

# Lyon County Sheriff's Office

Lyon County SO Policy Manual

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## Chapter 1 - Law Enforcement Role and Authority

## Law Enforcement Authority

### 100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Lyon County Sheriff's Office to perform their functions based on established legal authority.

### 100.2 PEACE OFFICER POWERS

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

#### 100.2.1 ARREST AUTHORITY WITHIN THE JURISDICTION OF THE LYON COUNTY SHERIFF'S OFFICE

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

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

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

#### 100.2.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE LYON COUNTY SHERIFF'S OFFICE

Full- and part-time, on-duty deputies may make an arrest outside the jurisdiction of the Lyon County Sheriff's Office (Minn. Stat. § 629.40):

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

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

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circumstances, the full-time off-duty deputy is limited to the same power as are members of the general public.

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

### 100.2.3 GRANTING AUTHORITY TO OTHERS

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

### 100.3 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended within other states:

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

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

### 100.4 POLICY

It is the policy of the Lyon County Sheriff's Office to limit its members to only exercise the authority granted to them by law.

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

### 100.5 CONSTITUTIONAL REQUIREMENTS

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

## Chief Law Enforcement Officer

### 101.1 PURPOSE AND SCOPE

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

#### 101.1.1 CHIEF LAW ENFORCEMENT OFFICER REQUIREMENTS

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

#### 101.1.2 SHERIFF REQUIREMENTS

Any person who files as a candidate for sheriff must be licensed as a peace officer in this state. Any person who is appointed to the office of sheriff must be licensed as a peace officer in this state before entering upon the duties of the office (Minn. Stat. § 387.01).

Prior to performing duties, a sheriff shall give bond to the state as prescribed by Minnesota law.

## Oath of Office

### 102.1 POLICY

It is the policy of the Lyon County Sheriff's Office that, when appropriate, office members affirm the oath of their office as an expression of commitment to the constitutional rights of those served by the Office and the dedication of its members to their duties (Minn. Stat. § 358.05).

## Chapter 2 - Organization and Administration

# Policy Manual

## 200.1 PURPOSE AND SCOPE

The manual of the Lyon County Sheriff's Office is hereby established and shall be referred to as the Policy Manual or the manual. The manual is a statement of the current policies, rules and guidelines of this office. All members are to conform to the provisions of this manual.

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

## 200.2 POLICY

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

### 200.2.1 DISCLAIMER

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

## 200.3 AUTHORITY

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

## 200.4 DEFINITIONS

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

**Adult** - Any person 18 years of age or older.

**CFR**- Code of Federal Regulations.



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

**County** - The County of Lyon.

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

**Office/LCSO** - The Lyon County Sheriff's Office.

**DPS**- The Minnesota Department of Public Safety.

**DVS**- The Minnesota Department of Driver and Vehicle Services.

**Employee/personnel** - Any person employed by the Office.

**Manual** - The Lyon County Sheriff's Office Policy Manual.

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

**Member** - Any person employed or appointed by the Lyon County Sheriff's Office including:

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

**Deputy** - Those employees, regardless of rank, who are licensed peace officer employees of the Lyon County Sheriff's Office.

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

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

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

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

**Rank** - The title of the classification held by a deputy.

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

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

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

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

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

**USC-** United States Code.

### **200.5 ISSUING THE POLICY MANUAL**

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

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

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

The Sheriff will ensure that the Policy Manual is periodically reviewed and updated as necessary.

### **200.7 REVISIONS TO POLICIES**

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

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

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

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

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# Organizational Structure and Responsibility

## 201.1 PURPOSE AND SCOPE

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

### 201.1.1 ORGANIZATIONAL STRUCTURE

#### SHERIFF

#### **Law Enforcement -General Operations Division**

- (a) Chief Deputy
- (b) Deputy-Sergeant
- (c) Deputy-Investigator
- (d) Deputy Sheriff
- (e) 911 Dispatcher
- (f) Civil Process Specialist
- (g) Records Clerk
- (h) Receptionist
- (i) Volunteer Services

#### **Corrections Division**

- (a) Chief Deputy
- (b) Jail Administrator
- (c) Admin Sergeant
- (d) Jail Programmer-Sergeant
- (e) Shift Sergeant
- (f) Corrections Officer
- (g) Volunteers
- (h) Contracted Services

## 201.2 DIVISIONS

The Sheriff is responsible for administering and managing the Lyon County Sheriff's Office. There are 2 divisions in the Sheriff's Office as follows:

- **General Operations**
  - A. Investigations
  - B. Deputy Patrol Operations
    - ATV/UTV Patrol

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- Boat and Water Patrol
- Traffic Patrol
- C. PSAP - 911 Dispatch Center
- D. Criminal Records
- E. Civil Process
- F. Reception
- **Corrections**
  - A. Correctional Facility Operations
  - B. Jail Reception/Records

### 201.2.1 GENERAL OPERATIONS

The **General Operations Division** is commanded by a Chief Deputy whose primary responsibility is to provide general management, supervision, direction and control for the General Operations Division, including day-to-day oversight of department operations and activities.

Individual Sergeants will be assigned by the Sheriff and/or Chief Deputy to particular subdivisions within the Office for general supervision. PSAP 911 Dispatch, Deputy, Investigations, Records, Reception, Civil Process..

The Chief Deputy and Sergeants will be responsible for preparation of Office personnel employee annual evaluations under their assigned subdivision. Sergeants shall also be responsible for the scheduling of personnel, time off requests, complaint investigations, and personnel discipline matters.

### 201.2.2 CORRECTIONS DIVISION

The Corrections Division is commanded by a Jail Administrator. The Jail Administrator reports directly to the Chief Deputy. The Jail Administrator has the primary responsibility of general jail management, supervision, direction and control of the Corrections Division.

### 201.2.3 CORRECTIONS SERGEANTS

Corrections Sergeants, report directly to the Jail Administrator. Corrections Sergeants will be assigned particular subdivisions within the Corrections Division. Transport Officers, Corrections Officers, Contracted Food and Medical Services and Volunteer Services.

The Corrections Sergeants will be responsible for preparation of Office personnel employee annual evaluations under their assigned subdivision. Sergeants shall also be responsible for the scheduling of personnel, time off requests, complaint investigations, and personnel discipline matters.

## **201.3 COMMAND PROTOCOL**

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### 201.3.1 SUCCESSION OF COMMAND

The Sheriff exercises command over all personnel in the Office. During planned absences the Chief Deputy shall act with the authority of the Sheriff as the acting commander of the Sheriff's Office.

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

- Chief Deputy
- Deputy Sergeant
- Deputy -Investigator
- Senior Deputy On -Duty
- Deputy On-Scene

### 201.3.2 UNITY OF COMMAND

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

### 201.3.3 ORDERS

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

### 201.3.4 UNLAWFUL AND CONFLICTING ORDERS

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

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

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

## General Order and Special Orders

### 202.1 PURPOSE AND SCOPE

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

#### 202.1.1 GENERAL ORDERS PROTOCOL

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

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

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

#### 202.1.2 SPECIAL ORDERS PROTOCOL

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

### 202.2 RESPONSIBILITIES

#### 202.2.1 STAFF

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

#### 202.2.2 SHERIFF

The Sheriff or designee shall issue all General Orders and Special Orders.

### 202.3 ACCEPTANCE OF GENERAL ORDERS AND SPECIAL ORDERS

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

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

## Emergency Operations Plan

### **203.1 PURPOSE AND SCOPE**

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

### **203.2 ACTIVATING THE EMERGENCY OPERATIONS PLAN**

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

#### **203.2.1 RECALL OF PERSONNEL**

In the event that the Emergency Operations Plan is activated, all employees of the Lyon County Sheriff's Office are subject to immediate recall. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the Sheriff or the authorized designee.

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

### **203.3 LOCATION OF MANUALS**

The manual for employees is available on the Sheriff's Office Shared Server, and located in Dispatch.

### **203.4 PLAN REVIEW**

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

### **203.5 PLAN TRAINING**

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

## **Administrative Communications**

### **204.1 PURPOSE AND SCOPE**

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

### **204.2 DEPARTMENT E-MAILS**

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

### **204.3 CORRESPONDENCE**

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

### **204.4 SURVEYS**

All surveys made in the name of the Office shall be authorized by the Sheriff, his/her designee.

### **204.5 OTHER COMMUNICATIONS**

General Orders and other communications necessary to ensure the effective operation of the Office shall be promulgated by the Sheriff, or his/her designee.



## Chapter 3 - Personnel

## Recruitment and Selection

### 300.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Lyon County Sheriff's Office and that are promulgated and maintained by the County Administrator's Office.

### 300.2 POLICY

In accordance with applicable federal, state, and local law, the Lyon County Sheriff's Office provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Office does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Office will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

### 300.3 RECRUITMENT

The Sheriff in conjunction with the County Human Resource Department should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

- (a) Identification of racially and culturally diverse target markets.
- (b) Use of marketing strategies to target diverse applicant pools.
- (c) Expanded use of technology and maintenance of a strong Internet presence. This may include an interactive office website and the use of office-managed social networking sites, if resources permit.
- (d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities and the military.
- (e) Employee referral and recruitment incentive programs.
- (f) Consideration of shared or collaborative regional testing processes.

The Sheriff shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Office should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of his/her status in the recruiting process.

## *Recruitment and Selection*

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### **300.4 SELECTION PROCESS**

The Office shall actively strive to identify a diverse group of candidates that have in some manner distinguished themselves as being outstanding prospects. Minimally, the Office shall employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
- (b) Driving record
- (c) Personal and professional reference checks
- (d) Citizenship eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents (Minn. R. 6700.0700, Subp. 1). This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
  1. This review should include the identification of any activity that promotes or supports unlawful violence or unlawful bias against persons based on protected characteristics (e.g., race, ethnicity, national origin, religion, gender, gender identity, sexual orientation, disability).
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks
- (h) Medical and psychological examination (may only be given after a conditional offer of employment.
- (i) Relevant national and state decertification records, if available

#### **300.4.1 VETERAN'S PREFERENCE**

Veterans who are candidates for job openings shall receive preference recognizing the training and experience, loyalty and sacrifice not otherwise readily assessed by examination pursuant to Minn. Stat. § 197.455. The following preference, credit and requirements shall be applied as applicable (Minn. Stat. § 197.455):

**Nondisabled Veteran's Credit** - There shall be added to the competitive open examination rating of a nondisabled veteran, who so elects, a credit of 10 points, provided that veteran obtained a passing rating on the examination without the addition of the credit points.

**Disabled Veteran's Credit** - There shall be added to the competitive open examination rating of a disabled veteran, who so elects, a credit of 15 points, provided that the veteran obtained a passing rating on the examination without the addition of the credit points. There shall be added to the competitive promotional examination rating of a disabled veteran, who so elects, a credit of five points provided that:

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## *Recruitment and Selection*

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- (a) The veteran obtained a passing rating on the examination without the addition of the credit points.
- (b) The veteran is applying for a first promotion after securing public employment.

For the purpose of the preference to be used in securing appointment from a competitive open examination, "disabled veteran" means a person has a compensable service-connected disability as adjudicated by the U.S. Veterans Administration, or by the retirement board of one of the several branches of the armed forces, that is existing at the time preference is claimed.

For purposes of the preference to be used in securing appointment from a competitive promotional examination, "disabled veteran" means a person who, at the time of election to use a promotional preference, is entitled to disability compensation under laws administered by the Veterans Administration for a permanent service-connected disability rated at 50 percent or more.

**Preference for Spouses** - A preference available pursuant to Minn. Stat. § 197.455 may be used by the surviving spouse of a deceased veteran and by the spouse of a disabled veteran who, because of the disability, is unable to qualify.

**Ranking of Veterans** - An eligible applicant with a rating augmented by veteran's preference shall be entered on an eligible list ahead of a non-veteran with the same rating. When notifying eligible applicants that they have passed examinations this office shall show the final examination ratings and preference credits and shall notify eligible applicants that they may elect to use veteran's preference to augment passing ratings.

When this office rejects a certified eligible applicant who has received veteran's preference, the appointing authority shall notify the eligible applicant in writing of the reasons for the rejection and file the notice with the Lyon County Administrator's Office.

### **300.5 BACKGROUND INVESTIGATION**

Every candidate shall undergo a thorough background investigation to verify the candidate's personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Lyon County Sheriff's Office.

The background investigation must determine whether the candidate meets the standards established by the Minnesota Board of Peace Officer Standards and Training (POST) as well as the security standards established to access state and national computerized record and communication systems (Minn. Stat. § 626.87; Minn. R. 6700.0670; Minn. R. 6700.0700).

A background investigation is valid for six months after completion. If the candidate is not hired during the six months, the background investigation must be updated before a final offer of employment to the candidate is made (Minn. R. 6700.0670, Subp. 2).

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### 300.5.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and Minnesota law (15 USC § 1681d; Minn. Stat. § 13C.02).

### 300.5.2 STATE NOTICES

Upon initiation of a candidate's background investigation, the Sheriff or the authorized designee shall provide written notice to POST as soon as practicable, but no later than ten days thereafter that includes the candidate's full name and date of birth and the candidate's peace officer license number, if applicable (Minn. Stat. § 626.87; Minn. R. 6700.0670, Subp. 3).

If the background investigation identifies a disqualification under the minimum selection standards in Minn. R. 6700.0700, the Sheriff or the authorized designee shall provide written notice to POST as soon as practicable, but no later than ten days (Minn. R. 6700.0670, Subp. 3).

### 300.5.3 REVIEW OF SOCIAL MEDIA SITES

Due to the potential for accessing unsubstantiated, private, or protected information, the background investigator should not require candidates to provide passwords, account information, or access to password-protected social media accounts (Minn. R. 6700.0670, Subp. 1).

The background investigator should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches and/or review information from social media sites to ensure that:

- (a) The legal rights of candidates are protected.
- (b) Material and information to be considered are verified, accurate, and validated.
- (c) The Office fully complies with applicable privacy protections and local, state, and federal law.

Regardless of whether a third party is used, the background investigator should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

### 300.5.4 DOCUMENTING AND REPORTING

The Background Investigator shall summarize the results of the background investigation in a report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file.

### 300.5.5 RECORDS RETENTION

The background report and all supporting documentation shall be maintained in accordance with the established records retention schedule (Minn. R. 6700.0670, Subp. 2; Minn. R. 6700.0700, Subp. 2).

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### **300.6 DISQUALIFICATION GUIDELINES**

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

### **300.7 EMPLOYMENT STANDARDS**

All candidates shall meet the minimum standards required by state law. Candidates will be evaluated based on merit, ability, competence and experience, in accordance with the high standards of integrity and ethics valued by the Office and the community.

Validated, job-related and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The County Administrator's Office should maintain validated standards for all positions.

