser (called a respondent) may ask the court for an OFP. The relief granted to the petitioner may include an order for the respondent to stop domestic abuse, no direct or indirect contact with petitioner, temporary custody of minor children, temporary financial support, and/or counseling for the respondent. Other forms or relief are also available. Violating an OFP is a crime.
- H. *Domestic Abuse No Contact Order (DANCO)*** is an order issued under Minn. Stat. 629.75 by a judge in criminal court limiting contact between a defendant and a victim of domestic abuse. DANCOs may be issued as pretrial condition of release and/or as a probationary condition of sentence.

- I. **Harassment Restraining Order (HRO)** is an order issued under Minn. Stat. 609.748 by a judge in civil court when a petitioner requests a court order preventing another person from having contact with him/her. These orders generally prohibit all contact of any kind (including, but not limited to, phone calls, letters, e-mail, social media and contact through a third party) and may limit the respondent's ability to come within a certain distance of the petitioner's home, work or school. This type of order can be issued no matter what the relationship between the individuals involved. Violating an HRO is a crime.
- J. **Harassment** has the meaning given to it in Minn. Stat. 609.748, subd. 1(a): a single incident of physical or sexual assault or repeated incidents of intrusive or unwanted acts, words or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target.
- K. **Stalking** has the meaning given to it in Minn. Stat. 609.749, subd. 1: engaging in conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated, and causes this reaction on the part of the victim regardless of the relationship between the actor and victim.

### III. PROCEDURE

#### A. DISPATCHING THE CALLS

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

- the relationship between the caller and the suspect,
- whether there has been prior calls involving these individuals,
- whether there is an order for protection (OFP), harassment restraining order (HRO) or criminal pre-trial or probationary domestic abuse no contact order (DANCO),
- whether children are present at the scene, and
- whether there are non-English speaking people, or people with mobility impairments or hearing impairments at the scene.

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

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

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

## **B. RESPONDING TO THE CALLS**

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

subject is refused the officers should request the dispatcher to contact the caller.

- Forced Entry – If access is still refused and the officers have reason to believe that someone is in imminent danger the officers are permitted to force entry.
  - Search Warrant Entry – If the officers are refused entry and have no legal grounds for forced entry and have reasonable grounds to believe a crime has been committed, the officers should contact the appropriate authority to obtain a search warrant.
4. First Aid: After securing the scene, the responding peace officers shall provide the necessary first aid.

### **C. ARREST DECISIONS**

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

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

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

- ownership, tenancy rights of either party, or the fact the incident occurred in a private place,
  - belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction,
  - verbal assurances that the abuse will stop,
  - disposition of previous police calls involving the same victim or suspect,
  - denial by either party that the abuse occurred when there is evidence of domestic abuse,
  - lack of a court order restraining or restricting the suspect,
  - concern about reprisals against the victim,
  - adverse financial consequences that might result from the arrest, or
  - chemical dependency or intoxication of the parties.
3. **Predominant Aggressor and Dual Arrests:** The agency shall discourage dual arrest<sup>1</sup>. Where there are allegations that each party assaulted the other, the peace officer shall determine whether there is sufficient evidence to conclude that one of the parties is the predominant aggressor based on the following criteria and the officer's judgment:
- comparative extent of any injuries inflicted,
  - fear of physical injury because of past or present threats,
  - actions taken in self-defense or to protect oneself,
  - the history of domestic abuse perpetrated by one party against the other, or
  - the existence or previous existence of an order for protection.
4. **Victim Request Not to Prosecute:** If the officer finds probable cause to believe a domestic abuse offense has been committed and intends to arrest but the victim requests no arrest or prosecution, the officer should inform the victim that the decision to arrest is the officer's and the decision to prosecute lies with the prosecutor.

## D. AUTHORITY AND TYPES OF ARREST

1. **Warrantless Probable Cause Arrest for Fifth Degree Assault or Domestic Assault:** Although the general rule is that officers may not make probable cause arrests for misdemeanors unless the offense occurs in their presence (or a citizen who saw the crime requests an arrest) domestic assault is an exception. A peace officer may arrest a person anywhere without a warrant, including at the person's residence, if the peace officer has probable cause to believe that the

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

person has, within the preceding 72 hours, assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm any person covered by the “family or household member” definition, even if the assault did not take place in the presence of the peace officer (Minn. Stat. 629.341). A peace officer acting in good faith and exercising due care in making an arrest pursuant to this statute is immune from civil liability that might result from the officer’s action.

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

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

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

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

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

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

Domestic assault against a family or household member is also enhanceable under the same circumstances except that the prior convictions may be against any family or household member. According to Minn. Stat. 609.2247,

subd. 2., whoever assaults a family or household member by strangulation is guilty of a felony.

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

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

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

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

Any of the above gross misdemeanors is enhanceable to a felony if committed within ten years of a previous QDRVO conviction or adjudication of delinquency

OR if committed against a juvenile OR if committed while possessing a dangerous weapon.

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

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

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

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

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

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

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

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

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

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

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

b) *Harassment Restraining Order (HRO):* A peace officer shall arrest and take into custody a person who the peace officer has probable cause to believe has

violated a harassment restraining order pursuant to Minn. Stat. 609.748, subds. 4 and 5, if the officer can verify the existence of the order.

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

(1) within 10 years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency;

(2) because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability (as defined in section 363A.03), age, or national origin;

(3) by falsely impersonating another;

(4) while possessing a dangerous weapon;

(5) with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.414, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(6) against a victim under the age of 18, if the respondent is more than 36 months older than the victim.

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

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

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

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

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

1. **Staying at the Scene:** If no arrest is made peace officers should remain at the scene of the disturbance until they believe that the likelihood of further imminent abuse has been eliminated. If a domestic abuse intervention program is available the peace officer should make contact for immediate intervention.

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

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

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

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

## **F. CHILDREN**

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

## **G. REPORTS AND FORMS**

1. **Written Report:** Peace officers shall make a report after responding to a domestic call. If the officer did not arrest or seek an arrest warrant even though arrest was authorized, a detailed explanation of the reasons for the officer's decision not to arrest must be documented. The report should include the following:
  - a) detailed statements from the victim, suspect and witnesses;
  - b) description of injuries;
  - c) information about past abuse;
  - d) description of the scene;
  - e) predominant aggressor;
  - f) existence of language barriers;
  - g) presence of elderly victims or those with disabilities; and
  - h) documentation of evidence.

## **H. FURTHER INVESTIGATION**

1. A domestic call shall be turned over to the appropriate investigator for further follow-up if appropriate. If there is an arrest, the investigator shall determine the defendant's criminal record, and if there is evidence of a previous conviction, the peace officer should advise the prosecutors of any enhanced criminal sanctions which may be available.

2. Notwithstanding the fact that the officer has decided not to arrest one of the participants in the domestic call, the peace officer shall thoroughly document all relevant information in the report and shall refer the report to the appropriate prosecutor for review and consideration of criminal charges.

**Enhancements Table**

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

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

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

Offense	Victim of Offense	Time Limit	Prior Conviction	Offense Level
Assault 5	Same Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of 1 <sup>st</sup> of 2 or more convictions	QDVRO	Felony
	Any Victim	w/in 3 years of conviction	QDVRO	Gross Misdemeanor
		w/in 3 years of 1 <sup>st</sup> of 2 or more convictions	QDVRO	Felony
Domestic Assault	Family/Household Member	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
	(as defined in Minn. Stat. 518B.01, subd. 2.)	w/in 10 years of 1 <sup>st</sup> of 2 or more convictions for Domestic Assault or Assault 5	QDVRO	Felony

Malicious Punishment	Any Victim	w/in 5 years of discharge	Assault 1-5, Domestic Assault, Malicious Punishment, Criminal Sexual Conduct 1-4, or Terroristic Threats	Felony
Violation of Order for Protection or Harassment Restraining Order	Any Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of 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

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

PB Rev 04/2013

## PREDATORY OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION POLICY

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

### I. POLICY

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

### II. DEFINITIONS

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

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

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

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

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

### III. REGISTRATION PROCEDURES

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

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

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

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

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

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

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

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

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

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

1. CONFIDENTIAL - Fact Sheet - Law Enforcement Agency Use Only

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

A. A. Notification Process

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

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

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

**Level 2** – Information subject to limited disclosure for the purpose of securing institutions and protecting individuals in their care while they are on or near the premises of the institution. *See attachment 2: Law Enforcement Agency Fact Sheet – Notification of Release in Minnesota – Risk Level 2.*

- In addition to Level 1 disclosures, the law enforcement agency may disclose information to:

- Staff members of public and private educational institutions, day care establishments and establishments that primarily serve individuals likely to be victimized by the offender.
- Individuals likely to be victimized by the offender.
- Discretionary notification must be based on the offender's pattern of offending or victim preference as documented by DOC or DHS.

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

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

B.

C. B. Health Care Facility Notification

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

**C. Specialized Notifications**

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

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

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

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

#### **D. 2. Victim Notification**

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

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

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

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

### **3. Homeless Notification Process**

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

## **CRIMINAL CONDUCT ON SCHOOL BUSES POLICY**

MN STAT 169.4581

### **I. POLICY**

It is the policy of the Houston Police Department to respond to allegations of criminal conduct which occur within our jurisdiction on school buses. This agency shall work with and consult school officials, transportation personnel, parents, and students when respond to these incidents to protect student safety and deal appropriately with those who violate the law. This policy recognizes that responding to reports of alleged criminal conduct on school buses within this jurisdiction is the responsibility of this agency in cooperation with any other law enforcement agency that has jurisdiction over the alleged offense. This policy is not intended to interfere with or replace school disciplinary policies that relate to student misconduct on school buses.

### **II. PROCEDURE**

This agency shall:

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

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PB Rev 01/2011

**SUPERVISION OF PART-TIME PEACE OFFICERS POLICY**  
MN RULES 6700.1110

**XIII. POLICY**

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

**XIV. DEFINITIONS**

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

## **XV. PROCEDURES**

It is this agency's policy that supervision be provided to part-time peace officers by peace officers as required under *MN RULES* 6700.1110. This policy minimally addresses the following requirements found within the rule including:

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

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

- A. The hours of active duty status during the calendar year of a part-time peace officer are limited to no more than 1,040 hours.
  
- B. A part-time peace officer shall record all active duty hours worked either on the *Part-time Peace Officer Monthly Hour Log* provided by the POST Board, or in an electronic format that includes the same information for each agency by whom the part-time peace officer is appointed. The part-time peace officer shall record the date, time, and total hours of active duty, the name of the agency for which the hours were worked and the name of the designated supervising peace officer assigned for each shift or time entry on the log.

- C. On the last day of every month the part-time peace officer shall provide the chief law enforcement officer of every agency for whom the part-time peace officer worked a written notice of the total number of hours worked for all agencies. The notice may be provided on the *Part-time Peace Officer Monthly Hour Log* provided by the POST Board or in an electronic format that includes the same information.
  
- D. The part-time peace officer shall keep and maintain copies of active duty reporting forms for five years and shall make the forms available to the POST Board upon request.

**XVII. POLICY DISTRIBUTION**

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

PB Rev 01/2011

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**LIGHTING EXEMPTION OF LAW ENFORCEMENT VEHICLES POLICY**  
MN STAT 169.541

**I. POLICY**

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

**II. DEFINITIONS**

For the purpose of this policy the following definitions apply:

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

**III. PROCEDURE**

A peace officer may **not** operate a vehicle without lights contrary to MN STAT 169.541. **LIGHTING EXEMPTION FOR LAW ENFORCEMENT; STANDARDS.** under conditions of limited or reduced visibility as defined in MN STAT 84.87, 84.928, 169.48 to 169.65 and 86B.511:

- on an interstate highway.
- at speeds greater than what is reasonable and prudent under existing weather, road and traffic conditions.
- faster than the posted speed limit.
- in situations where the peace officer is an active participant in the pursuit of a motor vehicle in violation of MN STAT 609.487.

## **AVOIDING RACIAL PROFILING POLICY**

Minn. Stat. 626.8471, subd.4

### **I. POLICY**

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

### **II. DEFINITION**

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

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

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

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

### **III. PROCEDURES**

- A.** Policing impartially, not racial profiling, is standard procedure for this agency meaning:
  - 1.** Investigative detentions, pedestrian and vehicle stops, arrests, searches and property seizures by peace officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the United States Constitution and peace officers must be able to articulate specific facts, circumstances and conclusions that support reasonable suspicion or probable cause for investigative detentions, pedestrian and vehicle stops, arrests, nonconsensual searches and property seizures;
  - 2.** Except as provided in paragraph **3.**, Peace officers shall not consider race, ethnicity, national origin, gender, sexual orientation and religion in establishing either reasonable suspicion or probable cause; and

3. Peace officers may take into account the descriptors in paragraph 2. Based on information that links specific, suspected, unlawful or suspicious activity to a particular individual or group of individuals and this information may be used in the same manner officers use specific information regarding age, height, weight, or other physical characteristics about specific suspects.
- B.** In an effort to prevent the perception of biased law enforcement peace officers shall:
1. Be respectful and professional;
  2. Introduce or identify themselves to the citizen and state the reason for the contact as soon as practical unless providing this information will compromise officer or public safety;
  3. Ensure the detention is no longer than necessary to take appropriate action for the known or suspected offense;
  4. Attempt to answer any relevant questions the citizen may have regarding the citizen/officer contact including relevant referrals to other agencies when appropriate;
  5. Provide their last name or badge number when requested.
  6. Explain and/or apologize if it is determined the reasonable suspicion was unfounded (e.g. after an investigatory stop).
- C.** Supervisors shall ensure all personnel in their command are familiar with the content of this policy and are in compliance.

#### **IV. DUTY TO REPORT**

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

#### **V. VIOLATIONS**

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

**PROCESSION OF PROPERTY SEIZED FOR ADMINISTRATIVE FORFEITURE**  
MN STAT 609.531

**POLICY**

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

**DEFINITIONS**

**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 and includes but is not limited to a motor vehicle, trailer, snowmobile, airplane or vessel and any equipment attached to it. The term "conveyance device" does not include property, which is, in fact, itself stolen or taken in violation of the law.