#### **300.7.1 STANDARDS FOR LICENSED PEACE OFFICER CANDIDATES**

Candidates shall meet the minimum standards established by Minnesota POST (Minn. R. 6700.0700):

- (a) Citizen of, or eligible to work in, the United States (Minn. R. 6700.0700, Subp. 1)
- (b) Possess a valid driver's license
- (c) Free of any felony conviction
- (d) Not be required to register as a predatory offender under state law
- (e) Free of conviction of any controlled substance law or of any misdemeanor offense listed in Minn. R. 6700.0700
- (f) Have no record of engaging in discriminatory conduct, involvement with a hate or extremist group, or criminal gang

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- (g) Fingerprinted for purposes of disclosure of any felony convictions
- (h) Submit to a medical examination and psychological evaluation required by Minn. R. 6700.0675 to ensure that the candidate is free from any physical, emotional, or mental condition which might adversely affect the candidate's performance of peace officer duties
- (i) Successfully complete a physical strength and agility examination
- (j) Successfully complete an oral examination

### 300.7.2 NOTIFICATION TO POST

The Sheriff shall notify the POST Board of any candidate appointed to the position of peace officer before the first day of employment on a form provided by POST. The appointee may not exercise peace officer powers until the notification form is received and approved by POST Board (Minn. R. 6700.0800).

### 300.8 PROBATIONARY PERIODS

The Sheriff should coordinate with the Lyon County Administrator's Office to identify probationary periods and procedures for:

- (a) Appraising performance during probation.
- (b) Assessing the level of performance required to complete probation.
- (c) Extending probation.
- (d) Documenting successful or unsuccessful completion of probation.

## Employee Training

### 301.1 PURPOSE AND SCOPE

It is the purpose of this policy to provide procedures for the documentation of training, the requests for desired training, and work schedule modifications requested as a result of training.

### 301.2 TRAINING REQUESTS

Request for desired training, above what is assigned by a supervisor, shall be made to the officer's immediate supervisor by completing a *Travel/Training Authorization Form*. The supervisor will evaluate the need for the requested training and provide a response to the employee.

Scheduled training will be noted on the work schedule

### 301.3 REQUIRED TRAINING

All Minnesota POST Board required training will be provided by the Lyon County Sheriff's Office.

### 301.4 TRAINING DOCUMENTAION

Any and all training, including ERU training, is to be reported to the appropriate supervisory personnel.. This will include the dates and times of the training, and any costs incurred as a result of the training.



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## Special Assignments and Promotions

### 302.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Lyon County Sheriff's Office.

### 302.2 POLICY

The Lyon County Sheriff's Office determines assignments and promotions in a non-discriminatory manner based upon job-related factors and candidate skills and qualifications. Assignments and promotions are made by the Sheriff.

### 302.3 SPECIAL ASSIGNMENT POSITIONS

The following conditions are considered special assignments and not promotions:

- (a) Brown, Lyon, Redwood Emergency Response Unit member
- (b) Canine handler
- (c) Field Training Officer
- (d) Firearms Instructor
- (e) Use of Force Instructor
- (f) Taser Instructor
- (g) OC Munitions Instructor
- (h) Court Security

#### 302.3.1 GENERAL REQUIREMENTS

The following requirements should be considered when selecting a candidate for a special assignment:

- (a) Off probation
- (b) Possession of or ability to obtain any certification required by the Minnesota Board of Peace Officer Standards and Training or law
- (c) Exceptional skills, experience, or abilities related to the special assignment

#### 302.3.2 EVALUATION CRITERIA

The following criteria will be used in evaluating candidates for a special assignment:

- (a) Presents a professional, neat appearance.
- (b) Maintains a physical condition that aids in his/her performance.
- (c) Expressed an interest in the assignment.
- (d) Demonstrates the following traits:
  - 1. Emotional stability and maturity

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2. Stress tolerance
3. Sound judgment and decision-making
4. Personal integrity and ethical conduct
5. Leadership skills
6. Initiative
7. Adaptability and flexibility
8. Ability to conform to [departmentoffice] goals and objectives in a positive manner

### 302.3.3 SELECTION PROCESS

The selection process for special assignments will include an administrative evaluation as determined by the Sheriff to include:

- (a) Supervisor recommendations - Each supervisor who has supervised or otherwise been involved with the candidate will submit a recommendation.
  1. The supervisor recommendations will be submitted to the Sheriff..
- (b) Sheriff interview - The Sheriff will schedule interviews with each candidate.
  1. Based on supervisor recommendations and after the interview, the Sheriff will select the candidate for the assignment.
- (c) Assignment by the Sheriff.

The selection process for all special assignment positions may be waived for temporary assignments, emergency situations, training, and at the discretion of the Sheriff.

## Standards of Conduct

### 303.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Lyon County Sheriff's Office and are expected of all office members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions, but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this office or a member's supervisors.

#### 303.1.1 POST

This policy incorporates the elements of the Peace Officer Standards and Training Board (POST) Model Policy regarding the professional conduct of peace officers. However, this policy shall apply to all members of this office including volunteer, part-time and auxiliary employees (Minn. Stat. § 626.8457, Subd. 2).

The provisions of this policy are in addition to collective bargaining agreements or any other applicable law (see generally Minn. R. 6700.1500).

The Office shall report annually to POST any data regarding the investigation and disposition of cases involving alleged misconduct of officers licensed by POST (Minn. Stat. § 626.8457, Subd. 3).

### 303.2 POLICY

The continued employment or appointment of every member of this office shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy whether on- or off-duty may be cause for disciplinary action.

### 303.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any office supervisor or person in a position of authority, absent a reasonable and bona fide justification.

#### 303.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or office policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

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## *Standards of Conduct*

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

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

### **303.3.2 SUPERVISOR RESPONSIBILITIES**

Supervisory personnel are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiescing to such a violation or exhibiting indifference to such a violation.
- (d) Exercising unequal or disparate authority toward any member for malicious or other improper purpose.

### **303.4 GENERAL STANDARDS**

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

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

#### **303.4.1 PRISON RAPE ELIMINATION ACT DISCLOSURE**

Members have a continuing affirmative duty to notify the Sheriff in writing if they have (28 CFR 115.17):

- (a) Engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility or other institution as defined in 42 USC § 1997.

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- (b) Been convicted for an offense involving engaging in or attempting to engage in sexual activity facilitated by force, by overt or implied threats of force, or by coercion, or if the victim did not consent or was unable to consent or refuse.
- (c) Been the subject of any civil or administrative adjudication finding that the member engaged in sexual activity facilitated by force, by overt or implied threats of force, or by coercion, or if the victim did not consent or was unable to consent or refuse.

### **303.5 CAUSE FOR DISCIPLINE**

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient office service.

#### **303.5.1 LAWS, RULES AND ORDERS**

- (a) Violation of, or ordering or instructing a subordinate to violate, any policy, procedure, rule, order, directive or requirement, or failure to follow instructions contained in office or county manuals.
- (b) Disobedience of any legal directive or order issued by any office member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

#### **303.5.2 ETHICS**

- (a) Using or disclosing one's status as a member of the Lyon County Sheriff's Office in any way that could reasonably be perceived as an attempt to gain influence or authority for non-office business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this office and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

#### **303.5.3 DISCRIMINATION, OPPRESSION OR FAVORITISM**

Discriminating against, oppressing or providing favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification

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protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

#### 303.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact with other members, volunteers, contractors or inmates.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with an inmate or with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this office.
- (e) Associating on a personal, rather than official, basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know, of such criminal activities, except as specifically directed and authorized by this office.

#### 303.5.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without a reasonable excuse.

#### 303.5.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the member's position with this office.
- (b) Disclosing to any unauthorized person any active investigation, inmate or critical incident information.
- (c) The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this office for personal or financial gain or without the express authorization of the Sheriff or the authorized designee.

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- (d) Loaning, selling, allowing unauthorized use, giving away or appropriating any office property for personal use, personal gain or any other improper or unauthorized use or purpose.
- (e) Using office resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

#### 303.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Office within 24 hours of any change in residence address or contact numbers.
- (f) Failure to notify the Department of Human Resources of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

#### 303.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive, or the willful and unauthorized removal, alteration, destruction and/or mutilation of any office record, public record, book, paper or document.
- (c) Failure to participate in investigations, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any office-related business
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this office or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this office or subverts the good order, efficiency and discipline of this office or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:

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1. While on office premises.
  2. At any work site, while on-duty or while in uniform, or while using any office equipment or system.
  3. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
1. Unauthorized attendance while on-duty at official legislative or political sessions.
  2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or on office property except as expressly authorized by county policy, the collective bargaining agreement or the Sheriff.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by county policy, the collective bargaining agreement or the Sheriff.

### 303.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this office or the county.
- (g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- (h) Criminal, dishonest or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this office.
- (i) Unauthorized possession of, loss of, or damage to office property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of office property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of office property or the property of another person.



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- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any collective bargaining agreement or contract including fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Sheriff of such action.
- (m) Allowing contraband articles including, but not limited to, weapons, cellular telephones or other wireless devices, clothing, food, illegal drugs or tobacco in any jail facility.
- (n) Receiving from an inmate any articles to deliver outside the facility.
- (o) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this office, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this office or its members.

#### 303.5.10 SAFETY

- (a) Failure to observe or violating office safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver's license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (d) Unsafe firearm or other dangerous weapon handling including loading or unloading firearms in an unsafe manner, either on- or off-duty.
- (e) Carrying, while on the premises of the work site, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

#### 303.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

## Anti-Retaliation

### 304.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or collective bargaining agreement.

### 304.2 POLICY

The Lyon County Sheriff's Office has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

### 304.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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### 304.3.1 RETALIATION PROHIBITED FOR INTERVENING OR REPORTING

A deputy shall not be retaliated against for intervening or reporting that another law enforcement officer or a member used excessive force (Minn. Stat. § 626.8452).

### 304.4 COMPLAINTS OF RETALIATION

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Sheriff or the County County Administrator.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

### 304.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Sheriff via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.

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## *Anti-Retaliation*

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- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule change made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

### **304.6 COMMAND STAFF RESPONSIBILITIES**

The Sheriff should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

### **304.7 WHISTLE-BLOWING**

The Minnesota Whistleblower Act protects an employee who, in good faith (Minn. Stat. § 181.932):

- (a) Communicates a violation of any law or rule to the Office or to any government body or law enforcement official.
- (b) Participates in an investigation, hearing, or inquiry at the request of a public body or office.
- (c) Refuses an order to perform an act that the employee objectively believes violates a law, rule, or regulation, and informs the employer of the reason.
- (d) Reports a situation where the quality of health care services provided by a health care facility or provider violates a state or federal standard and potentially places the public at risk of harm.
- (e) Communicates the findings of a technical or scientific study that the employee believes, in good faith, to be truthful and accurate.

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Sergeant for investigation pursuant to the Personnel Complaints Policy.

### **304.8 RECORDS RETENTION AND RELEASE**

Supervisory personnel shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

### **304.9 TRAINING**

The policy should be reviewed with each new member.

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## *Anti-Retaliation*

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All members should receive periodic refresher training on the requirements of this policy.

# Reporting of Employee Convictions and Court Orders

## 305.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Office of any past and current criminal convictions.

## 305.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

Minnesota and federal law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Minn. Stat. § 518B.01).

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

## 305.3 CRIMINAL CONVICTIONS

Any person convicted of a felony is prohibited from being a peace officer in the State of Minnesota. Any license of a peace officer convicted of a felony is automatically revoked (Minn. Stat. § 626.8431).

Even when legal restrictions are not imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by a member of this office may prohibit him/her from carrying out law enforcement duties.

Minn. Stat. § 624.713 prohibits ineligible persons from possessing a handgun or semi-automatic assault weapon.

### 305.3.1 COURT ORDERS

All employees shall promptly notify the office if they are a party to, or have been served with any court order from any jurisdiction.

## 305.4 REPORTING PROCEDURE

All members of this office and all retired deputies with an identification card issued by the Office shall promptly notify their immediate supervisor (or the Sheriff in the case of retired deputies) in writing of any past or current criminal arrest or conviction regardless of whether the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired deputies with an identification card issued by the Office shall further promptly notify their immediate supervisor (or the Sheriff in the case of retired deputies) in writing

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## *Reporting of Employee Convictions and Court Orders*

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if the member or retiree becomes the subject of a domestic violence restraining court order or similar court order.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on administrative leave, reassignment and/or termination.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

### **305.5 CHEMICAL DEPENDENCY TREATMENT**

If a deputy is informally admitted to a treatment facility or program pursuant to Minn. Stat. § 253B.04 for chemical dependency he/she is not eligible to possess a pistol, unless the deputy possesses a certificate from the head of the treatment facility discharging or provisionally discharging the deputy from the treatment facility (Minn. Stat. § 624.713 Subd. 1(6)).

Deputies in this situation shall promptly notify the office.

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## Drug- and Alcohol-Free Workplace

### 306.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103).

### 306.2 POLICY

It is the policy of this office to provide a drug- and alcohol-free workplace for all members.

### 306.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on office time can endanger the health and safety of office members and the public.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Sergeant or appropriate supervisor as soon as the member is aware that the member will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, the member shall be immediately removed and released from work (see the Work Restrictions section in this policy).

#### 306.3.1 USE OF MEDICATIONS

Members should not use any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to the member's immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the Office while taking any medication that has the potential to impair the member's abilities, without a written release from the member's physician.

#### 306.3.2 MEDICAL CANNABIS

Possession, use, or being under the influence of medical cannabis on-duty is prohibited and may lead to disciplinary action.

### 306.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on office premises or on office time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.



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Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

### **306.5 EMPLOYEE ASSISTANCE PROGRAM**

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the County Administrator's Office, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

### **306.6 WORK RESTRICTIONS**

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Office.

### **306.7 SCREENING TESTS**

The supervisor may request or require drug or alcohol testing in the following circumstances (Minn. Stat. § 181.951; Minn. Stat. § 181.952):

- (a) **Reasonable suspicion** - The supervisor may request or require an employee to undergo drug and alcohol testing if there is a reasonable suspicion of any of the following:
  1. The employee is under the influence of drugs or alcohol.
  2. The employee has violated office rules prohibiting the use, possession, sale, or transfer of drugs or alcohol while the employee is working, is on office property, or is operating a vehicle owned by the office.
  3. The employee has sustained an injury arising out of and in the course of employment, or has caused another employee to sustain an injury (full definition of personal injury in Minn. Stat. § 176.011, Subd. 16).
  4. The employee has caused a work-related accident, or the employee's use of a vehicle, firearm, or safety equipment involved a work-related accident.
- (b) Following a conditional job offer

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## *Drug- and Alcohol-Free Workplace*

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- (c) As part of an employee's routine physical examination
- (d) Under a random testing program of employees
- (e) When the employee has been referred for an evaluation or treatment, or is participating in a treatment program under an employee benefit plan
- (f) The employee discharges a firearm issued by the Office while off-duty, resulting in injury, death, or substantial property damage.

### 306.7.1 DRUG- AND ALCOHOL-TESTING PROGRAM

The following applies to the office's drug and alcohol testing procedures (Minn. Stat. § 181.951; Minn. Stat. § 181.952; Minn. Stat. § 181.953):

- (a) An employee or applicant has the right to refuse a test but the consequences of a refusal may result in discipline, up to and including termination, or a decision not to hire the applicant.
- (b) Initial screening tests must be verified by a confirmatory test for the purpose of discipline.
- (c) Employees will have an opportunity to participate in an appropriate alcohol or drug program for their first confirmed positive test. The program may be in lieu of other discipline unless the employee fails the program or refuses to participate (Minn. Stat. § 181.953).
- (d) A confirmed positive test may result in discipline, up to and including termination.
- (e) An employee or job applicant will have the opportunity to explain a positive test result and may request and pay for a second confirmatory retest.
- (f) All disciplinary procedural safeguards in this manual apply, including the post-discipline appeal procedures (see the Personnel Complaints Policy).
- (g) Employees and job applicants shall receive required written notice, including posting, of the drug- and alcohol-testing policies and procedures as set forth in Minn. Stat. § 181.952.
- (h) The safeguards of Minn. Stat. § 181.953 will be followed for any testing and any related discipline process.

Notice of the adopted drug and alcohol testing policy shall be posted in an appropriate and conspicuous location and copies shall be available for inspection to all employees and job applicants (Minn. Stat. 181.952).

### 306.7.2 SUPERVISOR RESPONSIBILITIES

The supervisor shall prepare a written record documenting the specific facts that led to the decision to require the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.

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- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

### **306.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT**

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Office will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

### **306.9 CONFIDENTIALITY**

The Office recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained in the member's confidential medical file in accordance with the Personnel Records Policy.

## Time Off Requests (Other Than Sick Leave)/Shift Changes

### **307.1 PURPOSE AND SCOPE**

It is the purpose of this policy to provide a procedure for submitting a request for time off (other than sick leave).

### **307.2 TIME OFF REQUESTS**

You must fill in the first and last name of the person whom the request for benefit time off is made, as well as your first and last name on any benefit time off request.

A request **MUST** be made for any changes to your regularly scheduled shift, other than administratively. This includes all cancellations of previously granted time off requests.

### **307.3 SHIFT CHANGES**

The changing of your shift with that of another employee is not allowed unless prior approval from a supervisor is given.

## Sick Leave

### 308.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the County personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) and the Minnesota Pregnancy and Parenting Leave Act (29 USC § 2601 et seq.; Minn. Stat. § 181.941).

### 308.2 POLICY

It is the policy of the Lyon County Sheriff's Office to provide eligible employees with a sick leave benefit.

### 308.3 USE OF SICK LEAVE

Sick leave is intended to be used for qualified absences. Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick leave benefits, or both.

Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity or other activity that may impede recovery from the injury or illness (see the Outside Employment Policy).

Qualified appointments should be scheduled during a member's non-working hours when it is reasonable to do so.

#### 308.3.1 NOTIFICATION

All members should notify the Sergeant or appropriate supervisor as soon as they are aware that they will not be able to report to work and no less than one hour before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor.

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the Office with no less than 30 days' notice of the impending absence.

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

### 308.4 EXTENDED ABSENCE

Members absent from duty for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return

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to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of three or fewer days.

### **308.5 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the County Administrator's Office as appropriate.
- (c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
  - 1. Negatively affected the member's performance or ability to complete assigned duties.
  - 2. Negatively affected office operations.
- (d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.

# Communicable Diseases

## 309.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of office members contracting and/or spreading communicable diseases.

### 309.1.1 DEFINITIONS

Definitions related to this policy include:

**Communicable disease** - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

**Exposure** - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Lyon County Sheriff's Office. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

## 309.2 POLICY

The Lyon County Sheriff's Office is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

## 309.3 EXPOSURE CONTROL OFFICER

The Sheriff will assign a person as the Exposure Control Officer (ECO). The ECO shall develop an exposure control plan that includes:

- (a) Exposure-prevention and decontamination procedures.
- (b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.
- (c) The provision that office members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them.
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
  1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
  2. Exposure control mandates in 29 CFR 1910.1030 (Minn. R. 5206.0600).

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3. Reporting cases and suspected cases of communicable diseases to the Department of Public Health (Minn. R. 4605.7070; Minn. Stat. § 144.4804).
4. Notifying appropriate medical facilities regarding member exposures and providing assistance locating source individuals, as applicable (Minn. Stat. § 144.7414)

The ECO should also act as the liaison with the Minnesota Occupational Safety and Health Administration (MNOSHA) and may request voluntary compliance inspections. The ECO should annually review and update the exposure control plan and review implementation of the plan.

### 309.4 EXPOSURE PREVENTION AND MITIGATION

#### 309.4.1 GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (29 CFR 1910.1030; Minn. R. 5206.0600):

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or office vehicles, as applicable.
- (b) Wearing office-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.
- (c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.
- (d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.
- (e) Using an appropriate barrier device when providing CPR.
- (f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.
  1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.
- (h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.
- (i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
- (j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.



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### 309.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (29 CFR 1910.1030; Minn. R. 5206.0600).

### 309.5 POST EXPOSURE

#### 309.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

- (a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).
- (b) Obtain medical attention as appropriate.
- (c) Notify a supervisor as soon as practicable.

#### 309.5.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (29 CFR 1910.1030; Minn. R. 5206.0600):

- (a) Name of the member exposed
- (b) Date and time of the incident
- (c) Location of the incident
- (d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure
- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease, Personal Injury and Death Reporting Policy).

#### 309.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Office members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary.

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information (29 CFR 1910.1030; Minn. R. 5206.0600):

- (a) Whether the member has been informed of the results of the evaluation.

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- (b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

### 309.5.4 COUNSELING

The Office shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (29 CFR 1910.1030; Minn. R. 5206.0600).

### 309.5.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate. Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

- (a) Obtaining consent from the individual.
- (b) Seeking testing through the procedures of Minn. Stat. § 144.7401 to Minn. Stat. § 144.7415 through a licensed hospital or other emergency medical care facility.

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the County Attorney to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

### **309.6 CONFIDENTIALITY OF REPORTS**

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well (Minn. Stat. § 144.7411).

### **309.7 TRAINING**

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (29 CFR 1910.1030; Minn. R. 5206.0700):

- (a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.
- (b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.
- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

## Smoking and Tobacco Use

### 310.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Lyon County Sheriff's Office facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

### 310.2 POLICY

The Lyon County Sheriff's Office recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Office and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all office facilities, buildings and vehicles, and as is further outlined in this policy (Minn. Stat. § 144.414).

### 310.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Office.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside County facilities and vehicles.

### 310.4 ADDITIONAL PROHIBITIONS

No employee shall smoke, even while out of view of the public or off-duty, in areas properly posted with "No Smoking" notices nor shall any employee use tobacco products on public school property (Minn. Stat. § 609.681; Minn. Stat. § 144.4165). The Sheriff or the authorized designee should ensure that proper signage is in place for notice of areas where tobacco use is restricted (Minn. R. 4620.0500).

# ALLEGATIONS OF EMPLOYEE MISCONDUCT POLICY - REF: MN POST MODEL POLICY

## 311.1 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 and all employees of the Lyon County Sheriff's Office. 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.

## 311.2 POLICY

It is the policy of the Lyon County Sheriff's Office 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.

## 311.3 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 sheriff, 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

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### ALLEGATIONS OF EMPLOYEE MISCONDUCT POLICY - REF: MN POST MODEL POLICY

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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.

## 311.4 PROCEDURE

### 311.4.1 ACCEPTANCE AND FILING OF COMPLAINTS

1. Complaint forms are available through all agency personnel, and available any time at the Lyon County Law Enforcement Center. Forms are available online at <https://www.lyonco.org/departments/sheriff/general-information/citizen-complaints>
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.

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### **ALLEGATIONS OF EMPLOYEE MISCONDUCT POLICY - REF: MN POST MODEL POLICY**

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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 sheriff must initially be made to the county attorney, the county administrator or the board of county commissioners.
10. The 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.

#### **311.5 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:
  - o 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.
  - o 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.
  - o 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.

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### ALLEGATIONS OF EMPLOYEE MISCONDUCT POLICY - REF: MN POST MODEL POLICY

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#### 311.6 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.

#### 311.7 MAINTENANCE AND DISCLOSURE OF DATA

- (a) 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."
- (b) 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."
- (c) The placement of the disposition report or other data in an employee's personnel file must be governed by the agency's personnel policy.
- (d) 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.

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## ALLEGATIONS OF EMPLOYEE MISCONDUCT POLICY - REF: MN POST MODEL POLICY

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### 311.8 POST REPORTING REQUIREMENTS

- (a) 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.
- (b) 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.
- (c) 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.
- (d) A chief law enforcement officer must update data within 30 days of final disposition of a complaint or investigation. \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.



## Seat Belt Use

### 312.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in office vehicles (Minn. Stat. § 169.686).

#### 312.1.1 DEFINITIONS

Definitions related to this policy include:

**Child restraint system** - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213 (Minn. Stat. § 169.685).

### 312.2 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this office while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including those who are not members of the Office, are properly restrained (Minn. Stat. § 169.686).

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the office member or the public. Members must be prepared to justify any deviation from this requirement.

### 312.3 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any office vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

### 312.4 INOPERABLE SEAT BELTS

Office vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Office vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Sheriff.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

## *Seat Belt Use*

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### **312.5 VEHICLES MANUFACTURED WITHOUT SEAT BELTS**

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

### **312.6 POLICY**

It is the policy of the Lyon County Sheriff's Office that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

### **312.7 TRANSPORTING CHILDREN**

All children younger than 8 years of age and shorter than 4 feet 9 inches tall shall be restrained in a child passenger safety seat system (Minn. Stat. § 169.685, Subd. 5(b)).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible.

## Personnel Complaints

### 313.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Lyon County Sheriff's Office (Minn. R. 6700.2200). This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

### 313.2 POLICY

The Lyon County Sheriff's Office takes seriously all complaints regarding the service provided by the Office and the conduct of its members.

The Office will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any memorandum of understanding.

It is also the policy of this office to ensure that the community can report misconduct without concern for reprisal or retaliation.

### 313.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of office policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate office policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Office.

#### 313.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

**Informal** - A matter in which the supervisor is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

**Formal** - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred for investigation by an outside entity, depending on the seriousness and complexity of the investigation.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Sheriff, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

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## *Personnel Complaints*

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### 313.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any office member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.
- (f) The Minnesota Board of Peace Officer Standards and Training (POST) may refer complaints alleging a violation of a statute or rule that the board is empowered to enforce (Minn. Stat. § 214.10, Subd. 10).
- (g) Any person making a complaint may be accompanied by an attorney or other representative, including at the time the complaint is made.
- (h) Any person wishing to file a complaint against the Sheriff should be referred to the County Administrator for investigation by an outside agency.

### **313.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS**

#### 313.4.1 COMPLAINT FORMS

Personnel complaint forms will be available at the Lyon County Sheriff's Office - LEC and be accessible through the office website. Forms may also be available at other County facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

#### 313.4.2 ACCEPTANCE

All complaints will be courteously accepted by any office member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

#### 313.4.3 COMPLAINT COPIES

After a complaint is filed, the accepting member should sign the document, keep a copy for the office and provide a copy to the complainant.

## *Personnel Complaints*

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### **313.5 DOCUMENTATION**

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

### **313.6 ADMINISTRATIVE INVESTIGATIONS**

Allegations of misconduct will be administratively investigated as follows (Minn. R. 6700.2200).

#### **313.6.1 SUPERVISOR RESPONSIBILITIES**

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Sheriff or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
  - 1. The original complaint form will be directed to the Sergeant of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
  - 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Sergeant or the Sheriff, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
  - 1. Follow-up contact with the complainant should be made within 24 hours of the Office receiving the complaint.
  - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Sergeant.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Sergeant and Sheriff are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the County Administrator's Office and the Sergeant for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Sergeant, who will determine whether to contact the complainant or assign the complaint for investigation.

# Lyon County Sheriff's Office

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## Personnel Complaints

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- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
  - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
  - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

### 313.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or an assigned member of the Office, the following shall apply to members covered by the Peace Officer Discipline Procedures Act (Minn. Stat. § 626.89):

- (a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty (Minn. Stat. § 626.89, Subd. 7). If the member is off-duty, he/she shall be compensated.
- (b) Unless waived by the member, interviews of an accused member shall be at the Lyon County Sheriff's Office or at a place agreed upon by the accused member (Minn. Stat. § 626.89, Subd. 4).
- (c) No more than two interviewers should ask questions of an accused member.
- (d) Prior to any interview, a member should be informed of the nature of the investigation.
  - 1. The member shall be given a copy of any written complaint signed by the complainant (Minn. Stat. § 626.89, Subd. 5).
- (e) All interviews should be for a reasonable period and the member's personal needs should be accommodated (Minn. Stat. § 626.89, Subd. 7).
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
  - 1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

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2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer shall record all interviews of members and witnesses. The member may also record the interview. A complete copy or transcript of the interview must be made available to the member upon written request without charge or undue delay. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview (Minn. Stat. § 626.89, Subd. 8).
- (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative or attorney present before or during the interview (Minn. Stat. § 626.89, Subd. 9). When a member requests a representative or attorney, no interview may be taken until a reasonable opportunity is provided for the member to obtain that person's presence. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All members shall provide complete and truthful responses to questions posed during interviews.
- (k) No member may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation.
- (l) Before a formal statement is taken, the member shall be advised in writing or on the record that admissions made may be used as evidence of misconduct or a basis for discipline (Minn. Stat. § 626.89, Subd. 10).
- (m) A member may not be required to produce financial records (Minn. Stat. § 626.89, Subd. 11).
- (n) A member's photograph will not be released unless allowed by law (Minn. Stat. § 626.89, Subd. 12).

### 313.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

**Introduction** - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

**Synopsis** - Provide a brief summary of the facts giving rise to the investigation.

**Summary** - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

**Evidence** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

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## *Personnel Complaints*

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**Conclusion** - A recommendation regarding further action or disposition should be provided.

**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

### 313.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve office members. Complaints that are determined to be frivolous will fall within the classification of unfounded.

**Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

**Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

### 313.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation.

### 313.6.6 EXTERNAL INVESTIGATIONS

The Sheriff may request that an outside agency conduct an investigation anytime the Sheriff determines an external investigation is appropriate.

This office should not conduct an investigation when the Sheriff is the subject of the complaint. An external investigation should be requested through the County Administrator.

### 313.6.7 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation shall provide the complainant with periodic updates on the status of the investigation, as appropriate and consistent with the provisions of the Minnesota Government Data Practices Act (MGDP) (Minn. Stat. § 13.43, Subd. 2; Minn. R. 6700.2200).

## 313.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.



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### **313.8 ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Office, the Sheriff or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any office badge, identification, assigned weapons and any other office equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

### **313.9 CRIMINAL INVESTIGATION**

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Sheriff shall be notified as soon as practicable when a member is accused of criminal conduct. The Sheriff may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The Lyon County Sheriff's Office may release information concerning the arrest or detention of any member, including a deputy, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

The Sheriff may postpone making a decision on an administrative investigation until any related criminal charges are resolved. The complainant and involved member should be informed of this decision.

#### **313.9.1 REMOVAL OF COMPLAINT**

Upon request, an employee may review any administrative file that does not relate to a current investigation.

If an employee identifies a complaint or allegation that should be removed from his/her personnel file because either the time period has expired or it is an improper document, the employee will write a office memorandum specifically asking for the item to be removed and the reasons for removal.

### **313.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES**

Upon completion of a formal investigation, an investigation report should be forwarded to the Sheriff through the chain of command. Each level of command should review and include

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their comments in writing before forwarding the report. The Sheriff may accept or modify any classification or recommendation for disciplinary action.

### 313.10.1 SUPERVISOR RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the direct supervisor of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The supervisor may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Sheriff, the supervisor may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Sheriff, the supervisor shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

### 313.10.2 SHERIFF RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Sheriff shall review the recommendation and all accompanying materials. The Sheriff may modify any recommendation and/or may return the file to the supervisor for further investigation or action.