**Firearms/ammunition/firearm accessories:** a device that projects either single or multiple [projectiles](#) at high velocity. Ammunition is a term meaning the assembly of a projectile and its propellant. Accessories include but are not limited to holsters, gun cases, fire arm optics, suppression devices, cleaning supplies, etc.

**Forfeiture:** the process by which legal ownership of an asset is transferred to a government or other authority.

**Jewelry/Precious Metals/Precious Stones:** The term “precious metals/precious stones” includes items of jewelry such as rings, necklaces and watches that reasonably appear to be made of precious metals or precious stones. Precious metals include but are not limited to gold, silver, platinum, iridium and palladium. Precious stones, often referred to as gemstones, include but are not limited to diamonds, emeralds and rubies.

**Forfeiture/Seized Property Reviewer:** an Agency employee responsible for reviewing all forfeiture cases and is the liaison between the Agency and prosecutor’s office.

**Seizure:** the act of law enforcement officials taking property, including cash, vehicles, etc. that has been used in connection with or acquired by illegal activities.

## **SEIZED PROPERTY SUBJECT TO ADMINISTRATIVE FORFEITURE**

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

All money, precious metals and precious stones found in proximity to:

- controlled substances;
- forfeitable drug manufacturing or distributing equipment or devices;  
or
- forfeitable records of manufacture or distribution of controlled substances.

All conveyance devices containing controlled substances with retail value of \$100 or more if possession or sale of the controlled substance would be a felony under MN STAT Chapter 152.

All firearms, ammunition and firearm accessories found:

- in a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;
- on or in proximity to a person from whom a felony amount of controlled substance is seized; or

- on the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under MN STAT Chapter 152.

Situations in which forfeiture should not be pursued:

- Seizure of property not listed above must be processed, reviewed and approved by the unit supervisor.

## **PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS**

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

- The proper Notice of Seizure and Intent to Forfeit Property form. This form must be completed to include the following: a list describing each item seized, the name of the individual served with the Notice, location, and the date of seizure. Administrative forfeiture notices are NOT to be given for assets seized under MN STAT 609.5314 if the retail value of the asset exceeds \$50,000.00.
- A receipt for the item(s) seized.

The Notice form also contains information in English, Hmong, Somali and Spanish concerning the right to obtain judicial review and the procedure under MN STAT 609.5314 to follow to obtain it. The form must be dated and signed by the peace officer conducting the seizure. An agency case number must be included on the form. The individual from whom property is seized must be given an opportunity to sign the seizure notice form. If the person refuses, the peace officer conducting the seizure must check the appropriate box indicating the refusal to sign. If property is seized from multiple individuals, a separate seizure form will be completed for each individual. A copy of the seizure form must be given to the individual served.

All property subject to and being processed for forfeiture through the agency must be held in the custody of the agency.

The peace officer conducting the seizure shall forward the original and pink copy of the seizure notices, seized property processing worksheets, property receipts and reports to the Forfeiture/Seized Property Reviewer within 10 days of seizure.

The peace officer conducting the seizure shall inform the Forfeiture/Seized Property Reviewer of the estimated retail value of drugs found in proximity to the asset seized.

### **Cash**

Peace officers shall not seize cash having an aggregate value less than (Agency Discretion), unless pre-recorded buy funds are included in the cash seized. Cash shall be recounted and the amount verified by another employee of the Agency. The property bag and/or inventory receipt shall then be co-signed when cash is involved.

All forfeitable cash seized will be turned over to the Forfeiture/Seized Property Reviewer or property/evidence room as soon as practicably possible (Agency Discretion) of the seizure.

Prior to deposit with the Forfeiture/Seized Property Reviewer, peace officers shall examine all cash seized to determine whether it contains any buy funds. Peace officers shall document the recovery of all buy funds and deposit those funds with the Forfeiture/Seized Property Reviewer to be returned to the appropriate unit's buy fund account

Peace officers seizing cash shall also prepare a property inventory. If cash is seized from multiple individuals, a property inventory receipt will be completed for each individual. The property inventory receipt shall specify the total amount of cash seized from each individual. The agency property inventory shall also contain a detailed description of all checks, money orders and/or travelers checks or other financial instruments.

The peace officer conducting the seizure shall provide a copy of the completed property inventory receipt to the Forfeiture/Seized Property Reviewer.

It is the seizing peace officer's responsibility to secure the cash consistent with the agency policy or procedure.

### **Jewelry/Precious Metals/Precious Stones**

Peace officers seizing jewelry, precious metals and/or precious stones will write a detailed description of each item on the property inventory receipt prior to inventorying the items. 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/Seized Property Reviewer.

Peace officers seizing jewelry, precious metals and/or precious stones shall deliver those items to the property/evidence room as soon as practicably possible.

### **Conveyance Device**

Upon seizure for forfeiture, all conveyance devices shall immediately be either taken to a secure designated area or to an agency approved impound facility.

Peace officers shall inventory the conveyance device and its contents in accordance with agency policy. Peace officers shall also complete applicable report forms and distribute them appropriately.

### **Firearms/Ammunition/Firearm Accessories**

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

## **CASE FILE STATUS**

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

## **REPORT WRITING**

Peace officers seizing property must complete a report. All reports must include a description of the items seized, where the property is turned-in/inventoried, the name of the individual served, the date the seizure form was served, the name of the serving peace officer and whether or not the individual signed the Notice of Seizure and Intent to Forfeit Property form.

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

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(02/11)

## Investigation of Sexual Assault Policy

MN STAT 626.8442

### I. PURPOSE

The purpose of this policy is to provide employees with guidelines for responding to reports of sexual assault. This agency will strive:

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

### II. POLICY

It is the policy of the Houston Police Department to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring its peace officers understand the laws governing this area. Sexual assault crimes are under-reported to law enforcement and the goal of this policy is in part to improve victim experience in reporting so that more people are encouraged to report.

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

Peace officers will utilize this policy in response to sexual assault reported to this agency. This agency will aggressively enforce the laws without bias and prejudice based on race, marital status, sexual orientation, economic status, age, disability, gender, religion, creed, or national origin.

### III. DEFINITIONS

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

- A. **Consent:** As defined by Minn. Stat. 609.341, which states:
  - (1) Words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act.

- (2) A person who is mentally incapacitated or physically helpless as defined by Minnesota Statute 609.341 cannot consent to a sexual act.
  - (3) Corroboration of the victim's testimony is not required to show lack of consent.
- B. **Child or Minor:** a person under the age of 18.
- C. **Medical Forensic Examiner:** The health care provider conducting a sexual assault medical forensic examination.
- D. **Sexual Assault:** A person who engages in sexual contact or penetration with another person in a criminal manner as identified in MN Statute 609.342 to 609.3451.
- E. **Family and Household Member:** As defined in Minn. Stat. 518.B.01 Subd.2.b. to include:
- (1) spouses or former spouses;
  - (2) parents and children;
  - (3) persons related by blood;
  - (4) persons who are presently residing together or who have resided together in the past;
  - (5) persons who have a child in common regardless of whether they have been married or have lived together at any time;
  - (6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and
  - (7) persons involved in a significant romantic or sexual relationship
- F. **Sexual Assault Medical Forensic Examination:** An examination of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients.
- G. **Victim Advocate:** A Sexual Assault Counselor defined by Minn. Stat. 595.02, subd. 1(k) and/or Domestic Abuse Advocate as defined by Minn. Stat. 595.02, subd. 1(1) who provide confidential advocacy services to victims of sexual assault and domestic abuse. Victim advocates as defined provide coverage in all counties in Minnesota. Minnesota Office of Justice Programs (MN OJP) can assist departments in locating their local victim advocacy agency for the purposes outlined in this policy.
- H. **Victim Centered:** A victim-centered approach prioritizes the safety, privacy and well-being of the victim and aims to create a supportive environment in which the victim's rights are respected and in which they are treated with dignity and respect. This approach acknowledges and respects a victims' input into the criminal justice response and recognizes victims are not responsible for the crimes committed against them.
- I. **Vulnerable Adult:** any person 18 years of age or older who:
- (1) is a resident inpatient of a facility as defined in Minn. Stat. 626.5572. Subd. 6;

- (2) receives services at or from a facility required to be licensed to serve adults under sections [245A.01](#) to [245A.15](#), except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);
- (3) receives services from a home care provider required to be licensed under sections [144A.43](#) to [144A.482](#); or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections [256B.0625](#), [subdivision 19a](#), [256B.0651](#) to [256B.0654](#), and [256B.0659](#); or
- (4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
  - (i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and
  - (ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

#### **IV. PROCEDURES**

##### **A. Communications Personnel Response/Additional Actions by Responding Officers**

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

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

##### **B. Initial Officer Response**

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

- 1) Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.

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

### C. Victim Interviews

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

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

- Offer to have a confidential victim advocate present (if possible) if the victim would benefit from additional support during the process
- Whenever possible, conduct victim interviews in person
- Make an effort to conduct the interview in a welcoming environment
- Let the victim share the details at their own pace
- Recognize victims of trauma may have difficulty remembering incidents in a linear fashion and may remember details in days and weeks following the assault
- After the initial interview, consider reaching out to the victim within a few days, after at least one sleep cycle to ask if they remember any additional details.
- Depending on the victim, additional interviews might be needed to gather additional information. Offer support from a victim advocate to the victim to help facilitate engagement with the investigative process and healing.

- Some victims do remember details vividly and might want to be interviewed immediately.
- During initial and subsequent victim interviews, officers should note the following information as victims share it, recognizing that a victim may not be able to recall all the details of the assault during a particular interview.
  - 1) Whether the suspect was known to the victim
  - 2) How long the victim knew the suspect
  - 3) The circumstances of their meeting and if there is any indication of the use of drugs or alcohol to facilitate the sexual assault
  - 4) The extent of their previous or current relationship
  - 5) Any behavioral changes that led the situation from one based on consent to one of submission, coercion, fear, or force
  - 6) Specific actions, statements, and/or thoughts of both victim and suspect immediately prior, during, and after assault
  - 7) Relevant communication through social media, email, text messages, or any other forms of communication

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

**1. Minors and Vulnerable Adults**

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

- a. Officers responding to reports of sexual assaults involving these sensitive population groups shall limit their actions to the following:
  - (1) Ensuring the safety of the victim;
  - (2) Ensuring the scene is safe;
  - (3) Safeguarding evidence where appropriate;
  - (4) Collecting any information necessary to identify the suspect; and
  - (5) Addressing the immediate medical needs of individuals at the scene
- b. Initial responding officers should not attempt to interview the victim in these situations, but should instead attempt to obtain basic information and facts about the situation, including the jurisdiction where the incident occurred and that a crime most likely occurred. Officers should seek to obtain this information from parents, caregivers, the reporting party, or other adult witnesses, unless those individuals are believed to be the perpetrators.

- c. Officers responding to victims with special considerations must comply with the mandated reporting requirements of Minnesota Statute Section 260E.06 and 626.557, as applicable. Officers investigating cases involving victims with special considerations should coordinate these investigations with the appropriate local human services agency where required. Any victim or witness interviews conducted with individuals having special considerations must be audio and video recorded whenever possible. All other interviews must be audio recorded whenever possible.

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

- d. Officers should obtain necessary contact information for the victim's caregiver, guardian or parents and where the victim may be located at a later time. Officers should advise the victim and/or any accompanying adult(s), guardians or caregivers that an investigating officer will follow up with information on a forensic interview.
- e. The officer should advise the victim's caregiver, guardian or parent that if the victim starts to talk about the incident they should listen to them but not question them as this may influence any future statements.

2. Victims of Domestic Abuse

Officers responding to a report of sexual assault committed against a family and household member must also follow the requirements and guidelines in this agency's domestic abuse policy and protocol, in addition to the guidelines in this policy.

**E. Protecting Victim Rights**

- 1) Confidentiality: Officers should explain to victims the limitations of confidentiality in a criminal investigation and that the victim's identifying information is not accessible to the public, as specified in Minn. Stat. section 13.82, subd. 17(b)
- 2) Crime Victim Rights: Officers must provide the following information to the victim:
  - a. Crime victim rights and resource information required to be provided to all victims as specified by Minn. Stat. section 611A.02, subd. 2(b)
  - b. If the suspect is a family or household member to the victim, crime victim rights and resource information required to be provided to domestic abuse victims, as specified by Minn. Stat. section 629.341, subd. 3.

- c. The victim's right to be informed of the status of a sexual assault examination kit upon request as provided for under Minn. Stat. section 611A.27, subd. 1.
  - d. Pursuant to Minn. Stat. 611A.26, subd. 1, no law enforcement agency or prosecutor shall require that a complainant of a criminal sexual conduct or sex trafficking offense submit to a polygraph examination as part of or a condition to proceeding with the investigation, charging or prosecution of such offense.
- 3) Other information: Officers should provide to the victim the agency's crime report/ICR number, and contact information for the reporting officer and/or investigator or person handling the follow up.
- 4) Language access: All officers shall follow agency policy regarding limited English proficiency.

**F. Evidence Collection**

- 1) Considerations for Evidence Collection  
Officers shall follow this agency's policy on crime scene response. In addition, officers may do the following:
- a. Collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing. The agency should consider utilizing their agency or county crime lab in obtaining or processing the scene where the assault took place. This should be in accordance to any/all other policies and procedures relating to evidence collections.
  - b. Document any evidence of threats or any communications made by the suspect, or made on behalf of the suspect, to include those made to individuals other than the victim.
  - c. In situations where it is suspected that drugs or alcohol may have facilitated the assault, officers should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, or other related items.
  - d. If the victim has declined or a medical forensic exam will not be conducted, the officer should obtain victim consent and attempt to take photographs of visible physical injuries, including any healing or old injuries. Victim should be given directions about how to document any bruising or injury that becomes evidence later after these photographs are taken.

**G. Sexual Assault Medical Forensic Examinations**

- 1) Prior to the sexual assault medical forensic examination the investigating officer should do the following:
- a. Ensure the victim understands the purpose of the sexual assault medical forensic exam and its importance to both their general health and

wellness and to the investigation. Offer assurance to the victim that they will not incur any out-of-pocket expenses for forensic medical exams and provide information about evidence collection, storage and preservation in sexual assault cases.