Once the Sheriff is satisfied that no further investigation or action is required by staff, the Sheriff shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Sheriff shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Sheriff in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Sheriff within five days of receiving the notice.
  1. Upon a showing of good cause by the member, the Sheriff may grant a reasonable extension of time for the member to respond.
  2. If the member elects to respond orally, the presentation shall be recorded by the Office. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Sheriff shall consider all information received in regard to the recommended discipline. The Sheriff shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Sheriff has issued a written decision, the discipline shall become effective.

### 313.10.3 MINNESOTA POST INVESTIGATIONS

The Minnesota POST Board may require an administrative investigation based upon a complaint alleging a violation of a statute or rule that the board is empowered to enforce.

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Any such misconduct allegation or 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).

The Office shall cooperate with POST's investigation and provide requested information unless (Minn. Stat. § 626.8457):

- (a) There is an active criminal investigation or active criminal proceeding regarding the same incident or misconduct that is being investigated by POST.
- (b) An active internal investigation exists regarding the same incident or misconduct that is being investigated by POST during 45 days from the time the request was made by POST. The Sheriff or the authorized designee shall comply with the request upon completion of the internal investigation or once 45 days has passed, whichever occurs first.

### 313.10.4 DISCIPLINE

Disciplinary action may include, but is not limited to (Minn. R. 6700.2200):

- (a) Oral reprimand.
- (b) Written reprimand.
- (c) Suspension.
- (d) Demotion.
- (e) Discharge.

### 313.10.5 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Sheriff or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint. Notice must be consistent with the provisions of the MGDP (Minn. Stat. § 13.43, Subd. 2; Minn. R. 6700.2200).

### 313.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Sheriff after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Sheriff to consider.
- (d) In the event that the Sheriff elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.

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- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Sheriff on the limited issues of information raised in any subsequent materials.

### **313.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

### **313.13 POST-DISCIPLINE APPEAL RIGHTS**

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement and/or personnel rules (Minn. R. 6700.2200).

Employees covered by the Veterans Preference Act are entitled to written notice of the right to request a hearing within 30 days of receipt of the notice of intent to terminate, suspend or demote. Failure to request the hearing in the time specified waives the right to the hearing and all other legal remedies. Any hearing shall be held in compliance with law (Minn. Stat. § 197.46).

### **313.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS**

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy except for employees covered by the Veterans Preference Act (Minn. Stat. § 197.46). However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Sheriff or the authorized designee (Minn. R. 6700.2200).

Any probationary period may be extended at the discretion of the Sheriff in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate.

### **313.15 RETENTION OF PERSONNEL INVESTIGATION FILES**

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

#### **313.15.1 CONFIDENTIALITY OF PERSONNEL FILES**

All active investigations of alleged misconduct and personnel complaints shall be considered confidential and maintained separately from peace officer personnel files. The contents of such files shall not be revealed to other than the involved member or authorized personnel, except pursuant to lawful process, such as Minn. R. 6700.2500. Data in closed files shall be treated as private or public data depending on whether discipline was imposed upon the member.

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### 313.15.2 LETTERS OF DISCIPLINE AND REPRIMANDS

Letters of discipline and reprimands may only be placed in a member's personnel file after they are received by the member (see generally Minn. Stat. § 626.89, Subd. 13).

### **313.16 REQUIRED REPORTING TO POST**

The Sheriff or the authorized designee shall notify POST of certain deputy personnel events, including but not limited to:

- (a) A termination or resignation of a deputy who is the subject of an internal or criminal investigation due to alleged misconduct regardless of whether the investigation has been initiated or completed, or whether the deputy was criminally charged (Minn. Stat. § 626.8457, Subd. 4).
- (b) The violation of a required POST model policy identified in Minn. R. 6700.1615 (Minn. R. 6700.1615, Subd. 2).

## Personnel Records

### 314.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel data. Personnel data includes any file maintained under an individual member's name.

Without regard to where and how stored, all data about a current or former employee or applicant for employment shall be defined and classified as personnel data consistent with Minn. Stat. § 13.43. All data relating to a criminal investigation of a current or former employee or applicant shall be defined and classified as criminal data consistent with Minn. Stat. § 13.82.

### 314.2 POLICY

It is the policy of this office to maintain personnel data and preserve the confidentiality of personnel data pursuant to the Constitution and the laws of Minnesota (Minn. Stat. § 13.43).

### 314.3 PERSONNEL FILE

The office file shall be maintained as a record of a person's employment/appointment with this office. The PERSONNEL FILE for each member is kept and maintained by the Lyon County Human Resources Dept.

### 314.4 SUPERVISORY FILE

Supervisory files may be separately maintained internally (electronically or hard-copy) by a member's supervisor for the purpose of completing timely performance evaluations. The Supervisory file may contain supervisor comments, notes, notices to correct work-product and reports and other materials that are intended to serve as a foundation for the completion of effective and timely performance evaluations.

### 314.5 TRAINING FILE

An individual (electronically stored) training file shall be maintained by the Sergeant for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) The involved member is responsible for providing the Sergeant or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Sergeant or supervisor shall ensure that copies of such training records are placed in the member's training file.

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### **314.6 MEDICAL FILE**

A private medical file shall be maintained separately from all other personnel data and shall contain all documents relating to the member's medical condition and history. A member's MEDICAL FILE is maintained by the Lyon County Human Resources Dept.

### **314.7 EMPLOYEE ASSISTANCE PROGRAMS**

Employee assistance records must be kept separate from personnel records and shall not become part of an employee's personnel file (Minn. Stat. § 181.980, Subd. 3).

### **314.8 SECURITY**

Personnel data should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel data maintained in an electronic format should have adequate password protection.

Any personnel data not deemed public data is private and shall not be subject to disclosure except as provided in this policy, the Records Maintenance and Release Policy, according to applicable discovery procedures or with the member's written consent (Minn. Stat. § 13.43; Minn. Stat. § 181.967, Subd. 4).

Nothing in this policy is intended to preclude review of personnel data by the County Administrator, County Attorney or other attorneys or representatives of the County in connection with official business.

#### **314.8.1 REQUESTS FOR DISCLOSURE**

Any member receiving a request for personnel data shall promptly notify the Custodian of Records or other person charged with the maintenance of such data.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made.

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

#### **314.8.2 RELEASE OF PRIVATE DATA**

Except as provided by this policy, pursuant to lawful process, pursuant to state law or court order, no private data shall be disclosed without the written consent of the employee or written authorization of the Sheriff designee (Minn. Stat. § 13.43; Minn. Stat. § 181.967, Subd. 4).

### **314.9 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS**

Upon request, any member may request access to his/her own personnel file as set forth in Minn. Stat. § 181.961.

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Any member seeking the removal of any item from his/her personnel files shall file a written request to the Sheriff through the chain of command. The Office shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Office shall be retained with the contested item in the member's corresponding personnel file. If the contested item is ultimately removed, the written responses shall also be removed (Minn. Stat. § 181.962, Subd. 1). An employee not satisfied with this resolution may seek such other remedies as are authorized by the MGDPA.

Members may be restricted from accessing files containing any of the following information:

- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.
- (d) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (e) Materials used by the Office for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for office planning purposes.
- (f) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (g) Records relevant to any other pending claim between the Office and the member that may be discovered in a judicial proceeding.

### **314.10 RETENTION AND PURGING**

Unless provided otherwise in this policy, personnel data shall be maintained in accordance with the established records retention schedule.



## Body Armor

### 315.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

### 315.2 POLICY

It is the policy of the Lyon County Sheriff's Office 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.

### 315.3 ISSUANCE OF BODY ARMOR

Supervisory personnel shall ensure that body armor is issued to all deputies when the deputy begins service at the Lyon County Sheriff's Office and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

Supervisory personnel shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

#### 315.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

- (a) Deputies shall only wear agency-approved body armor.
- (b) Deputies shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Deputies may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.
- (d) Body armor shall be worn when a deputy is working in uniform or taking part in Office range training, unless exempt under section "c".
- (e) A deputy may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

#### 315.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by the Deputy wearing the body armor.

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### 315.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

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## Commendations and Awards

### 316.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Lyon County Sheriff's Office and individuals from the community.

### 316.2 POLICY

It is the policy of the Lyon County Sheriff's Office to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations and awards.

### 316.3 COMMENDATIONS

Commendations for members of the Office or for individuals from the community may be initiated by any office member or by any person from the community.

### 316.4 CRITERIA

A meritorious or commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- Any action or performance that is above and beyond the typical duties.

#### 316.4.1 OFFICE MEMBER DOCUMENTATION

Members of the Office should document meritorious or commendable acts. The documentation should contain:

- (a) Identifying information:
  1. For members of the Office - name, division and assignment at the date and time of the meritorious or commendable act
  2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the member submitting the documentation.

#### 316.4.2 COMMUNITY MEMBER DOCUMENTATION

Documentation of a meritorious or commendable act submitted by a person from the community should be accepted in any form. However, written documentation is preferred. Office members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

- (a) Identifying information:

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1. For members of the Office - name, division and assignment at the date and time of the meritorious or commendable act
  2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the person submitting the documentation.

### 316.4.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the Office should be forwarded to the appropriate Sergeant for his/her review. The Sergeant should sign and forward the documentation to the Sheriff for his/her review.

The Sheriff or the authorized designee will present the commendation to the office member for his/her signature. The documentation will then be returned to the Sergeant for entry into the member's personnel file.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Sergeant . The documentation will be signed by the Sergeant and forwarded to the Sheriff for his/her review. An appropriate venue or ceremony to acknowledge the individual's actions should be arranged. Documentation of the commendation shall be maintained in a file designated for such records.

### 316.5 AWARDS

Awards may be bestowed upon members of the Office and individuals from the community. These awards include:

- Award of Merit.
- Award of Valor.
- Lifesaving Award.
- Meritorious Conduct.

Criteria for each award, the selection, presentation and display of any awards are determined by the Sheriff.

## Fitness for Duty

### 317.1 PURPOSE AND SCOPE

All deputies are required to be free from any physical, emotional or mental condition that might adversely affect the exercise of peace officer duties. The purpose of this policy is to ensure that all deputies of this office remain fit for duty and able to perform their job functions.

### 317.2 EMPLOYEE RESPONSIBILITIES

- (a) It shall be the responsibility of each member of this office to maintain good physical condition sufficient to safely and properly perform essential duties of the position.
- (b) Each member of this office shall perform his/her respective duties without physical, emotional and/or mental constraints.
- (c) During working hours, all employees are required to be alert, attentive and capable of performing assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

### 317.3 SUPERVISOR RESPONSIBILITIES

- (a) A supervisor observing an employee, or receiving a report of an employee, who is perceived to be unable to safely perform his/her duties due to a physical, medical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with the Sergeant or the employee's available Sergeant, a determination should be made whether the employee should be temporarily relieved from his/her duties.
- (e) The Sheriff shall be promptly notified in the event that any employee is relieved from duty.

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

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

### **317.5 WORK RELATED CONDITIONS**

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

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

- (a) A preliminary determination that the employee's conduct appears to be in compliance with policy and law.
- (b) If appropriate, the employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

### **317.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS**

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Sheriff may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with the County Administrator's Office 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 Office with a report indicating that the employee is either fit for duty or, if not, list any functional limitations that limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action or grievance, the examining physician or therapist may be required to disclose any and all information that is relevant to such proceeding.
- (c) To facilitate the examination of any employee, the Office will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's private medical file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the

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examining physician or therapist may be deemed insubordination and may subject the employee to discipline up to and including termination.

- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.
- (g) If an employee is deemed unfit for duty by the Office, the employee may submit a report from the employee's personal physician, psychiatrist, psychologist or other health care provider that will be taken into consideration.

### **317.7 LIMITATION ON HOURS WORKED**

Absent emergency operations members should not work more than:

- 16 hours in one day (24 hour) period or
- 30 hours in any two day (48 hour) period or
- 84 hours in any seven day (168 hour) period

Except in very limited circumstances members should have a minimum of eight hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, special events, contract work, general overtime and any other work assignments.

### **317.8 APPEALS**

Employees disputing the application or interpretation of this policy may submit a grievance as provided in the Grievance Procedure Policy or the applicable collective bargaining agreement.

## Meal Periods and Breaks

### 318.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as reasonably possible shall conform to the policy governing all County employees pursuant to Minn. Stat. § 177.253, Minn. Stat. § 177.254 and Minn. R. § 5200.0120.

#### 318.1.1 MEAL PERIODS

Each employee who works for eight or more consecutive hours is entitled to sufficient time to eat a meal (Minn. Stat. § 177.254). Licensed employees, correctional officers, and dispatchers shall remain on-duty subject to call during meal periods. All other employees are not on call during meal periods unless directed otherwise by a supervisor.

Uniformed deputies shall take their meal periods within the County limits unless on assignment outside of the County.

The time spent for the meal period shall not exceed the authorized time allowed.

#### 318.1.2 BREAKS

Each employee is allowed adequate time from work within each four consecutive hours of work to utilize the nearest convenient restroom (Minn. Stat. § 177.253).

Employees normally assigned to the Law Enforcement Center shall remain in the sheriff's facility for their breaks. This does not prohibit them from taking a break outside the facility if on official business.

Field deputies will take their breaks in their assigned areas, subject to call, and shall monitor their radios. When field deputies take their breaks away from their vehicles, they shall do so only with the knowledge of Dispatch.



## Lactation Breaks

### 319.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding reasonable accommodations for lactating members.

### 319.2 POLICY

It is the policy of the Lyon County Sheriff's Office to provide, in compliance with federal and state law, reasonable accommodations for lactating members. This includes break time and appropriate facilities to accommodate any member desiring to express breast milk (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3; Minn. Stat. § 181.939).

### 319.3 LACTATION BREAK TIME

A rest period should be permitted each time the member requires a lactation break (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time.

Lactation breaks may be taken at the same time as the member's regularly scheduled rest or meal periods (Minn. Stat. § 181.939).

Members desiring to take a lactation break shall notify the [dispatcher] or supervisor prior to taking such a break.

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

### 319.4 PRIVATE LOCATION

The Office will make reasonable efforts to accommodate members with the use of an appropriate room or other location to express milk in private. Such room or place should be in proximity to the member's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view, free from intrusion from coworkers and the public, and otherwise satisfy the requirements of federal and state law (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3; Minn. Stat. § 181.939).

Members occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other members should avoid interrupting a member during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

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## *Lactation Breaks*

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### **319.5 STORAGE OF EXPRESSED MILK**

Any member storing expressed milk in any authorized refrigerated area within the Office shall clearly label it as such and shall remove it when the member's shift ends.

## Payroll Records

### 320.1 PURPOSE AND SCOPE

This policy provides the guidelines for completing and submitting payroll records of office members who are eligible for the payment of wages.

### 320.2 POLICY

The Lyon County Sheriff's Office maintains timely and accurate payroll records.

### 320.3 RESPONSIBILITIES

Members are responsible for the accurate completion and timely submission of their payroll records for the payment of wages.

Supervisors are responsible for approving the payroll records for those under their commands.

### 320.4 TIME REQUIREMENTS

Members who are eligible for the payment of wages are paid on a scheduled, periodic basis, generally on the same day or date each period, with certain exceptions, such as holidays. Payroll records shall be completed and submitted to Sergeant as established by the County payroll procedures.

### 320.5 RECORDS

The Sheriff's Office shall ensure that accurate and timely payroll records are maintained as required by 29 CFR 516.2 for a minimum of three years (29 CFR 516.5).

## Overtime Compensation Requests

### 321.1 PURPOSE AND SCOPE

It is the policy of the Office to compensate nonexempt employees who work authorized overtime either by payment of wages as agreed and in effect through the collective bargaining agreement.

#### 321.1.1 OFFICE POLICY

Because of the nature of law enforcement work, and the specific needs of the Office, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Office. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, approval shall be sought as soon as practicable during the overtime shift and in no case later than the end of shift in which the overtime is worked.

Short periods of work at the end of the normal duty day (e.g., less than one hour in duration) may be handled unofficially between the supervisor and the employee. Unforeseen activity at the end of the normal shift, generally less than 1 hour in length, that require completion of a call are considered approved without supervisor approval. But, if time allows and a supervisor is on-duty and/or available, requests for approval should be made for instances of less than one hour. For instances where overtime will be extended beyond one hour supervisor approval shall be sought as soon as practical.

### 321.2 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the collective bargaining agreement provides that a minimum number of hours will be paid, (e.g., two hours for court). The supervisor will enter the actual time worked.

#### 321.2.1 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded up to the nearest half of an hour as indicated by the following chart:

<u>TIME WORKED</u>	<u>INDICATE ON CARD</u>
Up to 14 minutes	Preceding Hour
16 to 30 minutes	.50 hour
31 to 45 minutes	Last 1/2 hour
46 to 60 minutes	1.0 Hour

#### 321.2.2 VARIATION IN TIME REPORTED

Where two or more employees are assigned to the same activity, case or court trial and the amount of time for which payment is requested varies from that reported by the other employee, the Sergeant or other approving supervisor may require each employee to include the reason for the variation.

## Compensatory Time

### 322.1 PURPOSE AND SCOPE

This policy is to provide a purpose and procedure for the accrual, use, and payout of Compensatory Time (i.e. Comp Time) for overtime eligible non-exempt Sheriff's Office employees. The earning and accrual of Comp Time in lieu of overtime compensation for hours worked is managed by and at the discretion of the Sheriff, unless further stipulated and agreed upon through collective bargaining agreement.

### 322.2 COMPENSATORY TIME ACCRUAL

Compensatory Time when earned in accordance with ***Sheriff's Office Policy 339.2.1*** may be accrued and carried over (annually) to a maximum of 40 hours in accordance with ***Lyon County Policy 5.5.3 Compensatory Time*** during each calendar year. Payout of Comp Time hours earned in excess of the maximum of 40 hours will be paid out as stated in ***Sheriff's Office Policy 321.3***.

#### 322.2.1

Comp Time may generally be accrued in the following manner:

An overtime eligible, non-exempt employee may request that hours worked in excess of the employee's normal shift duration for attendance of trainings, schools, seminars, meetings, in-house trainings, including travel time to/from meeting or training locations (when located outside of Lyon County and the employees normal work location) be entered as Comp Time at time and a half credit. Comp Time will be calculated to the nearest 1/4 hour.

Employees may request to earn Comp Time in lieu of OT for hours worked for an "Overtime Scheduled Shift". The "shift" will be required to be a scheduled shift in the length of 8, 10, or 12 hours dependent on normal job duties or assignment for the shift being filled or assigned. The Comp Time earned must be for the full number of hours worked for the assigned (OT) shift (calculated at time and a half per hour worked).

Hours worked for shift extensions, early shift start or special duty projects and holidays do not qualify for Comp Time earned. Those hours will be earned and paid to the employee as normal hours worked or overtime pay in accordance with County, Sheriff's Office Policy or collective bargaining agreement..

This policy does not alter, create or apply to any other condition or circumstance as it applies to the earning of OT or Comp Time as agreed to as part of any Office collective bargaining unit agreement.

### 322.3 COMPENSATORY TIME PAYOUT

In the first payroll of December of each calendar year all Comp Time in excess of 40 hours shall be paid to an employee. An employee may also elect to have any portion of accumulated comp time less than 40 hours paid to the employee.

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## *Compensatory Time*

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In the first payroll of June each calendar year an employee may elect to have any portion of accumulated compensatory time paid to the employee.

## Outside Employment

### 323.1 PURPOSE AND SCOPE

To avoid actual or perceived conflicts of interest for Office employees engaging in outside employment, all employees shall initially obtain written approval from the Sheriff prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Sheriff in accordance with the provisions of this policy.

#### 323.1.1 DEFINITIONS

**Outside Employment** - The employment of any member of this office who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this office for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this office for services, product(s) or benefits rendered.

**Outside Overtime** - Overtime involving any member of this office who performs duties or services on behalf of an outside organization, company or individual within this jurisdiction on behalf of the Office. Such outside overtime shall be requested and scheduled directly through this office so that the Office may be reimbursed for the cost of wages and benefits.

### 323.2 OBTAINING APPROVAL

No member of this office may engage in any outside employment without first obtaining prior written approval of the Sheriff. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy is grounds for disciplinary action.

To obtain approval for outside employment, the employee must complete an Outside Employment Application that shall be submitted to the employee's immediate supervisor. The application will then be forwarded through the appropriate chain of command to the Sheriff for consideration.

If approved, the employee will be provided with a copy of the approved permit.

Any employee seeking approval of outside employment whose request has been denied shall be provided with a written reason for the denial of the application at the time of the denial and within 30 days of the application.

#### 323.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Application is denied or rescinded by the Office, the employee may file a written notice of appeal to the Sheriff within 10 days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current collective bargaining agreement.

#### 323.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended after the employee has received written notification of the reasons for revocation or suspension. Revocation will be implemented after the employee has exhausted the appeal process.

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## *Outside Employment*

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The outside employment may be revoked:

- (a) If an employee's performance declines to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of minimum acceptable competency and the outside employment may be related to the employee's performance. The Sheriff may, at his/her discretion, notify the employee of the intent to revoke any previously approved outside employment permit(s). After the appeal process has concluded, the revocation will remain in force until the employee's performance directly related to the outside employment has been reestablished to the minimum level of acceptable competency.
- (b) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of Office policy, or any law.
- (c) The outside employment creates an actual or apparent conflict of interest with the Office or County.

### **323.3 PROHIBITED OUTSIDE EMPLOYMENT**

The Office expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity that:

- (a) Involves the employee's use of Office time, facilities, equipment or supplies, the use of the Office badge, uniform, prestige or influence for private gain or advantage.
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this office for the performance of an act that the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this office.
- (c) Involves the performance of an act in other than the employee's capacity as a member of this office that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this office.
- (d) Involves time demands that would render performance of the employee's duties for this office below minimum standards or would render the employee unavailable for reasonably anticipated overtime assignments and other job-related demands that occur outside regular working hours.

#### **323.3.1 OUTSIDE SECURITY EMPLOYMENT**

Due to the potential conflict of interest no member of this office may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

Any private organization, entity or individual seeking special services for security or traffic control from members of this office must submit a written request to the Sheriff in advance of the desired service. Such outside overtime will be monitored by the Sergeants.



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## *Outside Employment*

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- (a) The applicant will be required to enter into a written indemnification agreement prior to approval.
- (b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.
- (c) If such a request is approved, any employee working outside overtime shall be subject to the following conditions:
  - 1. The deputy(s) shall wear the Office uniform/identification.
  - 2. The deputy(s) shall be subject to all the rules and regulations of this office.
  - 3. No deputy may engage in such outside employment during or at the site of a strike, lockout, picket or other physical demonstration of a labor dispute.
  - 4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
  - 5. Outside security services, outside employment or outside overtime shall not be subject to the collective bargaining process.
  - 6. No deputy may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Sheriff.

### **323.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE**

Any employee making an arrest or taking other official law enforcement action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to Office policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

### **323.3.3 SPECIAL RESTRICTIONS**

Except for emergency situations or with prior authorization from the Sergeant, undercover deputies or deputies assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity that might reasonably disclose the deputy's law enforcement status.

### **323.4 OFFICE RESOURCES**

Employees are prohibited from using any Office equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this office or other agencies through the use of the employee's position with this office.

### **323.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS**

If an employee terminates his/her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Sheriff through the appropriate chain of command. Any subsequent request for renewal or continued outside

## *Outside Employment*

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employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Sheriff any material changes in outside employment including any change in the number of hours, type of duties or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material shall report the change.

### **323.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY OR ADMINISTRATIVE LEAVE**

Office members engaged in outside employment who are placed on disability or administrative leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether they intend to continue to engage in outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any work-related doctor's orders and make a recommendation to the Sheriff whether such outside employment should continue or be suspended or revoked.

In the event the Sheriff determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding the work permit, a notice of intent to revoke the employee's permit will be forwarded to the involved employee and a copy attached to the original work permit. The revocation process outlined in this policy shall be followed.

Criteria for revoking or suspending the outside employment permit while on disability status or administrative leave include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled employee, as indicated by the County's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty employee.
- (c) The employee's failure to make timely notice of his/her intentions to their supervisor.
- (d) The outside employment is not compatible with the reason the employee is on administrative leave.

#### **323.6.1 OUTSIDE EMPLOYMENT WHILE ON SICK LEAVE OR FMLA LEAVE**

Off duty-employment will be automatically suspended while an employee is on sick leave or FMLA leave. If an employee works off-duty employment while on one of the previously mentioned means, will be subject to progressive disciplinary action leading up to and including termination for the abuse of Sick and FMLA Leave.

# Occupational Disease, Personal Injury and Death Reporting

## 324.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, personal injuries and deaths.

### 324.1.1 DEFINITIONS

Definitions related to this policy include (Minn. Stat. § 176.011):

**Occupational disease** – A mental impairment or physical disease arising out of and in the course of employment peculiar to the occupation in which the member is engaged and due to causes in excess of the hazards ordinary of employment. The term includes diagnosis of post-traumatic stress disorder (PTSD) by a psychiatrist or psychologist; however, mental impairment is not considered a disease if it results from a disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement or similar action taken in good faith by the Office.

**Personal injury** – Any mental impairment or physical injury arising out of and in the course of employment, including personal injury caused by occupational disease, while engaged in, on or about the premises where the member's services require the member's presence as part of that service at the time of the injury and during the hours of that service. Personal injury does not include an injury caused by the act of a third person or fellow office member who intended to injure the member because of personal reasons, and not directed against the member as a member of the Lyon County Sheriff's Office, or because of the employment with the Lyon County Sheriff's Office. Mental impairment is not considered a personal injury if it results from a disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement or similar action taken in good faith by the Office.

## 324.2 POLICY

The Lyon County Sheriff's Office will address occupational diseases, personal injuries and deaths appropriately, and will comply with applicable state workers' compensation requirements (Minn. Stat. § 176.231).

## 324.3 RESPONSIBILITIES

### 324.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or personal injury shall report such event as soon as practicable, but within 24 hours, to a supervisor, and shall seek medical care when appropriate.

### 324.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational disease or personal injury should ensure the member receives medical care as appropriate.

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## *Occupational Disease, Personal Injury and Death Reporting*

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Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related Countywide disease- or injury-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Workplace Accident and Injury Reduction policies apply and take additional action as required.

### **324.3.3 SHERIFF RESPONSIBILITIES**

The Sheriff shall review and forward copies of the report to the County Administrator's Office. Copies of the report and related documents retained by the Office shall be filed in the member's confidential medical file.

### **324.4 SETTLEMENT OFFERS**

When a member sustains an occupational disease or personal injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

#### **324.4.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL**

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational disease or personal injury, the member shall provide the Sheriff with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Sheriff. The purpose of such notice is to permit the County to determine whether the offered settlement will affect any claim the County may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, and to protect the County's right of subrogation, while ensuring that the member's right to receive compensation is not affected.

## Personal Appearance Standards

### 325.1 PURPOSE AND SCOPE

To project uniformity and neutrality toward the public and other members of the Office, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this office and for their assignment.

### 325.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer health safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Sheriff has granted exception.

#### 325.2.1 HAIR

Hair shall be clean, neatly trimmed or arranged, and of a natural hair color. Hairstyles with shaved designs in the scalp are prohibited. Hair adornments shall be primarily for the purpose of securing the hair and must present a professional image.

Hairstyles for male office members must not extend below the top edge of a uniform or dress shirt collar while assuming a normal stance.

When working a field assignment (i.e. licensed personnel and correctional officers), hairstyles for female office members must not extend below the bottom edge of a uniform or dress shirt collar while assuming a normal stance. Longer hair shall be worn up or in a tightly wrapped braid or ponytail that is secured to the head above the bottom edge of the shirt collar.

#### 325.2.2 BEARDS AND MUSTACHES

A short and neatly trimmed mustache or mustache and beard combination commonly referred to as a goatee may be worn. Any other deviations to this policy require the approval of the sheriff.

#### 325.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

#### 325.2.4 FINGERNAILS

Fingernails shall be cleaned and neatly trimmed to a length that will not present a safety concern. The color of fingernail polish shall present a professional image.

#### 325.2.5 PERSONAL HYGIENE

All members must maintain proper personal hygiene. Examples of improper personal hygiene include but are not limited to dirty fingernails, bad breath, body odor, and dirty or unkempt hair. Any member who has a condition due to a protected category (e.g., race, physical disability) that affects any aspect of personal hygiene covered by this policy may qualify for an accommodation and should report any need for an accommodation to the Sheriff.

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## *Personal Appearance Standards*

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### **325.3 POLICY**

Lyon County Sheriff's Office members shall maintain their personal hygiene and appearance to project a professional image that is appropriate for this office and for their assignments. Office personal appearance standards are primarily based on safety requirements, appearance conformity, and the social norms of the community served, while considering matters important to members of the Office.

### **325.4 APPEARANCE**

#### **325.4.1 TATTOOS**

While on-duty or representing the Lyon County Sheriff's Office in any official capacity, members should make every reasonable effort to conceal tattoos or other body art. At no time while the member is on-duty or representing the Office in any official capacity shall any offensive tattoo or body art be visible. Examples of offensive tattoos include but are not limited to those that exhibit or advocate discrimination; those that exhibit gang, supremacist, or extremist group affiliation; and those that depict or promote drug use, sexually explicit acts, or other obscene material.

#### **325.4.2 JEWELRY**

For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches, and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety concern for the office member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related, or obscene language is not allowed.

- (a) Necklaces shall not be visible above the shirt collar.
- (b) Earrings shall be small and worn only in or on the earlobe.
- (c) One ring or ring set may be worn on each hand of the office member. No rings should be of the type that would cut or pose an unreasonable safety risk to the member or others during a physical altercation if the member is assigned to a position where that may occur.
- (d) One small bracelet, including a bracelet identifying a medical condition, may be worn on one arm.
- (e) Wristwatches shall be conservative and present a professional image.
- (f) Tie tacks or tie bars worn with civilian attire shall be conservative and present a professional image.

#### **325.4.3 BODY PIERCING OR ALTERATION**

Body piercing (other than earlobes) or alteration to any area of the body visible while on-duty or while representing the Lyon County Sheriff's Office in any official capacity that is a deviation from normal anatomical features and not medically required is prohibited. Such body alteration includes but is not limited to:

- (a) Tongue splitting or piercing.