- b. Provide the victim with general information about the procedure, and encourage them to seek further detail and guidance from the forensic examiner, health care professional, or a victim advocate. Officers and investigators cannot deny a victim the opportunity to have an exam.
  - c. Officers should be aware and if necessary, relay to victims who do not want to undergo an exam that there might be additional treatments or medications they are entitled to even if they do not want to have an exam done or have evidence collected. Victims can seek that information from a health care provider or a victim advocate. If possible, transport or arrange transportation for the victim to the designated medical facility.
  - d. Ask the victim for a signed release for access to medical records from the exam.
- 2) Officers should not be present during any part of the exam, including during the medical history.
  - 3) Following the exam, evidence collected during the exam shall be handled according to the requirements of agency policy and Minnesota Statute 299C.106.

#### **H. Contacting and Interviewing Suspects**

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

- 1) Conduct a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.
- 2) Consider conducting a pretext or confrontational call or messaging depending on jurisdictional statutes. Involvement of a victim should be based on strong consideration of the victim's emotional and physical state. A victim advocate should be present whenever possible to offer support.
- 3) When possible, an attempt would be made to interview the suspect in person.
- 4) In situations where suspects do not deny that a sexual act occurred, but rather assert that it was with the consent of the victim, officers should do the following:
  - a. Collect evidence of past communication, including but not limited to all relevant interaction (including social media) between the suspect and victim.
  - b. Identify events that transpired prior to, during, and after the assault in an effort to locate additional witnesses and physical locations that might lead to additional evidence.
- 5) For sexual assaults involving strangers, officers should focus investigative efforts on the collection of video, DNA, and other trace evidence used for analysis to identify the perpetrator (handle evidence collection per agency policy).

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

Note: A suspect's forensic examination and/or the collection of evidence from a suspect may be done by either an investigating officer/investigator, Forensic Medical Examiner, or the agency/county crime lab personnel.

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

**J. Role of the Supervisor**

Supervisors may do the following:

- 1) Assist officers investigating incidents of sexual assault when possible or if requested by an officer.
- 2) Provide guidance and direction as needed.
- 3) Review sexual assault reports to ensure that necessary steps were taken during initial response and investigations.

**K. Case Review/Case Summary**

A supervisor should ensure cases are reviewed on an on-going basis. The review process should include an analysis of:

- 1) Case dispositions
- 2) Decisions to collect evidence
- 3) Submissions of evidence for lab testing
- 4) Interviewing decisions

## EYEWITNESS IDENTIFICATION PROCEDURES 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

Approved by the POST Board on 7/23/2020. Adopted by Houston Police Department on 8/17/2020

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## Body Armor Mandatory Wear Policy

### 1. PURPOSE:

The purpose of this policy is to provide sworn members of the Houston Police Department with guidelines for the proper use and care of body armor.

NOTE: Beginning in 2011, all officers receiving new body armor through the Bureau of Justice Assistance (BJA) Bulletproof Vest Partnership (BVP) Program<sup>1</sup> must comply with this policy.

### 2. POLICY:

It is the policy of the Houston 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.

### 3. DEFINITIONS:

Field Activities: Duty assignments and/or tasks that place or could reasonably be expected to place officers in situations where they would be required to act in enforcement rather than administrative or support capacities.

Officers: As of 2011 all sworn Police Officers of the Houston Police Department, regardless of rank who accept body Armor through the Bureau of Justice Assistance (BJA) Bulletproof Vest Partnership (BVP).

### 4. PROCEDURES:

#### A. Issuance of Body Armor:

1. All body armor issued must comply with protective and related requirements prescribed under current standards of the National Institute of Justice (DOJ) or its' successor agency.
2. All officers shall be issued agency-approved body armor.
3. Body armor that is worn or damaged shall be replaced by the Department. Body armor that must be replaced due to misuse or abuse by the officer shall be paid for by the officer.

#### B. Use of Body Armor:

1. Officers shall wear only agency-approved body armor.
2. Officers that are assigned to the uniformed function are required to wear body armor during their shift while engaged in field activities. In addition, all officers must wear protective vests during high risk and/or tactical situations. Examples of "high risk" or "tactical" situations include but are not limited to, search warrant executions, drug raids, initial crime scene response, and serving felony warrants.
3. It is highly recommended that all officers assigned to the Detective Division or while working 'road jobs', as defined in the respective labor contracts, wear body armor during their tour of duty. However, those officers in the Detective Division and/or working 'road jobs', where traffic control and direction is the primary responsibility, who choose not to wear their body armor must have it immediately available at all times during their shift and 'road job'. Immediately available means easily accessible.
4. Those uniformed officers assigned to administrative duties shall wear body armor when outside the confines of the Police Station.
5. However, there are Departmental exemptions as follows:

- a. When an agency-approved physician determines that an officer has a medical condition that would preclude wearing body armor.
- b. When the officer is involved in undercover or plain clothes work that his supervisor determines could be compromised by wearing body armor; or
- c. When the Department determines that circumstances make it inappropriate to mandate wearing body armor.

C. Inspection of Body Armor:

1. Supervisors shall be responsible for ensuring that body armor is worn and maintained as required by this policy through routine observation and periodic documented inspections at roll call and spot checks in the field.
2. Annual inspections of body armor shall be conducted for fit, cleanliness, and signs of damage, abuse and wear. This may be accomplished as part of annual firearms training.

D. Care, Maintenance and Replacement of Body Armor:

1. Officers shall routinely inspect personal body armor for signs of damage and for general Cleanliness.
2. As dirt and perspiration may erode ballistic panels, each officer shall be responsible for cleaning personal body armor in accordance with the manufacturer's instructions.
3. Officers are responsible for the proper storage, maintenance and care of body armor in accordance with the manufacturer's instructions.
4. Officers are responsible for reporting damage or excessive wear to the ballistic panels or cover to their immediate supervisor and Training Division.
5. Body armor will be replaced in accordance with guidelines and protocols established by the National Institute of Justice.

E. Training:

1. The Training Division shall be responsible for:
2. Monitoring technological advances in the body armor industry that may necessitate a change in body armor.
3. Assessing weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.
4. Providing training programs that emphasize body armor's safe and proper use.
5. Maintaining statistics on incidents where armor has or has not protected officers from harm, including traffic crashes.

(adpt 8/15/2020)

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## **Professional Policing Policy**

Officers shall use the following practices when contacting any citizen, regardless of the reason for the contact:

- Be courteous, respectful, polite and professional.
- Introduce or identify themselves to the citizen and explain the reason for the contact as soon as practical, unless providing this information will compromise the safety of officers or other persons.
- Ensure that the length of any detention is no longer than necessary to take appropriate action for the known or suspected offense.
- Attempt to answer any relevant questions that the citizen may have regarding the citizen/officer contact, including relevant referrals to other city or county agencies when appropriate.
- Provide name and badge number when requested, preferably in writing or on a business card.
- Explain and/or apologize if you determine that the reasonable suspicion was unfounded (e.g. after an investigatory stop).
- If asked, provide the procedures for filing a complaint about police services or conduct.

(adpt 09/01/2020)

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## Professional Code of Conduct Policy

(A-D)

### A. General

1. Sworn employees shall give their name and badge number to any person upon request.

Civilian employees shall give their name and employee number to any person upon request.

2. Employees shall conduct themselves in the buildings and offices of the Department in a manner which would not discredit the Department.
3. Employees shall treat all fellow employees with respect. They shall be courteous and civil at all times with one another. When on duty in the presence of other employees or the public, officers should be referred to by rank.
4. Employees shall use reasonable judgment in carrying out their duties and responsibilities. They need to weigh the consequences of their actions.
5. Employees shall be decorous in their language and conduct. They shall refrain from actions or words that bring discredit to the Department.
6. Employees shall not display material that may be considered discriminatory, derogatory, or biased in or on City property. Specifically, discriminatory, derogatory or biased materials regarding race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age, marital status, public assistance, or familial housing are prohibited. Such materials include, but are not limited to, calendars, cartoons, and posters.
7. Employees who are required to drive a department vehicle as part of their official duties shall maintain a valid driver's license that is accepted by the State of Minnesota at all times as a condition of employment, and shall immediately report loss or limitation of driving privileges to their supervisor and to the Chief.
8. Employees shall immediately report any violation of rules, regulations, or laws that come to their attention to the Chief, regardless of the violator's assignment or rank within the Department.
  - a. Employees must immediately, or as soon as reasonably possible, report any misconduct at the scene of an incident to their supervisor or the supervisor at the scene. If the misconduct is being conducted by the supervisor, the employee must report the misconduct to that supervisor's superior. This includes, but is not limited to, unreasonable force.

9. Any employee charged, arrested, or cited for Driving Under the Influence (DUI) or a non-traffic violation, or notified they are being investigated for a criminal offense, shall immediately notify their chain of command and Internal Affairs or an on-duty supervisor, who will notify the Internal Affairs Unit. Notification shall consist of personal telephone communication (no voicemail messages) or written contact. Required information is the formal charge or allegation, date, time, and jurisdiction of alleged occurrence, and any special or relevant factors.

Employees will also notify the Chief of the disposition at the time the charge or case is disposed.

10. When an employee is notified that an Order for Protection (OFP), Restraining Order (RA), or a Harassment Order (HA) has been filed against him or her, the employee shall immediately notify Internal Affairs and provide a copy of the OFP, RA, or HA, and the date scheduled for hearing the allegations made in support of the request for the order. The information is required for department compliance with Federal Law 18 U.S.C. Sec. 922 (g)(8).
11. Employees shall not publicly criticize or ridicule the Department, its policies or other employees as to the performance of their duties in a manner which is defamatory, obscene, unlawful, or in any other manner which impairs the effective operation of the Department or in a manner which displays a reckless or knowing disregard for the truth. This regulation shall not be construed so as to impair the exercise of free speech by employees on matters of public concern.
12. Employees shall avoid regular or continuous associations or dealings with persons whom they know, or should know, are under criminal investigation or indictment or who have a reputation in the community or Department for present involvement in criminal behavior, except as necessary in the performance of official duties, or when unavoidable because of family ties to the employee.
13. Employees shall not engage or participate in any form of illegal gambling at any time except in the performance of duty under specific orders of a superior officer.

## **B. Drugs and Alcohol**

1. Employees shall not bring to or keep any alcohol or non-prescribed controlled substance on departmental premises except for evidentiary purposes.
2. Off-duty employees shall not carry any firearm or ammunition while under the influence of alcohol or any controlled substance.
3. Employees shall not consume alcoholic beverages while on duty or in uniform unless it's necessary in the performance of a non-uniformed officer's undercover work.

4. No employee shall be under the influence of alcohol or any controlled substance while on duty.
  - a. All over-the-counter and prescription drug use shall be in accordance with the Employee Health and Wellness policy.
5. A reading of .02 blood/alcohol concentration is considered under the influence of alcohol.

### **C. Language**

These provisions apply to all forms of communication, including but not limited to electronic communication and social networking. These provisions are in addition to the conditions in the Computer Use and Electronic Communication policy and the Social Networking policy.

1. (A-D) Employees shall not use derogatory, indecent, profane or unnecessarily harsh language in the performance of official duties or while representing the HPD.
2. (C-D) Employees shall not use any discriminatory, derogatory or biased terms regarding race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age, marital status, public assistance, or familial housing.

### **D. Cases and Investigations**

1. Employees shall not interfere with any criminal investigation being conducted by this department or any other law enforcement agency.
2. Employees shall not knowingly communicate in any manner, either directly or indirectly, any information that may assist persons suspected or accused of criminal acts to escape arrest or punishment or which may enable them to dispose of evidence.
3. Employees shall not recommend a dismissal, reduction of charges, or other disposition of a pending criminal case which has been previously filed in any criminal court or before a grand jury except by written approval of their division commander. A copy of the approval will be kept in the case file.

4. Employees shall not interfere with the attendance of witnesses or their testimony through coercion, bribery or other means.
5. Employees shall not attempt to have any traffic citation reduced, voided, or stricken from the calendar for personal or monetary consideration.

#### **E. Sworn Employees**

1. All officers are required to take appropriate police action toward aiding a fellow officer exposed to danger or in a situation where danger may be impending.
2. On-duty officers shall, at all times, take appropriate action within their jurisdiction, to protect life and property, preserve the peace, prevent crime, detect and arrest violators of the law, and enforce all federal, state and local laws and ordinances.
3. Uniformed officers shall render a military salute to the National Anthem, United States Flag or ceremonies at appropriate times. Officers in civilian dress shall render proper civilian honors to the United States Flag and National Anthem at appropriate times.

Uniformed officers at parades need salute only the massed national colors at the head of the parade. When the flag is six paces from the officer, the flag shall be faced and a hand salute rendered until the flag is six paces beyond the officer. Other United States Flags may be saluted if the officer's immediate attention to duty is not necessary.

#### **F. Gifts, Money and Property**

1. Any money other than that received from unclaimed properties paid or sent to any employee as a result of on-duty police action shall be promptly forwarded to the City of Houston Finance.
2. All property received as a result of on-duty police action shall be forwarded to the Property and Evidence Unit. The Property and Evidence Unit shall dispose of unclaimed property according to their policy and procedure manual. The property shall be disposed of in accordance with state law.
3. Employees shall not act as an intermediary in the payment of a reward for the return of stolen property without written authorization by the Chief of Police or his/her designee.

4. Employees shall not purchase, or have purchased for them, any auto/property sold at a city auction. Employees are also prohibited from owning any such auto/property purchased at a city auction for one year after the date that the auto/property is sold at the city auction.
  
5. Employees shall pay all debts when due and shall not undertake any financial obligations which they know or should know they will be unable to meet. An isolated instance of financial irresponsibility will not be grounds for discipline except in unusually severe cases. However, repeated instances of financial difficulty may be cause for disciplinary action. Filing for a voluntary bankruptcy petition shall not, by itself, be cause for discipline. Financial difficulties stemming from unforeseen medical expenses or personal disaster shall not be cause for discipline provided that a good faith effort to settle all accounts is being undertaken.
  
6. Soliciting or accepting personal gifts:
  - a. Employees shall not solicit or accept any gift from an interested person, lobbyist or principal who has a direct financial interest in a decision that that the employee is authorized to make.
  
  - b. Exceptions. The prohibitions in this section do not apply if the gift is:
    - i. A campaign contribution as defined in Minnesota Statutes, Section 10A.01, subd 11;
  
    - ii. A service to assist an official in the performance of official duties, including, but not limited to providing advice, consultation, information and communication in connection with legislation, or services to constituents;
  
    - iii. A service of insignificant monetary value;
  
    - iv. A plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause;
  
    - v. A trinket or memento of insignificant value;
  
    - vi. Informational material of unexceptional value;
  
    - vii. Food or a beverage given at a reception, meal or meeting away from the recipient's place of work by an organization before who the recipient appears to make a speech or answer questions as part of the program;
  
    - viii. Given because of the recipient's membership in a group, and an equivalent gift is given to the other members of the group; or

- ix. Given by an interested person, lobbyist, or principal who is a related person to the recipient, unless the gift is given on behalf of someone who is not a related person.
  
- c. An employee who receives any gift prohibited by this section shall return, dispose of, or request that the city council accept the gift on behalf of the city.

(adpt 09/01/2020)

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## **Computer Use and Electronic Communication Policy**

All use of the City's computer system shall comply with the City of Houston Electronic Communications Policy.

Users are responsible for maintaining security of any computer to which they have logged on. When users leave the computer, they shall log off the system.

Domain passwords are selected by individual users and are not to be shared. Users should protect their password against unauthorized use. Passwords can be stolen, guessed or inadvertently made available, therefore IT will prompt users when to change their password. Users are required to change their passwords every 30 days and will have to supply a new password in order to log on.

Security levels based on the user's position determine access to programs. If a user requires a different security clearance to perform functions beyond their current security level, a request shall be made in writing to the Chief of Police.

Internet and E-mail systems do not provide private or confidential electronic communications. Users must understand that any communications created, received or backed up on the City systems are considered public documents and are subject to legal requests for public disclosure. This includes communications that users might think are of a personal and private nature.

Use of the Internet will be monitored by Information and Technology Services (ITS) (BIS). Inappropriate or questionable use will be reported to the Chief of Police, and if necessary, referred to the Internal Affairs Unit for investigation. This monitoring will include external links and services being accessed by employees.

All Internet business that requires a fee or connects to an inappropriate site (i.e. pornographic material, sites that could violate the City's Sexual Harassment Policy, etc.) shall be pre-approved by the employee's supervisor. A memo stating the reason and approval for access shall be retained by the Houston Police Department.

Internal Affairs may investigate reported violations of the City's Electronic Communications Policy, with the assistance of ITS personnel. Any employee whose user name and password is determined to have been in use during any violation may be subject to an Internal Affairs investigation and held accountable.

(adpt 09/01/2020)

## Cellular Phones Policy

### I. PURPOSE

The Houston Police Department uses cellular phones in the course of police operations to enhance departmental communication. The purpose of this policy is to provide all HPD employees with guidelines for the proper use of cellular phones.

### II. DEFINITIONS

**Disruptive Activity:** Any time that cell phone operations would be considered disruptive, such as in training sessions, court or public places where cell phone use would reasonably be deemed annoying and intrusive.

**Distraction:** Any time the use of a cell phone would unnecessarily or unreasonably divert the attention of an employee from official duties and/or cause a potentially hazardous situation.

### III. POLICY

- A. This policy is supplemental to the City of Houston Cell Phone Policy.
- B. Cell phones issued to department employees by other agencies, jurisdictions, or entities shall be governed by the same policy and regulations as phones issued by the HPD.
- C. Evidence recorded on a cell phone shall be handled in accordance with P&P 10-423 Employee Cell Phones and Recording Devices Used to Capture Evidence.

### IV. REGULATIONS

#### A. General Use of Cellular Phones

1. Cell phones are intended to supplement to the HPD's communication system, not substitute for radio communication designated for transmission through HCDC. Calls for service shall be received, coordinated and dispatched through HCDC and not via an employee's personal or department issued cell phone.
2. A cell phone shall not be used when it would unnecessarily or unreasonably divert the attention of an employee from official duties or cause a potentially hazardous situation.
3. Engagement in multiple or extended cell phone conversations, text messaging or other use of cell phone devices unrelated to police business while on duty, or similar use that interferes with the performance of an employee's job duties, is prohibited.
  - a. While incidental usage of department-issued phones for non-city related business is allowed, such use should be kept to a minimum.
4. Employees' use of a cell phone while operating City or Department vehicles shall comply with all applicable State Laws. Cell phone use must be directly associated with a necessary, business-related function.
5. Cell phones should not be used if they may be disruptive to others.
6. The HPD is not responsible for loss or damage occurring to personal cell phones while employees are working on or off duty.

## B. Department-Issued Cell Phones

1. Employees issued a cell phone by the HPD **shall**:
  - a. Ensure the voicemail function is set up and able to accept messages.
  - b. Ensure the phone is charged.
  - c. Be responsible for proper care and appropriate use of the cell phone. This includes but is not limited to: reasonable minutes and data charges incurred, proper use of the department-issued protective case, and accountability for any accessories that the employee is issued associated with the cell phone.
  - d. Keep the phone on and in an audible or vibration mode at all times while on duty except in those circumstances where it may be considered disruptive or a distraction.
  - e. Keep the phone on their persons or close enough to their person to safely answer a call while on duty.
  - f. Check for voicemail messages periodically while on duty, to ensure that any outstanding messages are returned in a timely manner.
  - g. Respond to all calls related to city operations within a reasonable length of time.
  - h. Use password protection on the phone at all times.
2. Employees issued a cell phone by the HPD **shall not**:
  - a. List the department issued cell phone as their primary phone number.
    - b. Use the issued phone for calls to directory assistance except when exigent circumstances dictate otherwise.
3. Random audits of department-issued cell phones may be made at the HPD's discretion.
4. All data sent, delivered or accessed on a department-issued cell phone are subject to data practice laws and may be considered public data. This includes but is not limited to emails, text messages and telephone calls.
5. The HPD will not be responsible for damage to or loss of a department-issued cell phone if:
  - a. The cell phone is not housed in the department-issued protective case.
  - b. If the damage or loss occurs as a result of negligence by the employee.

(adpt 09/01/2020)

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## **Social Networking Policy**

### **I. PURPOSE**

To establish policy regarding employee use of social networking websites.

### **II. DEFINITIONS**

Social Networking Websites: Sites which focus on building online communities of people who share interests and activities and/or exploring the interests and activities of others. Examples of social networking websites include: Facebook, MySpace, Friendster, Linked In, Twitter, and sites that allow users to post personal blogs. The absence of, or lack of explicit reference to, a specific site does not limit the extent of the application of this policy.

### **III. POLICY**

The HPD has a duty to protect the reputation of the organization and its employees, as well as guard against liability and potential legal risk. Therefore, HPD reserves the right to monitor these websites, and employees are advised of the following:

Employees should exercise caution and good judgment when social networking online. Employees should be aware that the content of these social networking sites can be subpoenaed and used in criminal and civil trials to impeach the employee's testimony.

Any individual who can be identified as an employee of the HPD has no reasonable expectation of privacy when social networking online, and is subject to all pertinent City of Houston policies, HPD policies, local, state, and federal laws regarding public information on arrests, investigations, and personnel data.

### **IV. PROCEDURE / REGULATIONS**

A. Failure to comply with the following may result in discipline, up to and including discharge:

1. Where the poster can be identified as an employee of the HPD, any postings involving offensive or unethical content are not permitted.
2. Employees shall not represent that they are speaking or acting on behalf of the HPD, or that they are representing or presenting the interests of the HPD.
3. Employees are prohibited from using social networking sites to harass or attack others, including those who work for the HPD.

- B. Authorized exceptions to the above regulation include utilizing social networking websites for HPD-approved public relations and official investigative and/or work-related purposes as approved by Police Administration.

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(adpt 09/01/2020)

## Covert Use of Social Network Sites Policy

### I. PURPOSE

To establish procedures regarding the covert use of social network sites.

### II. POLICY

The HPD recognizes that the use of covert SNS profiles can be a useful tool in the investigation of criminal activity. All covert SNS profiles shall be registered with the Chief of Police. In addition, any employee who wishes to use a covert SNS profile shall obtain authorization from their immediate supervisor prior to doing so.

### III. DEFINITIONS

**Social Networking Site (SNS):** Sites which focus on building online communities of people who share interests and activities and/or exploring the interests and activities of others. Examples of social networking websites include: Facebook, MySpace, Friendster, Linked In, Twitter, and sites that allow users to post personal blogs. The absence of, or lack of explicit reference to, a specific site does not limit the extent of the application of this policy.

**Covert Profile:** An SNS profile created and maintained by an HPD employee, but in a user name not associated with the HPD employee, for the purpose of investigating criminal activity.

### IV. PROCEDURES / REGULATIONS

A. All covert SNS profiles shall be registered with the commander of the Strategic Information Center (SIC) to include:

- The name & web address of the social network site
- The user name and screen name of the covert profile, and
- The HPD employee responsible for maintaining the profile.

B. The employee registered as the maintainer of a covert SNS profile is responsible for all content posted online under that profile. HPD employees are advised not to share covert SNS profile access information.

C. No HPD employee shall post any information using a covert SNS profile which promotes violence or criminal activity.

D. When a covert SNS profile is no longer needed it shall be deactivated or deleted from the SNS and the Chief notified.

(adpt 09/01/2020)

## Rules and Regulations

**PURPOSE-** The purpose of these regulations is to provide a basis for the orderly and discipline performance of duty. Their publication will promote a surer knowledge of what is expected of personnel generally and of all ranks and assignments specifically. This should result in a greater degree of self-assurance in all positions. In relationships between the ranks in should be our individual aim to building continuously mutual respect and confidence which is essential to police operations.

**DEPARTMENT-** All employees of the department shall be governed by the ordinary and reasonable rules of good conduct and behavior in their private and professional lives.

**COORDINATION-** In carrying out the functions of the department, members shall direct and coordinate their efforts in such a manner as will tend to establish and maintain the highest standards of efficiency

**VIOLATION OF RULES-** Officers shall not commit any other acts or omit any other acts which constitute a violation of any of the rules, regulations, directives, orders or policies shall not be considered as a justification for any such violations. Officers shall be responsible for their own acts and they not shift to others the burden of responsibility of executing or failed to execute a lawful order or policy duty.

**REPORTING FOR DUTY-** Members of the department shall be punctual in reporting for duty at the time designated by their commanding officer. Failure to report promptly at the time directed may be deemed neglect of duty and made the subject of charges. Sickness or illness should be reported by a member at least TWO hours prior to the time he/she is due to report for duty. Once having reported off sick, the member shall keep the department advised as to his status and expected return to duty.

**ABSENCE FROM DUTY-** Every member or employee who fails to appear for duty at the date, time, and place specified for so doing without the consent of competent authority is "absent without leave." All scheduled time off, with the exception of justified sick leave, shall be granted only with prior permission of the Chief of Police or any other person specifically given the authority to grant such leave. This will include vacation, holidays, and unpaid leave. All work schedules will be released no later than 5 business days prior to the next month. All time off requests shall be submitted, in writing, to the Chief of Police on the 15<sup>th</sup> of the prior month for review. Any requests submitted after that date may be considered if the schedule allows. PTO will be approved on a seniority basis.

Any person failing to report for duty due to an unauthorized leave will be considered absent without leave.

**ABUSE OF POSITION-** Officers are prohibited from using their official position, official identification cars or badges; (a) for personal or financial gain, (b) for obtaining privileges not

otherwise available to them except in the performance of duty, or (c) for avoiding consequences of illegal acts.

**OFF DUTY REPORTING FOR EMERGENCIES-** Members off duty shall, upon official notice, report for duty immediately upon receipt of notification and comply with instructions given at the time of notification. Members shall report immediately in the event of any major disaster.

**DEPARTMENTAL REPORT, TRUTHFULNESS-** Officers shall submit all necessary reports on time and in accordance with established departmental procedures. Reports submitted by officers shall be truthful and complete, and no officer shall knowingly enter or cause to be entered any inaccurate, false, or improper information.

**OPERATION OF VEHICLES-** Officers shall operate official vehicles in a careful and prudent manner, and shall obey all laws of the state and all departmental orders pertaining to such operation. Officers shall set a proper example for other persons by their operation of a vehicle. Loss or suspension of a civilian-driving license shall be reported to the department immediately.

**EMPLOYMENT OUTSIDE OF DEPARTMENT-** Officers may engage in off-duty employment subject to the following limitations; (1) all off-duty employment is subject to the Chief of Police approval; (2) such employment shall not interfere with the officer's employment with the department; (3) officers shall not wear any items of the Houston Police Department uniforms or identify themselves as Houston Police officers as a part of their outside employment except as they would lawfully identify themselves as police officers in an emergency situation not a requirement of their off-duty employment; (4) officers shall not allow such off-duty employment to cause them to report for their police duties physically and/or mentally exhausted so as to affect the performance of their duties; and (5) such employment shall not interfere with the scheduling of the officer's regular duty hours.

**INSUBORDINATION-** Officers shall promptly obey any lawful order of a superior officer. This will include orders relayed from a superior officer by an officer of the same or lesser rank.

**ARRESTS-** In making arrests, members shall strictly observe the laws of arrest and use the following procedures: When arrests are made in certain danger areas, the arresting officers will remove the arrested person from the scene as soon as possible. Only necessary restraint to insure safe custody and the safety of the officer shall be employed. The arresting officer is responsible for the safety and protection of the arrested person while in his custody. He shall notify the transporting officers, if not himself, of any injury, apparent illness, or other conditions which indicate the arrested person may need special care. If the prisoner needs medical attention prior to being released to the jail, the officer shall transport that subject to an appropriate medical facility prior to releasing that person to the jail.

**CUSTODY OF PRISONER-** Members charged with the custody of prisoners shall observe all laws and department orders regarding this activity. Prisoners shall be kept secure, treated firmly and humanely and shall not be subjected to unnecessary restraint.

(Adpt 10/10/2020)

## Personnel Discipline

**Absence from Duty-** No officer or member of the department shall be absent from his regular tour of duty without permission of a commanding officer.