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## *Personal Appearance Standards*

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- (b) The complete or transdermal implantation of any material other than hair replacement (i.e., foreign objects inserted under the skin to create a design or pattern).
- (c) Abnormal shaping of the ears, eyes, nose, or teeth (i.e., enlarged or stretched out holes in the earlobes).
- (d) Branding, scarification, or burning to create a design or pattern.

### **325.4.4 DENTAL ORNAMENTATION**

Dental ornamentation for decorative purposes that is not medically required is prohibited while on-duty or while representing the Lyon County Sheriff's Office in any official capacity. Such ornamentation includes but is not limited to:

- (a) Objects that are bonded to front teeth.
- (b) Gold, platinum, or other veneers or caps used for decorative purposes.
- (c) Orthodontic appliances that are colored for decorative purposes.

### **325.4.5 GLASSES AND CONTACT LENSES**

Eyeglasses and sunglasses shall be conservative and present a professional image. Contact lenses with designs that change the normal appearance of the eye and that are not medically required are prohibited while on-duty or while representing the Lyon County Sheriff's Office in any official capacity.

### **325.4.6 COSMETICS AND FRAGRANCES**

Cosmetics shall be conservative and present a professional image. Use of cologne, perfume, aftershave lotion, and other items used for body fragrance shall be kept to a minimum.

### **325.4.7 UNDERGARMENTS**

Proper undergarments shall be worn as necessary for reasons of hygiene and general appearance standards.

## **325.5 RELIGIOUS ACCOMMODATION**

The religious beliefs and needs of office members should be reasonably accommodated. Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The Sheriff should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves, simple head coverings, certain hairstyles, or facial hair for religious reasons should generally be accommodated absent unusual circumstances.

## **325.6 EXEMPTIONS**

Members who seek an exemption to this policy protected by law (e.g., culturally protective hairstyles) should generally be accommodated (Minn. Stat. § 363A.03). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Sheriff should be advised any time a request for such an accommodation

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is denied or when a member with an exemption is denied an assignment based on a safety or security risk.



## Uniform Regulations

### 326.1 PURPOSE AND SCOPE

The uniform policy of the Lyon County Sheriff's Office is established to insure that uniformed deputies, special assignment personnel and non-licensed employees will be readily identifiable to the public through the proper use and wearing of office uniforms. Employees should also refer to the following associated policies:

- Firearms
- Office Owned and Personal Property
- Body Armor
- Personal Appearance Standards

The uniform and equipment specifications manual is maintained and periodically updated by the Sheriff or the authorized designee. The manual, and associated procedures, should be consulted regarding authorized equipment and uniform specifications.

The Lyon County Sheriff's Office will provide uniforms for all employees who are required to wear them in the manner, quantity and frequency dictated by the Sheriff or authorized designee, and in conjunction with the respective employee group's collective bargaining agreement if applicable. The uniforms for deputies of this office shall be a consistent color pursuant to Minn. Stat. § 626.88 Subd. 2.

### 326.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Sheriff's employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose, which is to identify the wearer as a source of assistance in an emergency, crisis or other time of need.

- (a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean and appear professionally pressed.
- (b) All peace officers of this office shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.
- (c) Personnel shall wear only the uniform specified for their rank and assignment.
- (d) The uniform is to be worn in compliance with the specifications set forth in the Office's uniform specifications and procedures which are maintained separately from this policy.
- (e) All supervisors will perform periodic inspections of their personnel to insure conformance to these regulations.
- (f) Civilian attire shall not be worn in combination with any distinguishable part of the uniform.

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- (g) Uniforms are only to be worn while on-duty, while in transit to or from work, for court or at other official Office functions or events.
- (h) If the uniform is worn while in transit while driving a personal vehicle an outer garment shall be worn over the uniform shirt so as not to bring attention to the employee while off-duty.
- (i) Employees are not to purchase or drink alcoholic beverages while wearing any part of the Office uniform, including the uniform pants.
- (j) Mirrored sunglasses will not be worn with any Office uniform
  - (a) No sunglasses shall be worn covering the eyes of the deputy during personal interactions with the public.
- (k) Visible jewelry, other than those items listed below, shall not be worn with the uniform-unless specifically authorized by the Sheriff or designee.
  - (a) Wrist watch.
  - (b) Wedding ring(s), class ring or other ring of tasteful design. A maximum of one ring/set may be worn on each hand.
  - (c) Medical alert bracelet.
- (l) Deputies not certified for solo patrol (i.e. in field training) shall not wear identifying uniform shirts or jackets except while on-duty during their assigned shift. Deputies will need to change to and from their duty uniform prior to and after their assigned shift at the LEC. Duty pants are allowed to be worn during commute to and from assigned shift.

### 326.2.1 DEPARTMENT OFFICE ISSUED IDENTIFICATION

The Office issues each employee an official Office identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their Office-issued identification card at all times while on-duty or when carrying a concealed weapon.

- (a) Whenever on-duty or acting in an official capacity representing the Office, employees shall display their Office issued identification in a courteous manner to any person upon request and as soon as practicable.
- (b) Deputies working specialized assignments may be excused from the possession and display requirements when directed by their Sergeant.

### 326.3 UNIFORM CLASSES

#### 326.3.1 CLASS A (LONG SLEEVE) UNIFORM

All deputies will possess and maintain a serviceable Class A uniform at all times.

The Class A uniform is required for all licensed personnel during the cold weather months.

The Class A uniform will consist of:

- (a) Long sleeve (deputy tan colored) department issued uniform shirt with brown polyester tie.

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1. A tie is required when the Class A uniform is worn as Court appearance attire.
- (b) Department issued external BPV carriers may be worn in conjunction with a department issued tan uniform "undershirt".
  1. Internal (under-shirt) BPV carriers and standard uniform shirt required for Court appearances
- (c) For general shift duty, no tie is required, except that a black or brown turtleneck shirt or dickey (standard turtleneck or mock turtleneck collar must be worn in place of a tie.
- (d) Brown 4 pocket "poly" pants.
  1. For general shift duty, brown uniform cargo/BDU style pants may be worn.
- (e) Black, polished shoes or boots

The campaign hat may be worn for events held outdoors or as directed.

The Class A uniform is to be worn on special occasions such as funerals, graduations, promotions, ceremonies or as directed during warm weather months.

### 326.3.2 CLASS B (SHORT SLEEVE) UNIFORM

All deputies will possess and maintain a serviceable Class B uniform at all times.

The Class B uniform is required for all licensed personnel for general shift duty during warm weather months.

The Class B uniform is required for all correctional officer personnel for general shift duty.

The Class B uniform will consist of::

- (a) Short sleeve (deputy tan colored) department issued uniform shirt.
  1. Department issued external BPV carriers may be worn in conjunction with a department issued tan uniform "undershirt".
  2. Internal (under-shirt) BPV carriers and standard uniform shirt required for Court appearances
- (b) A white, brown or black crew neck t-shirt must be worn with the uniform shirt.
  1. All shirt buttons must remain buttoned except for the last button at the neck.
- (c) Brown 4 pocket "poly" pants.
  1. For general shift duty, brown cargo/BDU style pants may be worn.
- (d) Black, polished shoes or boots.

The campaign hat may be worn for events held outdoors or as directed.

### 326.3.3 CLASS C UNIFORM

The Class C uniform may be established to allow field personnel cooler clothing during the summer months or for special duty assignments (i.e. boat and water patrol). The Sheriff will establish the

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regulations and conditions for wearing the Class C Uniform and the specifications for the Class C Uniform.

### 326.3.4 SPECIALIZED UNIT UNIFORMS

The Sheriff may authorize special uniforms to be worn by deputies in specialized units such as BLRR ERU Unit, Drug Task Force Deputies and other specialized assignments.

### 326.4 INSIGNIA AND PATCHES

- (a) Shoulder patches - The authorized shoulder patch supplied by the Office shall be machine stitched to the sleeves of all uniform shirts and jackets, three-quarters of an inch below the shoulder seam of the shirt, and be bisected by the crease in the sleeve.
- (b) The regulation nameplate, or an authorized sewn-on cloth nameplate, shall be worn at all times while in uniform. The nameplate shall display the employee's first and last name. If an employee's first and last names are too long to fit on the nameplate, then the initial of the first name will accompany the last name. If the employee desires other than the legal first name, the employee must receive approval from the Sheriff. The nameplate shall be worn and placed above the right pocket located in the middle, bisected by the pressed shirt seam, with equal distance from both sides of the nameplate to the outer edge of the pocket.
- (c) Assignment Insignias - Assignment insignias, (e.g., SWAT, FTO or similar) may be worn as designated by the Sheriff.
- (d) Flag pin or patch. . An American flag patch of a size not to exceed 3 inches by 5 inches shall be worn above the right front pocket using appropriate flag display etiquette (Minn. Stat. § 15.60).
- (e) Badge - The Office-issued badge, or an authorized sewn-on cloth replica, must be worn and be visible at all times while in uniform. Licensed non-uniform personnel will wear or carry their badge in a manner that it is in reasonable proximity to their firearm and able to be displayed whenever appropriate.
- (f) Rank insignia - The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Sheriff may authorize exceptions.

#### 326.4.1 MOURNING BADGE

Uniformed employees may wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

- (a) A deputy of this office - From the time of death until midnight on the 14th day after the death.
- (b) A deputy from this state - From the time of death until midnight on the day of the funeral.
- (c) Funeral attendee - While attending the funeral of a fallen deputy.

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- (d) National Peace Officers Memorial Day (May 15) - From midnight through the following midnight.
- (e) As directed by the Sheriff or designee.

### 326.5 CIVILIAN ATTIRE

There are assignments within the Office that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which wearing civilian attire is necessary.

- (a) All employees shall wear clothing that fits properly, is clean and free of stains and not damaged or excessively worn.
- (b) The following items shall not be worn on-duty:
  1. T-shirt alone.
  2. Open-toed sandals or thongs, unless working in the communications center or clerical role.
  3. Swimsuit, tube tops or halter tops.
  4. Spandex type pants or see-through clothing.
  5. Distasteful printed slogans, buttons or pins.
  6. Shorts.
  7. Sweat pants or similar exercise clothing.
- (c) Variations from this order are allowed at the discretion of the Sheriff or designee when the employee's assignment or current task is not conducive to wearing such clothing.
- (d) No item of civilian attire may be worn on-duty that would adversely affect the reputation of the Lyon County Sheriff's Office or the morale of the employees.
- (e) Licensed employees carrying firearms while wearing civilian attire should wear clothing that effectively conceals the firearm when outside a controlled law enforcement facility or work area.

### 326.6 POLITICAL ACTIVITIES, ENDORSEMENTS, ADVERTISEMENTS OR OTHER APPEARANCES IN UNIFORM

Unless specifically authorized by the Sheriff, Lyon County Sheriff's Office employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a badge, patch or other official insignia of the Office, or cause to be posted, published or displayed, the image of another employee, or identify him/herself as an employee of the Lyon County Sheriff's Office to do any of the following:

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.

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- (c) Endorse, support or oppose, any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication, or any motion picture, film, video, public broadcast, photo, any website or any other visual depiction.

### **326.7 OPTIONAL EQUIPMENT - MAINTENANCE AND REPLACEMENT**

- (a) Any of the items listed in the Uniform and Equipment Specifications as optional shall be purchased at the expense of the employee.
- (b) Maintenance of optional items shall be the financial responsibility of the purchasing employee (e.g., repairs due to normal wear and tear).
- (c) Replacement of items listed in this order as optional shall be done as follows:
  1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.
  2. When the item is no longer functional because of damage in the course of the employee's duties, it may be replaced following the procedures for the replacement of damaged personal property in the Office-Owned and Personal Property Policy.

### **326.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES**

Lyon County Sheriff's Office employees may not wear any uniform item, accessory or attachment unless specifically authorized in the Uniform and Equipment Specifications or by the Sheriff or designee.

Lyon County Sheriff's Office employees may not use or carry any tool or other piece of equipment unless specifically authorized in the Uniform and Equipment Specifications or by the Sheriff or designee.

## Nepotism and Conflicting Relationships

### 327.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this office. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

#### 327.1.1 DEFINITIONS

**Business relationship** - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder or investor in an outside business, company, partnership, corporation, venture or other transaction where the Office employee's annual interest, compensation, investment or obligation is greater than \$250.

**Conflict of interest** - Any actual, perceived or potential conflict of interest in which it reasonably appears that a Office employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

**Nepotism** - The practice of showing favoritism to relatives in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

**Personal relationship** - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

**Public official** - A supervisor, officer or employee vested with authority by law, rule or regulation, or to whom authority has been delegated.

**Relative** - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

**Subordinate** - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

**Supervisor** - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

### 327.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Office will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following restrictions apply:

- (a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

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1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
  2. When personnel and circumstances permit, the Office will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Office reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.
- (b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
  - (c) Whenever reasonably possible Field Training Officers (FTOs) and other trainers will not be assigned to train relatives. FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.
  - (d) To avoid actual or perceived conflicts of interest members of this office shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of, or as a direct result of, any official contact.
  - (e) Except as required in the performance of official duties or in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive, or registered predatory offender or who engages in intentional violations of state or federal laws.

### 327.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance that the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide other official information or services to any relative or other individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.



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### 327.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever reasonably possible. Supervisors shall also promptly notify the Sheriff of such actual or potential violations through the chain of command.

## Office Badges

### 328.1 PURPOSE AND SCOPE

The Lyon County Sheriff's Office badge and uniform patch as well as the likeness of these items and the name of the Lyon County Sheriff's Office are property of the Office and their use shall be restricted as set forth in this policy.

### 328.2 POLICY

The uniform badge shall be issued to Office members as a symbol of authority. The use and display of Office badges shall be in strict compliance with this policy. Only authorized badges issued by this office shall be displayed, carried or worn by members while on-duty or otherwise acting in an official or authorized capacity.

#### 328.2.1 FLAT BADGE

Licensed deputies, with the written approval of the Sheriff, may purchase at their own expense a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of Office policy as the uniform badge.

- (a) A deputy may sell, exchange or transfer the flat badge he/she purchased to another deputy within the Lyon County Sheriff's Office with the written approval of the Sheriff.
- (b) Should the flat badge become lost, damaged or otherwise removed from the deputy's control he/she shall notify his/her supervisor.
- (c) An honorably retired deputy may keep his/her flat badge upon retirement.
- (d) The purchase, carrying or display of a flat badge is not authorized for non-licensed personnel.

#### 328.2.2 NON-LICENSED PERSONNEL

Badges and Office identification cards issued to non-licensed personnel shall be clearly marked to reflect the position of the assigned employee (e.g. parking control, dispatcher).

- (a) Non-licensed personnel shall not display any Office badge except as a part of his/her uniform and while on-duty or otherwise acting in an official and authorized capacity.
- (b) Non-licensed personnel shall not display any Office badge or represent him/herself, on- or off-duty, in such a manner which would cause a reasonable person to believe that he/she is a licensed deputy.

#### 328.2.3 RETIREE UNIFORM BADGE

Upon honorable retirement employees may purchase their assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia, as other uses of the badge may be unlawful or in violation of this policy.