**EMERGENCY DUTY-** All officers and members of the department, when on vacation or regular days off, are subject to recall to duty by the Chief of Police in the event of an emergency which by its nature would necessitate the need of such officers and members.

**INJURY IN LINE OF DUTY-** In case of personal injury sustained by an officer or member of the department while in performance of his duty, he/she shall immediately or as soon thereafter as possible, report or cause to be reported, such injury to his supervisor, who will investigate the cause of such injury and forward, through channels, the necessary reporting form to the Chief of Police.

Illness of officer or member of the department- Each full time officer or member of the department shall earn PTO leave a rate specified in the personnel ordinance. Abuse or misuse of such designated sick days shall be a punishable offense.

**WHO IS SUBJECT TO DISCIPLINARY ACTION-** Any officer or member of the department who violates oath and trust by committing an offense under the laws or statutes of the United States, the State of Minnesota, or ordinance of the City of Houston, or violates any of the provisions of the rules and regulations or procedures of the Houston Police Department, or who disobeys a lawful order, or who is guilty of conduct unbecoming an officer, or who is incompetent to perform his/her duties is subject to appropriate disciplinary action.

**DISCIPLINARY PROCEDURES-** Officers will report any and all misconduct and/or breaches of departmental rules and regulations. The report in detail on a form provided for the purpose. The report will be in triplicate; on copy for the employee affected, one copy to be kept on file within the police department, and one copy to be placed in the employee's personnel file. The notice of this conduct will be considered as alleged misconduct and will be subject to a hearing with the Chief, or beyond the Chief, a hearing with the City Personnel Committee. The receipt of such a written notice of misconduct may be considered as first level of counseling depending upon the severity of the alleged breach of conduct. Repeated written notice of misconduct to the same officer may result in a second level counseling or third level counseling or suspension or dismissal depending on the frequency or gravity of the alleged offenses. It must be clearly understood that the discipline procedure does not take away the authority of any commanding officer to suspend any officer or verbally warn for first minor offense, in accordance with existing policy.

**ESTABLISHING ELEMENTS OF A VIOLATION-** Existence of facts establishing a violation of law, ordinance, or rule or order is all that is necessary to support any allegation of such as a basis for a charge under this section. It is not necessary that a formal complaint be filed or sustained. Nothing in this manual prohibits disciplining or charging or investigating acts of members merely because the alleged act or omission does not appear herein.

**EMERGENCY SUSPENSIONS-** The following personnel have the authority to impose emergency suspensions until the next business day and longer if such action is in the best interest of the department (a) Chief of Police.

**REPORT OF DISCIPLINARY ACTION TAKEN-** Whenever action is taken, a written report shall be submitted immediately containing the following information:

1. The full name and rank of the person being disciplined
2. The date, time, and location of the misconduct
3. The section of this manual violated or description of the infraction, if not covered in this manual.
4. A complete statement of facts of the misconduct.
5. The action taken or recommended.
6. The written signature of the reporting officer.

**INVESTIGATION OF ALLEGED MISCONDUCT-** The commanding officer investigating the alleged act of misconduct on the part of the officer or member of the department shall conduct a thorough and accurate investigation.

**REPORTS OF INVESTIGATION OF ALLEGED ACTS OF MISCONDUCT-** The results of the investigation of alleged acts of misconduct must be reduced to a written report containing the following:

1. A summary of the complaint of the alleged misconduct.
2. A description of the incident, physical evidence, and other evidence important to the case.
3. The observations and conclusions of the investigator.

**PENALTIES-** A violation of any of the above provisions will subject to the officer to disciplinary proceedings.

(Adpt 10/10/2020)

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## **Data Practices**

### **PURPOSE**

This policy is to help set up guidelines on the release of information to the public in compliance with Minnesota Statute Chapter 13, known as the Minnesota Government Data Practices Act. Data is also restricted by other Statutes. For accident reports they also fall under the 169.09 Statute. For juveniles they also fall under the 260.193 Statute.

### **PROCEDURE FOR RELEASE OF DATA**

Information and copies will be only released by the Chief of Police or delegated personnel. Officers will not release information or copies of reports. Reports will be released during business hours only.

### **EXCHANGE OF INFORMATION**

Nothing in this policy prohibits the exchange of information by law enforcement, criminal justice agencies, and those who by statute, either Federal or State, have been authorized to access.

(Adpt 10/10/2020)

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## Uniforms and Equipment

**Purpose:** The purpose of this uniforms and equipment policy is to define, what uniforms and equipment shall be provided by the City of Houston Police Department, and who is responsible for replacement of uniforms and equipment. It also defines the uniform allowance annual amount and expectations. Memorializes in writing past practice by the City of Houston Police Department.

**Policy:** The City of Houston Police Department will provide all departmental employees with an initial set of uniforms to include the following:

- 2 short sleeve shirts
- 2 long sleeve shirts
- 2 pair of pants
- 1 pair of boots
- 1 winter coat

The City of Houston shall also provide all employees with equipment to include the following:

- 1 duty belt and attachments

Following one year of full-time employment with the City of Houston Police Department, full-time employees become eligible for an annual uniform reimbursement up to the amount of \$750. In the event uniform purchases are made through a City vendor, the amount would be assessed to the annual uniform reimbursement maximum of said employee however, paid directly to the vendor by the City. Employees may make Chief approved uniform purchases through a vendor of their choice and submit receipts to Finance for reimbursement. It is the responsibility of the employee to maintain and wear appropriate uniforms as approved by the Chief of Police.

The City of Houston Police Department agrees to provide employees with body armor and to replace such body armor when it had reached the end of the manufacturer's lifespan.

The City of Houston Police Department will provide all ammunition for training and duty use, a Taser with holster, a radio with charger, chemical spray, department keys, patches, and two badges with collar brass. The City of Houston Police Department also agrees to maintain the aforementioned items and replace them when it is appropriate. Upon employee separation from the City of Houston, all above items shall be promptly returned.

(Adpt 04/11/2022)

## **Vehicle Towing**

### **PURPOSE AND SCOPE**

This policy provides the procedures for towing a vehicle by or at the direction of the Houston Police Department and under the authority of Minn. Stat. § 168B.035.

### **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 follow:

### **COMPLETION OF VEHICLE IMPOUND AND INVENTORY REPORT**

Office 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 Department as soon as practicable after the vehicle is stored.

Approved Vehicle Impound and Inventory Report forms shall be promptly placed into the LETG file so that they are immediately available for release or for information, should inquiries be

### **REMOVAL OF VEHICLE DISABLED IN A TRAFFIC COLLISION**

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if reasonably possible, and shall relay the request for the specified towing company to the dispatcher.

### **DISPATCHER'S RESPONSIBILITIES**

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified authorized towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

### **TOWING AT ARREST SCENES**

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this office to provide reasonable safekeeping by towing the arrestee's vehicle subject to the exceptions described below. However, a vehicle shall be towed whenever it is needed for the furtherance of an investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be towed. For example, the vehicle would present a traffic hazard if it were not removed, or the vehicle is located in a high-crime area and is susceptible to theft or damage if left at the scene.

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of towing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the occupant was arrested nor may be subject to forfeiture proceedings.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene.

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.

### **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 officer's 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.

### **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.

### **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.

(Adpt 10/10/2020)

## **Handcuffing and Restraints**

### **PURPOSE AND SCOPE**

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

### **POLICY**

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

### **USE OF RESTRAINTS**

Only members who have successfully completed Houston 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.

### **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.

### **RESTRAINT OF PREGNANT PERSONS**

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

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

## **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.

## **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.

## **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 officer. Officer 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.

## **SPIT HOODS**

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

Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used

during application of a physical restraint, while the person is restrained, or during or after transport.

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

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 Repuls 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.

## **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 office-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

## **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 office 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).

## **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.
- 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 a 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 a officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

### **301.8 REQUIRED DOCUMENTATION**

If a person is restrained and released without an arrest, the officer shall 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.

### **301.9 TRAINING**

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

- a. Proper placement and fit of handcuffs and other restraint devices approved for use by the department.

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

(adpt 10/20/2020) (updated 1/14/25)

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## **Control Devices**

### **PURPOSE AND SCOPE**

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

### **POLICY**

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

### **ISSUING, CARRYING AND USING CONTROL DEVICES**

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

Only officers who have successfully completed office-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.

### **RESPONSIBILITIES**

#### **CHIEF RESPONSIBILITIES**

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

#### **USER RESPONSIBILITIES**

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

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Range Officer 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.

### **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 suspect poses an imminent threat of serious bodily injury or death to the officer or others.

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.

## **TEAR GAS GUIDELINES**

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Chief, Incident Commander or Crisis Response Unit 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.

## **REPULS Water-Based Chemical Self Defense Spray Guidelines**

As with other control devices, Repuls Water-Based Chemical Defense Spray and pepper projectiles 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 and Repuls 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.

### **REPULS SPRAY**

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

### **PEPPER PROJECTILE SYSTEMS**

See Pepperball Projectile System Policy on Page 142 of the Houston Police Department Policy Manual

### **TREATMENT FOR REPULS SPRAY EXPOSURE**

People who have been sprayed with or otherwise affected by the use of Repuls Spray should promptly have their eyes flushed with water, saline eye wash, and soft towel to dry. If irritation persists, the area should be flushed a second time. Those people who complain of further severe effects shall be examined by appropriate medical personnel.

### **POST-APPLICATION NOTICE**

Whenever tear gas or Repuls 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 clean up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

## **KINETIC ENERGY PROJECTILE GUIDELINES**

This office 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.

### **DEPLOYMENT AND USE**

Only office-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.

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.

### **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 the officer or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

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

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

#### SAFETY PROCEDURES

Shotguns specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.

Officers will inspect the shotgun and projectiles at the beginning of each shift to ensure that the shotgun is in proper working order and the projectiles are of the approved type and appear to be free from defects.

When it is not deployed, the shotgun will be unloaded and properly and securely stored in the vehicle. When deploying the kinetic energy projectile shotgun, the officer shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

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.

#### TRAINING FOR CONTROL DEVICES

The Training Officer 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 with 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.

**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.

(adpt 10/20/2020) updated on 1/14/2025

## **Conducted Electrical Weapons**

### **PURPOSE AND SCOPE**

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

### **POLICY**

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

### **ISSUANCE AND CARRYING CEDS**

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

The CED instructor should keep a log of issued CED devices and the serial numbers of cartridges/magazines issued to members.

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

Officers shall only use the CED and cartridges/magazines that have been issued by the department. Cartridges/magazines should not be used after the manufacturer's expiration date.

Uniformed officers who have been issued the CED shall wear the device in an approved holster.

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

- a. All CEDs shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- b. For single-shot devices, whenever practical, officers should carry an additional cartridge on their person when carrying the CED.
- c. Officers should not hold both a firearm and the CED at the same time.

Non-uniformed officers may secure the CED in the driver's compartment of their vehicle.

### **USER RESPONSIBILITIES**

Officers shall be responsible for ensuring that the issued CED is properly maintained and in good working order. This includes a function test and battery life monitoring, as required by the manufacturer, and should be completed prior to the beginning of the officer's shift.

CEDs that are damaged or inoperative, or cartridges/magazines that are expired or damaged, shall be returned to the firearms instructor/ supervisor for disposition. Officers shall submit documentation stating the reason for the return and how the CED or cartridge/magazine was damaged or became inoperative, if known.

### **VERBAL AND VISUAL WARNINGS**

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

- a. Provide the individual with a reasonable opportunity to voluntarily comply.

- b. Provide other officers and individuals with a warning that the CED device may be deployed.

If, after a verbal warning, an individual fails to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to activate any warning on the device, which may include display of the electrical arc, and audible warning, or the laser in a further attempt to gain compliance prior to the application of the CED. The laser should never be intentionally directed into anyone's eyes.

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

## **USE OF THE CED**

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

If sufficient personnel are available and can be safely assigned, an officer designated as lethal cover for any officer deploying a CED may be considered for officer safety.

## **APPLICATION OF THE CED**

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

- a. Is violent or is physically resisting.
- b. Has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, 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 CED to apprehend an individual.

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

## **SPECIAL DEPLOYMENT CONSIDERATIONS**

The use of the CED on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject, or others, and the officer reasonably believes that the need to control the individual outweighs the 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 known to be in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- f. Individuals whose position or activity may result in collateral injury (e.g., falls from height, located in water, operating vehicles).

Any CED capable of being applied in the drive-stun mode (i.e., direct contact without probes as a primary form of pain compliance) should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officer time and distance to consider other force options or actions.

## TARGETING CONSIDERATIONS

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

## MULTIPLE APPLICATIONS OF THE TASER DEVICE

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

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

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

## ACTIONS FOLLOWING DEPLOYMENTS

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

## DANGEROUS ANIMALS

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

## OFF-DUTY CONSIDERATIONS

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

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

## DOCUMENTATION

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

## CED REPORT FORM

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

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

The Chief and/or Supervisor should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Chief and/or Supervisor should also conduct audits of CED device data downloaded to an approved location and reconcile CED report forms with recorded activations. CED information and statistics, with identifying information removed, should periodically be made available to the public.

## REPORTS

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

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

## MEDICAL TREATMENT

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

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

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

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

if possible.

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

## **SUPERVISOR RESPONSIBILITIES**

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

A supervisor should review each incident where a person has been exposed to a CED. The device's internal logs should be downloaded by supervisor or Firearms Instructor and saved with the related arrest/crime report. The supervisor should arrange for photographs of probe sites to be taken and witnesses interviewed.

## **TRAINING**

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

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

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

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

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

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

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

The Chief and/or Supervisor should include the following training:

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

(Adpt 12/16/2024)

## **Firearms**

### **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.

### **AUTHORIZATION TO CARRY FIREARMS**

All licensed personnel shall successfully complete office 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).

### **AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS**

Officers shall only use firearms that are issued or approved by the Houston Police Department and have been thoroughly inspected by the Range Officer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by an officer 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 office policy, may not be carried by members in the performance of their official duties without the express written authorization of the member's Chief. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

### **HANDGUNS**

The authorized office-issued handgun is the Glock 9mm. With authorization from the Chief and the Range Officer other makes and models of firearms may be used as a duty weapon.

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

#### **MAKE MODEL CALIBER**

Glock 22 40 cal

### **SHOTGUNS**

The authorized office-issued shotgun is the Mossberg 12 gauge. The following additional shotguns are approved for on-duty use:

#### **MAKE MODEL CALIBER**

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

## PATROL RIFLES

1. The authorized office-issued patrol rifle is the Palmetto PA-15 5.56. The following additional patrol rifles are approved for on-duty use:

## MAKE MODEL CALIBER

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.

## PERSONALLY OWNED DUTY FIREARMS

Members desiring to carry an authorized but personally owned duty firearm must receive approval from the Chief or the authorized designee. Once approved, personally owned duty firearms are subject to the following restrictions:

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

## AUTHORIZED SECONDARY HANDGUN

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

- a. The handgun shall be in good working order and on the department's 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 the Range Officer prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- f. Ammunition shall be the same as office issue. If the caliber of the handgun is other than office issue, the Chief 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.
- h. Members shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Range Officer, who will maintain a list of the information.

## AUTHORIZED OFF-DUTY FIREARMS

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

- a. A personally owned firearm shall be used, carried and inspected in accordance with the Personally Owned Firearms requirements in this policy.
  1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.
- b. The firearm shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- c. It will be the responsibility of the member to submit the firearm to the Range Officer for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Range Officer.
- d. Prior to carrying any off-duty firearm, the member shall demonstrate to the Range Officer that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- e. The member will successfully qualify with the firearm prior to it being carried.
- f. Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Range Officer, who will maintain a list of the information.
- g. If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- h. Members shall only carry office-authorized ammunition
- i. When armed, officers shall carry their badges and Houston Police Department identification cards under circumstances requiring possession of such identification.

## AMMUNITION

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

Members carrying personally owned authorized firearms of a caliber differing from office-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 Office shall be dispensed by the Range Officer when needed, in accordance with established policy.

## **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.

## **REPAIRS OR MODIFICATIONS**

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

Firearms that are the property of the department or personally owned firearms that are approved for office use may be repaired or modified only by a person who is office-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 Range Officer.

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

## **HOLSTERS**

Only office-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.

## **TACTICAL LIGHTS**

Tactical lights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Range Officer. 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.

## **OPTICS OR LASER SIGHTS**

Optics or laser sights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Range Officer. 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.

## **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 Range Officer. Members shall not dry fire or practice quick draws except as instructed by the Range Officer or other firearms training staff.
- c. Members shall not clean, repair, load or unload a firearm anywhere in the Office, 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 office 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 Office 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 Office or a Range Officer approved by the Office for inspection and repair. Any firearm deemed in need of repair or service by the Range Officer 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.

## 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 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. Office-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.

## STORAGE AT HOME

Officers shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit office-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).

## 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.

## **FIREARMS TRAINING AND QUALIFICATIONS**

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

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

Training and qualifications must be on an approved range course.

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

## **NON-CERTIFICATION OR NON-QUALIFICATION**

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

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

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

## **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 Chief 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.

## **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, office members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, CED device, Repuls 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.

## **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.

## **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.

## **REPORTING FIREARMS DISCHARGE**

The Chief 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).

## **RANGE OFFICER DUTIES**

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

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

The Range Officer has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by members of this office to verify proper operation. The Range Officer has the authority to deem any office-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 Range Officer.

The Range Officer 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 Range Officer shall complete and submit to the Training Officer 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 Office, a list of each member who completes the training. The Range Officer should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Training Officer.

## **FLYING WHILE ARMED**

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

- a. Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure and must have a need to have the firearm accessible, as determined by the Office based on the law and published TSA rules.
- b. Officers must carry their Houston 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 or the official seal of the Office 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 Houston Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Houston 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 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 office-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.

## **CARRYING FIREARMS OUT OF STATE**

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

- a. The officer shall carry his/her Houston 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 office 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 a 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.

(Adpt 10/10/2020) (updated 1/14/25)

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## **Officer-Involved Shootings and Deaths**

### **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 may decide that the investigation will follow the process provided in this policy.

### **POLICY**

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

### **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.

### **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.

#### **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 Houston Police Department would control the investigation if the suspect's crime occurred in Houston.

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 and with concurrence from the other agency.

#### **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 or the authorized designee for approval.

#### 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.

#### 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 office 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).

#### INVESTIGATION PROCESS

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

#### UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved HPD 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.

#### SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved HPD 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.

- b. If necessary, the supervisor may administratively order any HPD 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 Chief and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- d. Take command of and secure the incident scene with additional HPD 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 HPD officer should be given an administrative order not to discuss the incident with other involved officers or HPD 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.

## NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Chief
- Officer-Involved Shooting rollout team
- Outside agency investigators (if appropriate)
- Civil liability response team
- Psychological/peer support personnel
- Chaplain
- Medical Examiner (if necessary)
- Involved officer's agency representative (if requested)
- Public Information Officer

## INVOLVED OFFICERS

The following shall be considered for the involved officer:

- a. Any request for legal or union representation will be accommodated.
  1. Involved HPD 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-HPD 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 HPD officer. A licensed psychotherapist may also be provided to any other affected HPD 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 HPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Chief to make schedule adjustments to accommodate such leave.

## **CRIMINAL INVESTIGATION**

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

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

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

- a. HPD supervisors and the Chief personnel should not participate directly in any voluntary interview of HPD 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 shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- c. If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.

- d. Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

## REPORTS BY INVOLVED HPD OFFICERS

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

While the involved HPD 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 HPD 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.

## WITNESS IDENTIFICATION AND INTERVIEWS

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

- a. Identification of all persons present at the scene and in the immediate area.
  - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
  - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to his/her departure should be made whenever feasible.
- b. Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the department.
  - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

- c. Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

## INVESTIGATIVE PERSONNEL

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

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

## ADMINISTRATIVE INVESTIGATION

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

Interviews of members shall be subject to office policies and applicable laws (Minn. Stat. § 626.89).

- a. Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening in accordance with the drug and alcohol testing guidelines in the Drug- and Alcohol-Free Workplace Policy adopted under the authority of Minn. Stat. § 181.950 to Minn. Stat. § 181.957. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- b. If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
  - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- c. In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information (Minn. Stat. § 626.89).
  - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
  - 2. The interview must be taken at the HPD 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 Chief shall compile all relevant information and reports necessary for the department to determine compliance with applicable policies.
8. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
9. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

## **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.

## **DEBRIEFING**

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

### **CRITICAL INCIDENT/STRESS DEBRIEFING**

A critical incident/stress debriefing should occur as soon as practicable. The Chief 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).

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 personnel.

### **TACTICAL DEBRIEFING**

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief 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.

### **MEDIA RELATIONS**

Any media release shall be prepared with input and concurrence from the supervisor and office representative responsible for each phase of the investigation. Releases will be available to the Chief and Public Information Officer in the event of inquiries from the media.

No involved HPD officer shall make any comment to the media unless he/she is authorized by the Chief

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.

### **REPORTING**

If an officer discharges a firearm in the course of duty, the Chief 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).

(adpt 10/20/2020)

## **Fitness for Duty**

**PURPOSE AND SCOPE-** All officers are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all officers of the Houston Police Department remain fit for duty and able to perform their job functions.

### **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 their 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 his/her 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.

### **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 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 in an effort to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with the Watch Commander or employee's available Division Commander, a determination should be made whether or not 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.

### **NON-WORK RELATED CONDITIONS**

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

## **WORK RELATED CONDITIONS**

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Watch Commander or unit supervisor and concurrence of a Division Commander, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the well-being of the employee and until such time as the following may be completed:

(a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.

(b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

## **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 Department of Human Resources 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, listing any functional limitations which 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/ grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding.

(c) In order 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 confidential personnel 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 shall be subject 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.

## **HEALTH SCREENINGS**

The nature of some specific positions or responsibilities may necessitate periodic specific health screenings, such as those for crime scene personnel or firearms instructors who are repeatedly exposed to hazardous chemicals or lead contaminates.

A health screening or physical examination should only be conducted to confirm the employee's continued fitness to perform the tasks of their assignment and to inform them of their general physical condition.

Should the Department request an employee to have a health screening or physical examination performed, the Department will provide it at no cost to the employee.

### **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 2 day (48 hour) period or
- 84 hours in any 7 day (168 hour) period

Except in very limited circumstances members should have a minimum of 8 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, general overtime and any other work assignments.

### **APPEALS**

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the Standards of Conduct policy.

(adpt 10/10/2020)

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## PEPPERBALL PROJECTILE SYSTEM POLICY

### 1. PURPOSE AND SCOPE

This policy provides guidelines and direction for the use and maintenance of the issued PepperBall projectile system.

In order to control subjects who are violent or who demonstrate the intent to become violent, the Houston Police Department authorizes officers to utilize Pepperball projectiles in accordance with this policy AND the Houston Police Department's Use of Force policy.

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 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 Houston Police Department's Use of Force policy.

Each deployment of a Pepperball projectile system shall be documented with a written report. This is to include situations where the launcher was directed toward a suspect, whether or not the launcher was discharged. Unintentional discharges shall be promptly reported to a supervisor and documented on the appropriate report form.

Only non-incident use of the pepperball projectile system, such as training and approved demonstrations are exempt from the reporting requirement.

### LEVEL OF CONTROL

1. Low-Level Force – Display
2. Low-Level Force (active resistance) – Area Denial
3. Intermediate Force – Direct Impact
4. Deadly Force – Direct impact to deadly force target areas.

### 2. DEFENTIONS

#### Definitions

Display - Pointing the PepperBall launcher in the direction of another person with no deployment of the PepperBall projectiles.

Area Denial or Area Saturation – A use of PepperBall OC powder to deny access to an area or gain compliance of movement from an area. In this deployment, PepperBall projectiles will be

launched to impact surrounding objects like walls, ground, automobile and trees and must not be launched directly at a suspect.

Direct Impact – PepperBall OC projectiles to an individual

### **3. DESCRIPTION**

Minnesota Statutes section 624.731 authorizes peace officer's to use an "authorized tear gas compound" in their official duties.

"Authorized tear gas compound" means a lachrymator or any substance composed of a mixture of a lachrymator including chloroacetophenone, alpha-chloroacetophenone; phenylchloromethylketone, or orthochlorobenzalmalononitrile or oleoresin capsicum (OC), commonly known as tear gas.

PepperBall is a Less Lethal delivery system that uses high-pressure air from limited capacity magazines to deliver PAVA OC powder projectiles from a safe distance.

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat and groin should not be intentionally targeted except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others in accordance with the Houston Police Department's Use of Force policy.

### **4. CERTIFICATION / POST REQUIREMENTS**

Certification/POST Requirements:

1. PepperBall launcher training will be conducted at least annually with all officers of this office certifying in its use.
2. Instructors who have been certified as PepperBall instructors by PepperBall Inc. are the only individuals authorized to instruct on the PepperBall system.
3. Officers authorized to use the PepperBall system must successfully complete a certification course, to include written exams and practical range qualification.
4. If an officer fails to demonstrate proficiency at any time, the officer and/or the officer's supervisor will contact the Chief for assistance in formulation a remedial training program.

### **5. INSPECTION REQUIREMENT**

Inspection Requirement:

1. Officers will only use authorized PepperBall equipment issued by the Houston Police Department. Officers will inspect the PepperBall launcher, projectiles and components for damage and cleanliness. The PepperBall launcher, projectiles and components will be inspected and maintained in accordance with training protocols. When not being carried, PepperBall launcher, components and projectiles must be stored and secured in a designated storage locker in a climate-controlled area. Launchers may be stored securely in a vehicle, however consideration will be given to extreme temperatures and adverse effects on the equipment.
2. One PepperBall launcher and PepperBall balls shall be in each patrol vehicle.
3. The training staff will maintain an inventory of all office-issued PepperBall launchers, including an accurate record of the location of the weapon and maintenance history.

## **5. DEPLOYMENT REQUIREMENT**

### Deployment Requirement:

1. This policy does not require officers or supervisors to use or direct the use of PepperBall in place of other response options authorized by this policy. The safety of victims, hostages, uninvolved persons and officers take priority over the safety of subjects engaged in violent criminal or suicidal behavior.
2. Before deployment, if possible, PepperBall operators deploying with PepperBall will notify other officers by verbal announcement or radio that they are deploying a PepperBall at their location.
3. Before deployment of PepperBall, the PepperBall operator should, when practical to do so, give warning to the subject(s) with clear instructions.
4. Officers must give the subject a reasonable opportunity to voluntarily comply when safe to do so.

## **6. TACTICAL CONSIDERATIONS**

### Tactical Considerations

There are two (2) types of reportable PepperBall applications:

1. Area denial or area saturation- A use of PepperBall OC powder to deny access to an area or gain compliance of movement from an area. In this deployment, PepperBall projectiles will be launched to impact surrounding objects like walls, ground, automobile and trees and shall not be launched directly at a suspect.
2. Direct impact with PepperBall OC projectiles to an individual.
  - a. Officers should attempt to target the upper abdomen area for the primary impact area with PepperBall OC projectiles.
  - b. Officers will not target at the head, neck or spine unless a deadly force situation exists, and the use of force is within Houston Police Department policy and state statute. It is recognized that the dynamics of each situation and officer safety may not permit the officer to limit the application of the PepperBall projectiles to a precise target area.
  - c. Consider area saturation first by impacting surrounding objects like walls, ground, automobile and trees.

## **7. APPROVED USAGE**

### Approved Use:

1. Officers may only use PepperBall as authorized under this policy.
2. Display only of a PepperBall launcher is classified as low-level force.
3. While deployment of PepperBall as an Area Denial or saturation option is classified as low-level force. It is only authorized in response to resistance or aggression that meets the definition of active resistance.
4. Deployment of PepperBall in a manner intended to impact a subject is:
  - a. An intermediate level of force;
  - b. Regulated under this policy as a less-lethal weapon; and
  - c. Only authorized in response to resistance or aggression that meets the definition of aggressive or aggravated aggressive resistance.
2. The deployment of PepperBall in a manner intended to impact areas designated as deadly force areas for the purposes of less-lethal weapons is only authorized if deadly force would be authorized under the totality of the circumstances and the Houston Police Department's Use of Force policy.