## Office Badges

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### **328.3 UNAUTHORIZED USE**

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Office badges are issued to all licensed employees and non-licensed uniformed employees for official use only. The Office badge, shoulder patch or the likeness thereof, or the Office name shall not be used for personal or private reasons including, but not limited to, letters, memoranda and electronic communications, such as electronic mail or websites and web pages.

The use of the badge, uniform patch and Office name for all material (e.g., printed matter, products or other items) developed for Office use shall be subject to approval by the Sheriff.

Employees shall not loan the badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

#### **328.3.1 SOLICITATION OF SPECIAL PRIVILEGES**

An Office member shall not use a badge, uniform or sheriff's office identification card to solicit special privileges for themselves or others; nor shall any member of this Department endorse any product or service by letter or active solicitation. A member may use a badge or other official credential to obtain admission to any public gathering when such is in furtherance of an official duty.

### **328.4 PERMITTED USE BY EMPLOYEE GROUPS**

The likeness of the Office badge shall not be used without the express authorization of the Sheriff and shall be subject to the following:

- (a) The employee associations may use the likeness of the Office badge for merchandise and official association business provided it is used in a clear representation of the association and not the Lyon County Sheriff's Office. The following modifications shall be included:
  - 1. The text on the upper and lower ribbons is replaced with the name of the employee association.
  - 2. The badge number portion displays the acronym of the employee association.
- (b) The likeness of the Office badge for endorsement of political candidates shall not be used without the express approval of the Sheriff.

## Temporary Modified-Duty Assignments

### 329.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, County rules, or current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Office to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability or limitation that is protected under federal or state law.

### 329.2 POLICY

Subject to operational considerations, the Lyon County Sheriff's Office may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Office with a productive employee during the temporary period.

### 329.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the Minnesota Human Rights Act (Minn. Stat. § 363A.01 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Lyon County Sheriff's Office shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Office. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Sheriff or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle or engaging in outside employment, or may otherwise limit them in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

### 329.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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## *Temporary Modified-Duty Assignments*

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Employees seeking a temporary modified-duty assignment should submit a written request to their Sergeants or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Sergeant will make a recommendation through the chain of command to the Sheriff regarding temporary modified-duty assignments that may be available based on the needs of the Office and the limitations of the employee. The Sheriff or the authorized designee shall confer with the County Administrator's Office or the County Attorney as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Sergeant or Sergeant, with notice to the Sheriff.

### **329.5 ACCOUNTABILITY**

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate office operations and the employee's medical appointments, as mutually agreed upon with the Sergeant.

#### **329.5.1 EMPLOYEE RESPONSIBILITIES**

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to the Sergeant that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

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## *Temporary Modified-Duty Assignments*

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### 329.5.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

- (a) Periodically apprising the Sheriff of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Sheriff and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

### 329.6 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Office may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

### 329.7 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth, or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment.

If notified by an employee or the employee's representative regarding limitations related to pregnancy, childbirth, or related medical conditions, the Office should make reasonable efforts to provide an accommodation for the employee in accordance with federal and state law. The accommodation should be provided without unnecessary delay, as appropriate (42 USC § 2000gg-1; 29 CFR 1636.3; 29 CFR 1636.4; Minn. Stat. § 181.939; Minn. Stat. § 363A.08).

#### 329.7.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the County's personnel rules and regulations regarding family and medical care leave.

### 329.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment may have their probation extended by a period of time equal to their assignment to temporary modified duty.

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## *Temporary Modified-Duty Assignments*

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### **329.9 MAINTENANCE OF CERTIFICATION AND TRAINING**

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

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# Employee Speech, Expression and Social Networking

## 330.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balance of employee speech and expression with the needs of the Office.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or deputy associations, about matters of public concern such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

### 330.1.1 APPLICABILITY

This policy applies to all forms of communication including but not limited to film, video, print media, public or private speech, use of all Internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, wikis, video and other file sharing sites.

## 330.2 POLICY

Because public employees occupy a trusted position in the community their statements have the potential to contravene the policies and performance of this office. Due to the nature of the work and influence associated with the law enforcement profession it is necessary that employees of this office be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public the Lyon County Sheriff's Office will carefully balance the individual employee's rights against the organization's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

## 330.3 SAFETY

Employees should carefully consider the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of Lyon County Sheriff's Office employees such as posting personal information in a public forum can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be expected to compromise the safety of any employee, employee's family or associates or persons that this agency has had professional contact with such as crime victims or staff of



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## *Employee Speech, Expression and Social Networking*

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other organizations. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an employee.
- Disclosing the address, telephone number or email address of an employee.
- Otherwise disclosing where another employee can be located off-duty.

### **330.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the organization's safety, performance and public-trust needs the following are prohibited unless the speech is otherwise protected (for example an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or deputy associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Lyon County Sheriff's Office or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to or related to the Lyon County Sheriff's Office and tends to compromise or damage the mission, function, reputation or professionalism of the Lyon County Sheriff's Office or its employees. Examples may include:
  1. Statements that indicate disregard for the law or the state or U.S. Constitution.
  2. Expression that demonstrates support for criminal activity.
  3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example posting statements or expressions to a website that glorify or endorse dishonesty or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Office. For example a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen to jeopardize employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Lyon County Sheriff's Office.
- (f) Use or disclosure, through whatever means, of any not public data, photograph, video or other recording obtained or accessible as a result of employment with the Office for financial or personal gain or data classified as not public by state or federal law or any disclosure of such materials without the express authorization of the Sheriff or the authorized designee.

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- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of office logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Lyon County Sheriff's Office on any personal or social networking or other website or web page without the express authorization of the Sheriff.
- (h) Accessing websites for non-authorized purposes or use of any personal communication device, game device or media device, whether personally or office-owned, for personal purposes while on-duty except in the following circumstances:
  1. When brief personal communications may be warranted by the circumstances (e.g., inform family of extended hours).
  2. During authorized breaks; such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

### 330.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or deputy associations, employees may not represent the Lyon County Sheriff's Office or identify themselves in any way that could be reasonably perceived as representing the Lyon County Sheriff's Office in order to do any of the following, unless specifically authorized by the Sheriff:

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support, or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or any website.

Additionally, when it can reasonably be construed that an employee acting in his/her individual capacity or through an outside group or organization (e.g. bargaining group) is affiliated with this office, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Lyon County Sheriff's Office.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or deputy associations, on political subjects and candidates at all times while off-duty. However employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or

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indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

### **330.5 PRIVACY EXPECTATION**

Members forfeit any expectation of privacy with regard to e-mails, texts, or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any office technology system (see the Information Technology Use Policy for additional guidance).

### **330.6 CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Sheriff or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Office or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Office.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Office.

### **330.7 TRAINING**

Subject to available resources the Office should provide training regarding employee speech and the use of social networking to all members of the Office.

## POST Licensing

### 331.1 PURPOSE AND SCOPE

Maintaining a valid POST license is a critical element of a deputy's ability to continue their employment and is their sole professional responsibility. Every deputy and every part-time deputy is required to complete the continuing education requirements to maintain a valid license every three years (Minn. R. § 6700.0900; Minn. R. 6700.1000).

### 331.2 RENEWAL SCHEDULE

Any deputy whose license expires is not authorized to work as a peace officer until the license status is valid. Deputies renew their POST licenses according to a schedule established by Administrative Rule (Minn. R. 6700.1000).

#### 331.2.1 LICENSE RENEWAL CREDITS

A peace officer license may be renewed only upon the licensee or the licensee's appointing authority providing the POST board proof the licensee has successfully completed board-approved continuing education and posting of fees on or before June 30 of the year a license is due for renewal. Licensee required hours of continuing credit are (Minn. R. 6700.1000, Subd. 3):

- 16 hours for a peace officer or a part-time peace officer who has been licensed for at least six months but less than 18 months.
- 32 hours for a peace officer or a part-time peace officer who has been licensed for at least 18 months but less than 30 months.
- 48 hours for a peace officer or a part-time peace officer who has been licensed for at least 30 months.

### 331.3 LICENSE PROCESS

A general schedule for the license renewal process is:

- February - The Office or deputy will receive employment verification.
- March - The Office or deputies are sent a license renewal application.
- June - A final notice will be sent from POST for those who have not renewed.
- June 30 - The deadline date for license renewal after which deputies whose license expires will no longer be authorized to practice law enforcement or carry a firearm.

### 331.4 INACTIVE LICENSE

Deputies who fail to complete the requirements will have their license placed in the "Inactive" status. The employee may then be placed in a temporary administrative assignment until their license is "Valid". Those employees may also face administrative discipline up to and including termination.

## Local Bargaining Units

### **332.1 PURPOSE AND SCOPE**

It is the purpose of this policy to provide guidelines for local bargaining unit meetings.

### **332.2 MEETINGS AND FUNCTIONS**

Attendance at meetings and functions while on duty, subject to call, shall be granted without the requirement of taking time off to do so.

This provision of course only pertains to meetings that occur in the geographical boundaries of Lyon County.

## Employee Address/Telephone

### **333.1 PURPOSE AND SCOPE**

It is necessary for the County to know where the employee resides for mailing purposes. It is also necessary that deputies are accessible when off-duty for emergency situations.

### **333.2 CHANGE OF ADDRESS**

All employees shall notify the Office within 24 hours, of any change of address or telephone number. This notification shall be in written form to a superior officer.

### **333.3 TELEPHONE**

All Deputies shall maintain and/or be reachable by a telephone, or cellular telephone at their residence.

## Wellness Program

### 334.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance on establishing and maintaining a proactive wellness program for office members.

Additional information on member wellness is provided in the:

- Line-of-Duty Deaths Policy.
- Drug- and Alcohol-Free Workplace Policy.

#### 334.1.1 DEFINITIONS

Definitions related to this policy include:

**Critical incident** – An event or situation that may cause a strong emotional, cognitive, or physical reaction that has the potential to interfere with daily life.

**Critical Incident Stress Debriefing (CISD)** – A standardized approach using a discussion format to provide education, support, and emotional release opportunities for members involved in work-related critical incidents.

**Peer support** – Mental and emotional wellness support provided by peers trained to help members cope with critical incidents and certain personal or professional problems.

### 334.2 POLICY

It is the policy of the Lyon County Sheriff's Office to prioritize member wellness to foster fitness for duty and support a healthy quality of life for office members. The Office will maintain a wellness program that supports its members with proactive wellness resources, critical incident response, and follow-up support.

### 334.3 OFFICE PEER SUPPORT

#### 334.3.1 PEER SUPPORT MEMBER SELECTION CRITERIA

The selection of a office peer support member will be at the discretion of the coordinator. Selection should be based on the member's:

- Desire to be a peer support member.
- Experience or tenure.
- Demonstrated ability as a positive role model.
- Ability to communicate and interact effectively.
- Evaluation by supervisors and any current peer support members.

#### 334.3.2 PEER SUPPORT MEMBER RESPONSIBILITIES

The responsibilities of office peer support members include:

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- (a) Providing pre- and post-critical incident support.
- (b) Presenting office members with periodic training on wellness topics, including but not limited to:
  - 1. Stress management.
  - 2. Suicide prevention.
  - 3. How to access support resources.
- (c) Providing referrals to licensed psychotherapists and other resources, where appropriate.
  - 1. Referrals should be made to office-designated resources in situations that are beyond the scope of the peer support member's training.

### 334.3.3 PEER SUPPORT MEMBER TRAINING

A office peer support member should complete office-approved training prior to being assigned.

### **334.4 CRITICAL INCIDENT STRESS DEBRIEFINGS**

A Critical Incident Stress Debriefing should occur as soon as practicable following a critical incident. Notes and recorded statements shall not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a critical incident.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law, or a valid court order.

Attendance at the debriefing should only include peer support members, peer support counselors, and/or critical incident stress management team members, and those directly involved in the incident.

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

### 334.4.1 PEER SUPPORT COUNSELOR COMMUNICATIONS

Communications with peer support counselors are confidential and shall not be disclosed except as provided in Minn. Stat. § 181.9731. A peer support counselor is an individual who is designated by the Office and trained to provide peer counseling services (Minn. Stat. § 181.9731).

### 334.4.2 CRITICAL INCIDENT STRESS MANAGEMENT TEAM MEMBER COMMUNICATIONS

Communications with critical incident stress management team members are confidential and shall not be disclosed except as provided in Minn. Stat. § 181.9732. A critical incident stress management team member is an individual who is designated by the Office and trained to provide critical incident stress management services (Minn. Stat. § 181.9732).



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### **334.5 PEER SUPPORT COMMUNICATIONS**

Although the Office will honor the sensitivity of communications with peer support members, there is no legal privilege to such communications.

## Chapter 4 - General Operations

## Use of Force And Deadly Use of Force

### 400.1 PURPOSE AND SCOPE

The Lyon County Sheriff's Office adopts in its entirety the Minnesota Peace Officer Standards and Training (POST) Use of Force model policy as published and updated as of 12/20/2021 incorporating its requirements under MN STAT 626.8452.

[See attachment: UOF Model Policy Revised 12-2021.pdf](#)

## Use of Force Review Boards

### 401.1 PURPOSE AND SCOPE

This policy establishes a process for the Lyon County Sheriff's Office to review the use of force by its employees.

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

### 401.2 POLICY

The Lyon County Sheriff's Office will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

### 401.3 REMOVAL FROM LINE DUTY ASSIGNMENTS

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

### 401.4 REVIEW BOARD

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

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

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

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

#### 401.4.1 COMPOSITION OF THE BOARD

The Chief Deputy should select five Use of Force Review Board members from the following categories as appropriate:

- An uninvolved peer of the involved members work group.
- Office Instructor(s) for the type of UOF used
- Uninvolved supervisor for involved member

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- An outside agency LE or Corrections representative
- An office LE Sergeant
- An office Corrections Sergeant

The Chief Deputy will serve as chairperson.

### 401.4.2 RESPONSIBILITIES OF THE BOARD

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

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

The board does not have the authority to recommend discipline.

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

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

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

The board shall make one of the following recommended findings:

- (a) The employee's actions were within office policy and procedure.
- (b) The employee's actions were in violation of office policy and procedure.

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

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

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

## Handcuffing and Restraints

### 402.1 PURPOSE AND SCOPE

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

### 402.2 POLICY

The Lyon County Sheriff's Office 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.

### 402.3 USE OF RESTRAINTS

Only members who have successfully completed Lyon County Sheriff's Office-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, deputies 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.

#### 402.3.1 RESTRAINT OF DETAINEES

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

#### 402.3.2 RESTRAINT OF PREGNANT PERSONS

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

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

### **402.3.3 RESTRAINT OF JUVENILES**

A juvenile under 14 years of age should not be restrained unless the member has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the member or damage property.

### **402.3.4 NOTIFICATIONS**

Whenever a deputy transports a person with the use of restraints other than handcuffs, the deputy shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the deputy 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.

### **402.4 HANDCUFFS OR PLASTIC CUFFS**

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

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Office. Deputies should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, deputies 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, deputies 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.

### **402.5 SPIT HOODS**

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

Spit hoods may be placed upon persons in custody when the deputy 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.

Deputies 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. Deputies should provide



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

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

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

### **402.6 AUXILIARY RESTRAINT DEVICES**

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

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

### **402.7 LEG RESTRAINT DEVICES**

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

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

- (a) Whether the deputy 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 deputy while handcuffed, kicking at objects or deputies).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).