## **8. NOT APPROVED USAGE**

### Not Approved Use:

1. Officers are not authorized to draw or display the PepperBall launcher except for training and inspection unless the circumstances create a reasonable belief that use of PepperBall may be necessary.
2. Use of PepperBall is prohibited:
  1. When the subject is in a position where a fall may result in serious bodily harm or death;
  2. Punitively for purposes of coercion;
  3. When a subject is cooperative or displays solely Passive Resistance (e.g. standing stationary and not moving upon lawful direction falling limply, refusal to use their own power to move).
3. PepperBall should not be used in the following circumstances unless there are compelling reasons to do so that can be clearly articulated:
  - a. When the subject is in handcuffs or authorized restraints;
  - b. When the subject is in control of a motor vehicle;
  - c. When the subject is holding a firearm or deadly force is clearly justified, unless additional officer(s) are present to provide lethal cover to the officer and others present;
  - d. When the subject is at the extremes of age (elderly and young children), physically disabled, or obviously pregnant.

## **9. ADDITIONAL CONSIDERATIONS**

### Additional Considerations:

When deploying PepperBall:

1. Each and every deployment of PepperBall OC projectiles must be objectively reasonable. *Graham v. Connor, 490 U.S. 386 (1989)*
2. Officers should begin control and restraint procedures, including cuffing, as soon as it is reasonably safe and practical to do so to minimize the need for additional deployment of PepperBall. The PepperBall operator and those assisting the operator should be aware that cross-contamination of PAVA powder is likely and use PPE to reduce cross-contamination;
3. Each PepperBall deployment require an on-going assessment of:
  1. Responder safety;
  2. Subject(s) compliance;
  3. Chemical agent effectiveness;
  4. The need to transition to another force level, tool or tactic
    1. If reapplication of PepperBall(s) is indicated, an alternate impact location should be considered.

## **10. POST APPLICATION TREATMENT**

### First Aid:

Persons to which a chemical agent has been applied shall be accorded first aid within a reasonable amount of time of the contamination and when it is safe to do so.

As soon as practical, remove subject from the contaminated area.

Promptly provide clean, cool water to contaminated areas. This action is considered first aid.

Those persons who complain of further severe effects, shall be examined by appropriate medical personnel.

For the purposes of monitoring, a officer must remain with an exposed person from the time of exposure until the officer reasonably observes or believes that the person is no longer physically affected by the exposure.

## **11. POST APPLICATION NOTICE**

Whenever Pepperball OC powder 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 injury if the area is not properly cleaned.

Such notice shall include advisement that clean-up will be at the owner's expense.

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

## **12. GLASS-SHATTERING PROJECTILE**

### Glass-shattering projectile:

1. Glass-shattering projectiles have a very specific use and are issued only to the Chief.
2. The use of the glass-shattering projectile carry an inherent risk of serious bodily injury or death. Glass shattering projectiles should not be used to target any person except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others in accordance with the Houston Police Department's Use of Force policy.

Adpt 7/15/2021

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## CONFIDENTIAL INFORMANTS POLICY

MN STAT 626.8476

### I. POLICY

It is the policy of the Houston Police Department to establish procedures and protocols that take necessary precautions concerning the recruitment, control and use of confidential informants.

### II. DEFINITIONS

- A. Confidential Informant (CI):** A person who cooperates with a law enforcement agency confidentially in order to protect the person or the agency's intelligence gathering or investigative efforts and;
1. seeks to avoid arrest or prosecution for a crime, mitigate punishment for a crime in which a sentence will be or has been imposed, or receive a monetary or other benefit; and
  2. is able, by reason of the person's familiarity or close association with suspected criminals, to:
    - i. make a controlled buy or controlled sale of contraband, controlled substance, or other items that are material to a criminal investigation;
    - ii. supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or
    - iii. otherwise provide information important to ongoing criminal intelligence gathering or criminal investigative efforts.
- B. Controlled Buy:** means the purchase of contraband, controlled substances, or other items that are material to a criminal investigation from a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.
- C. Controlled Sale:** means the sale of contraband, controlled substances, or other items that are material to a criminal investigation to a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant.
- D. Mental Harm:** means a psychological injury that is not necessarily permanent but results in visibly demonstrable manifestations of a disorder of thought or mood that impairs a person's judgment or behavior.
- E. Target Offender:** means the person suspected by law enforcement personnel to be implicated in criminal acts by the activities of a confidential informant.

- F. Confidential Informant File:** means a file maintained to document all information that pertains to a confidential informant.
- G. Unreliable Informant File:** means a file containing information pertaining to an individual who has failed at following an established written confidential informant agreement and has been determined to be generally unfit to serve as a confidential informant.
- H. Compelling Public Interest:** means, for purposes of this policy, situations in which failure to act would result or likely result in loss of life, serious injury, or have some serious negative consequence for persons, property, or public safety and therefore demand action.
- I. Overseeing agent:** means the officer primarily responsible for supervision and management of a confidential informant.

### III. PROCEDURES

#### A. Initial Suitability Determination

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

1. An officer requesting use of an individual as a CI must complete an Initial Suitability Report. The report must be submitted to the appropriate individual or entity, as determined by the agency chief executive, to review for potential selection as a CI. The report must include sufficient detail regarding the risks and benefits of using the individual so that a sound determination can be made. The following information must be addressed in the report, where applicable:
  - a. Age, sex, and residence
  - b. Employment status or occupation
  - c. Affiliation with legitimate businesses and illegal or suspicious enterprises
  - d. Extent to which potential information, associations, or other assistance could benefit a present or future investigation
  - e. Relationship with the target of an investigation
  - f. Motivation in providing information or assistance
  - g. Risk of adversely affecting an existing or future investigation
  - h. Extent to which provided information can be corroborated
  - i. Prior record as a witness

- j. Criminal history, to include whether he or she is the subject of a pending investigation, is under arrest, or has been charged with a crime
  - k. Risk to the public or as a flight risk
  - l. Consultation with the individual's probation, parole, or supervised release agent, if any
  - m. Consideration and documentation of the individual's diagnosis of mental illness, substance use disorder, traumatic brain injury, or disability; and consideration and documentation of the individual's history of mental illness, substance use disorder, traumatic brain injury or disability
  - n. Relationship to anyone in law enforcement
  - o. Risk of physical harm to the potential CI or their immediate family or relatives for cooperating with law enforcement
  - p. Prior or current service as a CI with this or another law enforcement organization
2. Prior to an individual's use as a CI, a supervisor or other designated authority must review the Initial Suitability Report and determine if the individual is authorized to serve as a CI.
  3. Any prospective or current CI must be excluded from engaging in a controlled buy or sale of a controlled substance if the prospective or current CI:
    - a. is receiving in-patient treatment or partial-hospitalization treatment administered by a licensed service provider for a substance use disorder or mental illness; or
    - b. is participating in a treatment-based drug court program or treatment court; except that
    - c. the prospective or current CI may provide confidential information while receiving treatment, participating in a treatment-based drug court program or treatment court.
  4. Documentation and special consideration must be made of the risks involved in engaging a prospective or current CI in the controlled buy or sale of a controlled substance if the individual is known, or has reported, to have experienced a drug overdose in the previous 12 months.
  5. Any prospective or current CI who is known to abuse substances, or is at risk for abusing substances, should be provided referral to prevention or treatment services.
  6. Any prospective or current CI that has a physical or mental illness that impairs the ability of the individual to understand instructions and make

informed decisions should be referred to a mental health professional or other appropriate medical professional, or a case manager/social worker from the county social services agency, or other substance abuse and mental health services.

7. Each CI's suitability must be reviewed every 6 months, at a minimum, during which time the CI's overseeing agent must submit a Continuing Suitability Report addressing the foregoing issues in III.A.1.a-p, and III.A.3-6, where applicable. An initial suitability determination must be conducted on a reactivated CI regardless of the length of inactivity.
8. Any information that may negatively affect a CI's suitability during the course of their use must be documented in the CI's file and forwarded to the appropriate authorized personnel as soon as possible.
9. Supervisors must review informant files regularly with the overseeing agent and must attend debriefings of CIs periodically as part of the informant management process. If a CI is active for more than 12 months, a supervisory meeting with the CI must be conducted without the overseeing agent.
10. CI contracts must be terminated, and the CI file placed in inactive status when the CI has not been utilized for 6 months or more.

## **B. Exigent Confidential Informants**

1. Certain 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.

## **C. Special CI Approval Requirements**

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

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

#### **D. General Guidelines for Overseeing CIs**

General guidelines for overseeing CIs are as follows:

1. CIs must be treated as assets of the agency, not the individual overseeing agent.
2. No promises or guarantees of preferential treatment within the criminal justice system will be made to any informant without prior approval from the prosecuting authority.
3. CIs must not be used without authorization of the agency through procedures identified in this policy.
4. CIs must not be used to gather information purely of a political nature or for other information-gathering efforts that are not connected with a criminal investigation.
5. Under no circumstances must an informant be allowed access to restricted areas or investigators' work areas within a law enforcement agency.
6. All CIs must sign and abide by the provisions of the agency's CI agreement.
7. Any physical or mental illness that impairs the CI's ability to knowingly contract or otherwise protect the informant's self-interest must be taken into consideration before the CI signs the agreement.
8. The CI's overseeing agent must discuss each of the provisions of the agreement with the CI, with particular emphasis on the following:
  - a. CIs may voluntarily initiate deactivation, whereupon the protocols outlined in section E of this policy must be followed.
  - b. CIs are not law enforcement officers. They have no arrest powers, are not permitted to conduct searches and seizures, and may not carry a weapon while performing activities as a CI.

- c. CIs found engaging in any illegal activity beyond what is authorized by the agency and conducted while under the supervision of an overseeing agent, will be subject to prosecution.
  - d. CIs are prohibited from engaging in actions or activities that could be deemed entrapment. The meaning of the term and implications of such actions must be explained to each CI.
  - e. CIs are prohibited from engaging in self-initiated information or intelligence gathering without agency direction and approval. The CI must not take any actions in furtherance of an investigation without receiving specific instruction(s) from the overseeing agent or agency.
  - f. Every reasonable effort will be taken to ensure the confidentiality of the CI but, upon judicial order, he or she may be required to testify in open court.
  - g. CIs may be directed to wear a listening and recording device.
  - h. CIs must be required to submit to a search before and after a controlled purchase.
  - i. CIs who participate in unplanned or unanticipated activities or meet with a subject(s) under investigation in a location outside of the jurisdictional boundary of the handling agency must promptly report that activity or meeting to their overseeing agents.
9. CI activity outside jurisdictional boundaries:
- a. Investigators handling CIs who engage in operational activity in locations outside the jurisdictional boundaries of the agency must coordinate with counterparts in law enforcement agencies that have jurisdiction in that location where the CI will operate before any activity occurs, or in a timely manner after unanticipated activity occurs and is brought to the attention of the overseeing agent.
  - b. Any decision to defer or delay notice to or coordinate with an outside agency having jurisdiction in the area where a CI has or may operate must be documented, reviewed, and approved by the agency's chief executive or their designee.
10. Officers must take the utmost care to avoid conveying any confidential investigative information to a CI, such as the identity of other CIs, surveillance activities, or search warrants, other than what is necessary and appropriate for operational purposes.
11. No member of this agency must knowingly maintain a social relationship with a CI, or otherwise become personally involved with a CI beyond actions required in the performance of duty.

12. Members of this agency must not solicit, accept gratuities from, or engage in any private business transaction with a CI.
13. Meetings with a CI must be conducted in private with another officer or agent present and with at least one officer or agent of the same sex, except when not practical. The meeting location should minimize the potential for discovery of the informant's cooperation and provide sufficient space to complete necessary administrative duties. The meetings must be documented and subsequently entered into the individual's CI file.
14. Overseeing agents must develop and follow a communications strategy and plan with the CI that minimizes, to the greatest extent possible, the risk of discovery or compromise of the relationship between the agency and the CI. This plan should also aim to prevent the detection, compromise, or interception of communications between the overseeing agent and the CI.
15. Procedures must be instituted to assist CIs with concealing their identity and maintaining their safety. Care should be given not to expose CIs to unnecessary safety risks.
16. Preceding or following every buy or sale of controlled substances, overseeing agents must screen the CI for any personal safety or mental health concerns, risk of substance abuse, and/or potential relapse in any substance abuse recovery.
  - a. At the request of the CI, or if the overseeing agent deems it necessary, reasonable efforts should be taken to provide the CI with referral to substance abuse and/or mental health services.
  - b. Overseeing agents must document:
    - i. the screening,
    - ii. any referral to services provided to, or requested by, the CI, and
    - iii. any refusal by the CI to participate in the screening and/or any refusal by the CI to accept referral to services. Reasons for the CI's refusal must be documented, where applicable.
  - c. No part of this subsection supersedes MN Stat. 253B.05, sub.2.
17. Reasonable protective measures must be provided for a CI when any member of this agency knows or should have known of a risk or threat of harm to a person serving as a CI and the risk or threat of harm is a result of the informant's service to this agency.
18. Overseeing agents must:
  - a. evaluate and document the criminal history and propensity for violence of target offenders; and

- b. to the extent allowed, provide this information to the CI if there is a reasonable risk or threat of harm to the CI as a result of the CI's interaction with the target offender.
19. Reasonable efforts and precautions must be made to help protect the identity of a CI during the time the person is acting as an informant.
  20. Whenever possible, officers must corroborate information provided by a CI and document efforts to do so.
  21. The name of a CI must not be included in an affidavit for a warrant unless judicial authority is obtained to seal the document from the public record or the CI is a subject of the investigation upon which the affidavit is based.
  22. Overseeing agents are responsible for ensuring that information of potential value to other elements of the agency is provided promptly to authorized supervisory personnel and/or other law enforcement agencies as appropriate.
  23. Individuals leaving employment with the agency have a continuing obligation to maintain as confidential the identity of any CI and the information he or she provided unless obligated to reveal such identity or information by law or court order.

#### **E. Establishment of an Informant File System**

An informant file system must be established as follows:

1. The agency chief executive must designate a file supervisor who must be responsible for developing and maintaining master CI files and an indexing system.
2. A file must be maintained on each CI deemed suitable by the agency.
3. An additional Unreliable Informant File must be established for CIs deemed unsuitable during initial suitability determinations or at a later time.
4. Each file must be coded with an assigned informant control number for identification within the indexing system and must include the following information, where applicable:
  - a. Name, aliases, and date of birth
  - b. Height, weight, hair color, eye color, race, sex, scars, tattoos, or other distinguishing features
  - c. Emergency contact information
  - d. Name of the officer initiating use of the informant and any subsequent overseeing agents
  - e. Photograph and criminal history record
  - f. Current home address and telephone number(s)

- g. Residential addresses in the last five years
  - h. Current employer, position, address, and telephone number
  - i. Social media accounts
  - j. Marital status and number of children
  - k. Vehicles owned and their registration numbers
  - l. Places frequented
  - m. Gang affiliations or other organizational affiliations
  - n. Briefs of information provided by the CI and the CI's subsequent reliability
  - o. Special skills and hobbies
  - p. Special areas of criminal expertise or knowledge
  - q. A copy of the signed informant agreement
5. CI files must be maintained in a separate and secured area.
6. The file supervisor must ensure that information concerning CIs is strictly controlled and distributed only to officers and other authorities who have a need and a right to such information.
7. CI File Review
- a. Sworn personnel may review an individual's CI file only upon the approval of the agency's chief executive or their designee.
  - b. The requesting officer must submit a written request explaining the need for review. A copy of this request, with the officer's name, must be maintained in the individual's CI file.
  - c. Officers must not remove, copy, or disseminate information from the CI file.
  - d. CI files must be reviewed only in designated areas of the law enforcement facility and returned as soon as possible to their secure file location.
  - e. All disclosures or access to CI files must be recorded by the file supervisor, to include information such as the requesting officer or agency, the purpose of access or disclosure, the information conveyed, and the date and time of access or dissemination.
  - f. No portion of an individual's CI file must be entered into any other electronic or related database without controls sufficient to exclude access to all but authorized personnel with a need and a right to know.

## **F. Deactivation of Confidential Informants**

A CI deactivation procedure must be established as follows:

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

## **G. Monetary Payments**

Monetary payments must be managed as follows:

1. All monetary compensation paid to CIs must be commensurate with the value of the information or assistance provided to the agency.
2. All CI payments must be approved in advance by the officer in charge of confidential funds.
3. Officers must provide accounting of monies received and documentation for confidential funds expended. Any documentation of monies paid or received should not contain the true identity of the informant but should use the CI's control number.
4. Two officers must be present when making payments or providing funds to CIs.
5. The appropriate individual, as designated by the agency's chief executive, must ensure that the process for authorization, disbursement, and documentation of CI payments, as well as the accounting and reconciliation of confidential funds, is consistent with agency policy.

6. If a CI is authorized to work with another law enforcement or prosecutorial agency, financial payments must be coordinated between the agencies in a manner that is proportionate to the assistance rendered to each agency and consistent with provision III.F.1. of this policy.
7. Written records of receipts are retained, or justification for the exception is documented when a written receipt is not available.

Approved by POST Board on 04/21/2022

Adopted by Houston Police Department 05/13/2022

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## **Public Assembly and First Amendment Activity**

References:

Minn. Rules 6700.1615

[First Amendment US Constitution](#)

[Minnesota Constitution](#)

[609.705. Unlawful Assembly](#)

[609.71 Riot](#)

[609.066 Authorized Use of Force by Peace Officers](#)

[609.06 Authorized Use of Force](#)

### **5) PURPOSE**

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

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

The [\(law enforcement agency\)](#) supports all people's fundamental right to peaceably assemble and their right to freedom of speech and expression.

The purpose of this policy is to provide guidelines to the [\(law enforcement agency\)](#) personnel regarding the application and operation of acceptable law enforcement actions addressing public assemblies and First Amendment Activity.

### **6) POLICY**

The Houston Police Department will uphold the constitutional rights of free speech and assembly while using the minimum use of physical force and authority required to address a crowd management or crowd control issue.

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

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

This policy is to be reviewed annually.

## 7) DEFINITIONS

- A. Chemical Agent Munitions: Munitions designed to deliver chemical agents from a launcher or hand thrown.
- B. Control Holds: Control holds are soft empty hand control techniques as they do not involve striking.
- C. Crowd Management: Techniques used to manage lawful public assemblies before, during, and after an event. Crowd management can be accomplished in part through coordination with event planners and group leaders, permit monitoring, and past event critiques.
- D. Crowd Control: Techniques used to address unlawful public assemblies.
- E. Deadly Force: Force used by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm. (Reference: (law enforcement agency's) Use of Force Policy, MN Statutes [609.06 and 609. 066](#))
- F. Direct Fired Munitions: Less-lethal impact munitions that are designed to be direct fired at a specific target.
- G. First Amendment Activities: First Amendment activities include all forms of speech and expressive conduct used to convey ideas and/or information, express grievances, or otherwise communicate with others and include both verbal and non-verbal expression. Common First Amendment activities include, but are not limited to, speeches, demonstrations, vigils, picketing, distribution of literature, displaying banners or signs, street theater, and other artistic forms of expression. All these activities involve the freedom of speech, association, and assembly and the right to petition the government, as guaranteed by the United States Constitution and the [Minnesota State Constitution](#).

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

- H. Great Bodily Harm: Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily

member or organ or other serious bodily harm. (Reference: (law enforcement agency's) Use of Force Policy, MN Statutes [609.06](#) and [609.066](#))

- I. Legal Observers – Individuals, usually representatives of civilian human rights agencies, who attend public demonstrations, protests and other activities. The following may be indicia of a legal observer: Wearing a green National Lawyers' Guild issued or authorized Legal Observer hat and/or vest (a green NLG hat and/or black vest with green labels) or wearing a blue ACLU issued or authorized legal observer vest.
- J. Less-lethal Impact Munitions. Impact munitions which can be fired, launched, or otherwise propelled for the purpose of encouraging compliance, overcoming resistance or preventing serious injury without posing significant potential of causing death.
- K. Media: Media means any person who is an employee, agent, or independent contractor of any newspaper, magazine or other periodical, book publisher, news agency, wire service, radio or television station or network, cable or satellite station or network, or audio or audiovisual production company, or any entity that is in the regular business of news gathering and disseminating news or information to the public by any means, including, but not limited to, print, broadcast, photographic, mechanical, internet, or electronic distribution. For purposes of this policy, the following are indicia of being a member of the media: visual identification as a member of the press, such as by displaying a professional or authorized press pass or wearing a professional or authorized press badge or some distinctive clothing that identifies the wearer as a member of the press.

## 8) Law Enforcement Procedures

- a) **Uniform:** All officers responding to public assemblies must at all times, including when wearing protective gear, display their agency name and a unique personal identifier in compliance with this department's uniform policy. The chief law enforcement officer must maintain a record of any officer(s) at the scene who is not in compliance with this requirement due to exigent circumstances.
- b) **Officer conduct:**
  - (1) Officers shall avoid negative verbal engagement with members of the crowd. Verbal abuse against officers does not constitute a reason for an arrest or for any use of force against such individuals.
  - (2) Officers must maintain professional demeanor and remain neutral in word and deed despite unlawful or anti-social behavior on the part of crowd members.
  - (3) Officers must not take action or fail to take action based on the opinions being expressed.
  - (4) Officers must not interfere with the rights of members of the public to observe and document police conduct via video, photographs, or other

- methods unless doing so interferes with on-going police activity.
- (5) Officers must not use a weapon or munition unless the officer has been trained in the use and qualified in deployment of the weapon/munition.
  - (6) This policy does not preclude officers from taking appropriate action to direct crowd and vehicular movement; enforce ordinances and statutes; and to maintain the safety of the crowd, the general public, law enforcement personnel, and emergency personnel.

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## **5. Responses to Crowd Situations**

**A. Lawful assembly.** Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, 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.

### **B. Unlawful assembly**

1. The definition of an unlawful assembly has been set forth in Minnesota Statute [§609.705](#).
2. The mere failure to obtain a permit, such as a parade permit or sound permit, is not a sufficient basis to declare an unlawful assembly
3. The fact that some of the demonstrators or organizing groups have engaged in violent or unlawful acts on prior occasions or demonstrations is not grounds for declaring an assembly unlawful.
4. Whenever possible, the unlawful behavior of a few participants must not result in the majority of peaceful protestors being deprived of their First Amendment rights, unless other participants or officers are threatened with dangerous circumstances.
5. Unless emergency or dangerous circumstances prevent negotiation, crowd dispersal techniques must not be initiated until after attempts have been made through contacts with the police liaisons and demonstration or crowd event leaders to negotiate a resolution of the situation so that the unlawful activity will cease, and the First Amendment activity can continue.

### **C. Declaration of Unlawful Assembly**

1. If the on-scene supervisor/incident commander has declared an unlawful assembly, the reasons for the declaration and the names of the decision maker(s) must be recorded. The declaration and dispersal order must be announced to the assembly. The name(s) of the officers announcing the declaration should be recorded, with the time(s) and date(s) documented.

2. The dispersal order must include:
  - a) Name, rank of person, and agency giving the order
  - b) Declaration of Unlawful Assembly and reason(s) for declaration
  - c) Egress or escape routes that may be used
  - d) Specific consequences of failure to comply with dispersal order
  - e) How long the group has to comply
3. Whenever possible, dispersal orders should also be given in other languages that are appropriate for the audience. Officers must recognize that not all crowd members may be fluent in the language(s) used in the dispersal order.
4. Dispersal announcements must be made in a manner that will ensure that they are audible over a sufficient area. Dispersal announcements-must be made from different locations when the demonstration is large and noisy. The dispersal announcements should be repeated after commencement of the dispersal operation so that persons not present at the original broadcast will understand that they must leave the area. The announcements must also specify adequate egress or escape routes. Whenever possible, a minimum of two escape/egress routes shall be identified and announced.

#### **D. Crowd Dispersal**

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

#### **6. Tactics and Weapons to Disperse or Control a Non-Compliant Crowd**

Nothing in this policy prohibits officers' abilities to use appropriate force options to defend themselves or others as defined in the (law enforcement agency's) Use of Force policy.

#### **A. Use of Batons**

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

#### **B. Restrictions on Crowd Control and Crowd Dispersal**

1. Canines. Canines must not be used for crowd control, crowd containment, or crowd dispersal.
2. Fire Hoses. Fire hoses must not be used for crowd control, crowd containment, or crowd dispersal.
3. Electronic Control Weapons (ECWs) must not be used for crowd control, crowd containment, or crowd dispersal.
4. Motorcycles and police vehicles must not be used for crowd dispersal, but may be used for purposes of observation, visible deterrence, traffic control, transportation, and area control during a crowd event.
5. Skip Fired Specialty Impact Less-Lethal Munitions (Wooden Dowels and Stinger Grenades) may be used as a last resort if other crowd dispersal techniques have failed or have been deemed ineffective.
6. Direct Fired munitions may never be used indiscriminately against a crowd or group of persons even if some members of the crowd or group are violent or disruptive.
  - a) Except for exigent circumstances, the on-scene supervisor/incident commander must authorize the deployment of Direct Fired munitions.

Direct Fired munitions must be used only against a specific individual who is engaging in conduct that poses an immediate threat of loss of life or serious bodily injury to them self, officers, or the general public; or is creating an imminent risk to the lives or safety of other persons through the substantial destruction of property.

- b) Officers shall not discharge a Direct Fired munitions at a person's head, neck, throat, face, left armpit, spine, kidneys, or groin unless deadly force would be justified.
  - c) When circumstances permit, the on-scene supervisor/incident commander must make an attempt to accomplish the policing goal without the use of Direct Fired munitions as described above, and, if practical, an audible warning shall be given to the subject before deployment of the weapon.
7. Aerosol Hand-held Chemical Agents must not be used in a demonstration or crowd situation or other civil disorders without the approval of the on-scene supervisor/incident commander.
- a) Aerosol, hand-held, pressurized, containerized chemical agents that emit a stream shall not be used for crowd management, crowd control, or crowd dispersal during demonstrations or crowd events. Aerosol hand-held chemical agents may not be used indiscriminately against a crowd or group of persons, but only against specific individuals who are engaged in specific acts of serious unlawful conduct or who are actively resisting arrest.
  - b) Officers shall use the minimum amount of the chemical agent necessary to overcome the subject's resistance.
  - c) When possible, persons should be removed quickly from any area where hand held chemical agents have been used. Officers must monitor the subject and pay particular attention to the subject's ability to breathe following the application of a chemical agent.
  - d) A subject who has been sprayed with a hand-held chemical agent shall not be left lying on their stomach once handcuffed or restrained with any device.
9. Chemical munitions use in a crowd situation is subject to the following:
- a) Chemical munitions must be used only when:
    - 1) a threat of imminent harm or serious property damage is present, or other crowd dispersal techniques have failed or did not accomplish the policing goal as determined by the incident commander,
    - 2) sufficient egress to safely allow the crowd to disperse exists, and
    - 3) The use of chemical munitions is approved by the on-scene supervisor/incident commander, and

- b) When feasible, additional announcements should be made prior to the use of chemical munitions in a crowd situation warning of the imminent use of chemical munitions.
- c) Deployment of chemical munitions into a crowd must be avoided to prevent unnecessary injuries.
- d) CN chemical munitions are prohibited.
- e) The use of each chemical munition must be recorded (time, location), and the following information must be made available by the department on request :
  - 1) the name of each chemical munition used in an incident,
  - 2) the location and time of use for each munition deployment,
  - 3) access to the safety data sheet (SDS) for chemical munition
- f) Where extensive use of chemical munitions would reasonably be anticipated to impact nearby residents or businesses, agencies should consider proactively notifying impacted individuals of safety information related to the munitions use as soon as possible, even if after the event.
- g) When chemical munitions are used, an emergency responder will be on standby at a safe distance near the target area when feasible.
- h) Chemical munitions are subject to the same procedural requirements as outlined in the (law enforcement department)'s UOF policy.

### **C. Arrests**

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

## **6. Handcuffs**

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

## **7. Media.**

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

## **8. Legal Observers**

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

## **9. Documentation of Public Assembly and First Amendment Activity**

- A. The purpose of any visual documentation by (law enforcement agency) of a public assembly or first amendment activity must be related only to:

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