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

When applying leg restraints the following guidelines should be followed:

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

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- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the deputy 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 deputy while in the leg restraint. The deputy should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The deputy 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 deputy when requested by medical personnel. The transporting deputy should describe to medical personnel any unusual behaviors or other circumstances the deputy reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

### **402.8 REQUIRED DOCUMENTATION**

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

Deputies 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.

### **402.9 TRAINING**

Subject to available resources, the Sergeant should ensure that deputies 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 Office.
- (b) Response to complaints of pain by restrained persons.

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

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## Officer-Involved Shootings and Deaths

### 403.1 PURPOSE AND SCOPE

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

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

### 403.2 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 deputies.
- A civil investigation to determine potential liability.

### 403.3 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.

#### 403.3.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Lyon County Sheriff's Office would control the investigation if the suspect's crime occurred in Lyon County.

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 Sheriff and with concurrence from the other agency.

#### 403.3.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

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

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

### 403.3.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

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

### 403.3.4 POST ADMINISTRATIVE INVESTIGATIONS

The Minnesota POST Board may require an administrative investigation based on a complaint alleging a violation of a statute or rule that the board is empowered to enforce. An officer-involved shooting may result in such an allegation. Any such complaint assigned to this 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).

### 403.3.5 COOPERATION WITH BUREAU OF CRIMINAL APPREHENSION INVESTIGATIONS

The Office will fully cooperate with and promptly respond to requests for information from the Bureau of Criminal Apprehension regarding an officer-involved death investigation (Minn. Stat. § 626.5534).

## **403.4 INVESTIGATION PROCESS**

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

### 403.4.1 UNINVOLVED DEPUTY RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved LCSO deputy will be the deputy-in-charge and will assume the responsibilities of a supervisor until properly relieved. This deputy 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 Office 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.

### 403.4.2 SUPERVISOR RESPONSIBILITIES

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

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

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- (b) If necessary, the supervisor may administratively order any LCSO deputy to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects. **The following PUBLIC SAFETY STATEMENT QUESTIONS may be asked:**
- (a) To the best of your knowledge is anyone injured that we are not aware of?
  - (b) **IF FIREARMS WERE USED:** Approximately how many times did you fire and in what direction?
  - (c) Did anyone fire towards you? If so, where were you?
  - (d) Are there any persons that need to be apprehended? If so, what for? What is their description and mode and direction of travel?
  - (e) Are you aware of any witnesses? If so, where are they?
  - (f) Are there any other locations other than where we are that we should consider for processing or that evidence need to be located?
- (c) 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.
- (d) The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (e) Provide all available information to the Sergeant and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (f) Take command of and secure the incident scene with additional LCSO members until properly relieved by another supervisor or other assigned personnel or investigator.
- (g) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
- 1. Each involved LCSO deputy should be given an administrative order not to discuss the incident with other involved officers or LCSO 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 deputies.

### 403.4.3 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Sheriff
- Chief Deputy
- Sergeant
- Outside agency investigators (if appropriate)
- Psychological/peer support personnel

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- Medical Examiner (if necessary)
- Involved officer's agency representative (if requested)

### 403.4.4 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
  1. Involved LCSO deputies 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-LCSO 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 Office to each involved LCSO deputy. A licensed psychotherapist may also be provided to any other affected LCSO members, upon request.
  1. Interviews with a licensed psychotherapist will be considered privileged.
  2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, the involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
  3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Communications between the involved deputy and a peer support member, peer support counselors, and critical incident stress management team members are addressed in the Wellness Program Policy.

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

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

### **403.5 CRIMINAL INVESTIGATION**

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

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

### 403.5.1 REPORTS BY INVOLVED LCSO DEPUTIES

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

While the involved LCSO deputy 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 LCSO deputy of the right to consult with legal counsel prior to completing any such criminal report.

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



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### 403.5.2 WITNESS IDENTIFICATION AND INTERVIEWS

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

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

### 403.5.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the Sheriff or his designee 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 Investigations supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Sergeant.

### 403.6 ADMINISTRATIVE INVESTIGATION

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

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

- (a) Any deputy 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 deputy, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any deputy 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 deputy.
  1. If a further interview of the deputy 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 deputy shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved deputy 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 deputy's physical and psychological needs have been addressed before commencing the interview.
  2. The interview must be taken at the LCSO or at a place agreed to by the interviewer and the involved deputy.
  3. The interview must be of reasonable duration and provide the involved deputy reasonable periods for rest and personal necessities. When practicable, the interview must be held during the involved deputy's regularly scheduled work shift. If not, the involved deputy must be compensated at his/her current pay rate.
  4. If requested, the deputy 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 deputy's statement, involved deputies 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 deputy may also record the interview. A complete copy or transcript of the interview must be provided to the involved deputy upon written request without charge or undue delay.
  6. The deputy shall be informed of the nature of the investigation. If a deputy 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 deputy shall be informed in writing or on the record that the interview will be for administrative purposes only and that the statement cannot be used criminally.

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7. The Sergeant shall compile all relevant information and reports necessary for the Office 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.

### **403.7 CIVIL LIABILITY RESPONSE**

A member of this office may be assigned to work exclusively under the direction of the legal counsel for the Office 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.

### **403.8 AUDIO AND VIDEO RECORDINGS**

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

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

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

#### **403.8.1 AUDIO AND VIDEO RECORDINGS OF USE OF FORCE INCIDENTS INVOLVING DEATHS OF INDIVIDUALS**

When a person dies as a result of the use of force by a deputy, the Office shall (Minn. Stat. § 13.825, Subd. 2; Minn. Stat. § 626.8473, Subd. 3):

- (a) Allow certain individuals as identified in Minn. Stat. § 13.825, upon request, to inspect all portable recording system data that documents the incident within five days of the request pursuant to the provisions of Minn. Stat. § 13.825.
- (b) Release all portable recording system data that documents the incident within 14 days of the incident pursuant to the provisions of Minn. Stat. § 13.825.

The Sheriff should work with the Custodian of Records when redactions or denials are necessary (Minn. Stat. § 13.825, Subd. 2; Minn. Stat. § 626.8473, Subd. 3).

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### **403.9 DEBRIEFING**

Following an officer-involved shooting or death, the Lyon County Sheriff's Office should conduct both a Critical Incident Stress Debriefing and a tactical debriefing. See the Wellness Program Policy for guidance on Critical Incident Stress Debriefings.

#### **403.9.1 TACTICAL DEBRIEFING**

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

### **403.10 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 Sergeant, and Sheriff in the event of inquiries from the media.

No involved LCSO deputy shall make any comment to the media unless he/she is authorized by the Sheriff or a Sergeant.

Office 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.

### **403.11 REPORTING**

If a deputy discharges a firearm in the course of duty, the Sheriff 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).

## Search and Seizure

### 404.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Lyon County Sheriff's Office personnel to consider when dealing with search and seizure issues.

### 404.2 POLICY

It is the policy of the Lyon County Sheriff's Office to respect the fundamental privacy rights of individuals. Members of this office will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this office will comply with relevant federal and state law governing the seizure of persons and property.

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

### 404.3 SEARCHES

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

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

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

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

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

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

## Search and Seizure

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### 404.4 SEARCH PROTOCOL

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

- (a) Members of this office will strive to conduct searches with dignity and courtesy.
- (b) Deputies should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- (e) When the person to be searched is of the opposite sex as the searching deputy, a reasonable effort should be made to summon a deputy of the same sex as the subject to conduct the search. When it is not practicable to summon a deputy of the same sex as the subject, the following guidelines should be followed:
  1. Another deputy or a supervisor should witness the search.
  2. The deputy should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

### 404.5 DOCUMENTATION

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

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

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

## Temporary Custody of Juveniles

### 405.1 PURPOSE AND SCOPE

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

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

#### 405.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

Examples of secure custody include:

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

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## *Temporary Custody of Juveniles*

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

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

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

### **405.2 POLICY**

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

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

Juveniles who exhibit any of the following conditions should not be held at the Lyon County Sheriff's Office:

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

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

These juveniles should not be held at the Lyon County Sheriff's Office unless they have been evaluated by a qualified medical and/or mental health professional.



## *Temporary Custody of Juveniles*

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

### 405.3.1 SUICIDE PREVENTION OF JUVENILES IN CUSTODY

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

### 405.4 CUSTODY OF JUVENILES

Deputies should take custody of a juvenile and temporarily hold the juvenile at the Lyon County Sheriff's Office when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile that is suspected of being a victim.

No juvenile should be held in temporary custody at the Lyon County Sheriff's Office without authorization of the arresting deputy's supervisor or the Sergeant.

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

#### 405.4.1 CUSTODY OF JUVENILE NON-OFFENDERS

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

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

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

#### 405.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

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

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### 405.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Lyon County Sheriff's Office unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

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

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

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

- (a) Endanger themselves or others.
- (b) Not return for a court hearing.
- (c) Run away from or otherwise not remain in the care or control of their parent, guardian, or custodian.
- (d) Face immediate endangerment to the juvenile's health or welfare.

If a juvenile offender is not released to a parent, guardian, custodian, or other suitable person, the deputy taking the juvenile offender into custody shall communicate with or deliver the juvenile to a secure detention facility to determine whether the juvenile should be released or detained. The deputy shall also notify the court as soon as possible of the detention of the juvenile and the reasons for detention (Minn. Stat. § 260B.176).

### 405.4.4 SCHOOL NOTIFICATION

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

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

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

### **405.5 ADVISEMENTS**

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

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

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

### **405.6 NO-CONTACT REQUIREMENTS**

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

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

### **405.7 TEMPORARY CUSTODY REQUIREMENTS**

Members and supervisors assigned to monitor or process any juvenile at the Lyon County Sheriff's Office shall ensure the following:

- (a) The Sergeant should be notified if it is anticipated that a juvenile may need to remain at the Lyon County Sheriff's Office more than four hours. This will enable the Sergeant to ensure no juvenile is held at the Lyon County Sheriff's Office more than six hours.
- (b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (c) Personal visual checks and significant incidents/activities shall be noted on the log.
- (d) There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware. Therefore an employee should inform a juvenile under his/her care that the juvenile will be monitored at all times unless he/she is using the toilet. This does not apply to surreptitious and legally obtained recorded interrogations.
- (e) Juveniles shall have reasonable access to toilets and wash basins.
- (f) Food should be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile.
- (g) Juveniles shall have reasonable access to a drinking fountain or water.
- (h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (i) Juveniles should have privacy during family, guardian, and/or lawyer visits.
- (j) Juveniles should be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (k) Blankets should be provided as reasonably necessary.
- (l) Adequate shelter, heat, light, and ventilation should be provided without compromising security or enabling escape.
- (m) Juveniles shall have adequate furnishings, including suitable chairs or benches.
- (n) Juveniles shall have the right to the same number of telephone calls as an adult in custody.
- (o) No discipline may be administered to any juvenile nor may juveniles be subjected to corporal or unusual punishment, humiliation, or mental abuse.

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## *Temporary Custody of Juveniles*

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### **405.8 USE OF RESTRAINT DEVICES**

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

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

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

### **405.9 PERSONAL PROPERTY**

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

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

### **405.10 SECURE CUSTODY**

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

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

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

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

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

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### 405.10.1 LOCKED ENCLOSURES

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

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

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

### **405.11 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS**

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

### **405.12 RESTRICTION ON PHOTOGRAPHING**

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

## Discriminatory Harassment

### 406.1 PURPOSE AND SCOPE

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

### 406.2 POLICY

The Lyon County Sheriff's Office is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The Office will not tolerate, discrimination against employees in hiring, promotion, discharge, compensation, fringe benefits, and other privileges of employment. The Office will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The non-discrimination policies of the Office may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

### 406.3 DEFINITIONS

Definitions related to this policy include:

#### 406.3.1 DISCRIMINATION

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

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes; stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or office equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to office policy and to a work environment that is free of discrimination.

#### 406.3.2 SEXUAL HARASSMENT

The Office prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member because of that person's sex.

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## *Discriminatory Harassment*

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Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position, or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

### 406.3.3 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles, or standards including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) and the Minnesota Department of Human Rights.
- (b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with County or office rules or regulations, or any other appropriate work-related communication between supervisor and member.

### 406.3.4 RETALIATION

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

## **406.4 RESPONSIBILITIES**

This policy applies to all office personnel. All members shall follow the intent of these guidelines in a manner that reflects office policy, professional standards, and the best interest of the Office and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to the member's immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Sheriff, the County Administrator, or the Human Resources Director.

Any member who believes, in good faith, that the member has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment, discrimination, or retaliation, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.



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### 406.4.1 SUPERVISOR RESPONSIBILITIES

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

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
- (c) Ensuring that their subordinates understand their responsibilities under this policy.
- (d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notifying the Sheriff or the County Administrator in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

### 406.4.2 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

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

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline in a manner that is consistent with established procedures.

### 406.4.3 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Sheriff, the County Administrator, or the Human Resources Director for further information, direction, or clarification.

### **406.5 INVESTIGATION OF COMPLAINTS**

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved members should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Office that all complaints of discrimination, retaliation, or harassment shall be fully documented, and promptly and thoroughly investigated.

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### 406.5.1 SUPERVISOR RESOLUTION

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

### 406.5.2 FORMAL INVESTIGATION

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

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint, or for offering testimony or evidence in an investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed, or retaliated against because of their protected status are encouraged to follow the chain of command but may also file a complaint directly with the Sheriff, the County Administrator.

### 406.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Office. Members who believe that they have been harassed, discriminated against, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

## **406.6 DOCUMENTATION OF COMPLAINTS**

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

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

### 406.6.1 NOTIFICATION OF DISPOSITION

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

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## *Discriminatory Harassment*

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### **406.7 TRAINING**

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

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

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## Public Alerts

### 407.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for alerting the public to important information and soliciting public aid when appropriate.

### 407.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

### 407.3 RESPONSIBILITIES

#### 407.3.1 EMPLOYEE RESPONSIBILITIES

Members of the Lyon County Sheriff's Office should notify their supervisor as soon as practicable upon learning of a situation where public notification, a warning or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person or gathering information.

#### 407.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Sheriff, the appropriate Sergeant and the Sergeant when any public alert is generated.

The supervisor in charge of the investigation to which the alert relates is responsible for the following:

- (a) Updating alerts
- (b) Canceling alerts
- (c) Ensuring all appropriate reports are completed
- (d) Preparing an after-action evaluation of the investigation to be forwarded to the Sergeant

### 407.4 AMBER ALERTS

America's Missing: Broadcast Emergency Response (AMBER) Alert™ is the recruitment of public assistance to locate an abducted child via a widespread media alert. Utilizing the assistance of local radio, television and press affiliates, the public will be notified of the circumstances of a child's abduction and how it can assist law enforcement in the child's recovery. The goal of the AMBER Alert program is the safe return of an abducted child by establishing an effective partnership between the community, the media and law enforcement through the Minnesota Crime Alert Network (Minn. Stat. § 299A.61 Subd. 1).

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## Public Alerts

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### 407.4.1 CRITERIA

Any non-familial case in which an individual is abducted and the public can assist will trigger the activation of either the AMBER Alert and/or the Minnesota Crime Alert Network (MCAN) to inform the public and request its assistance in locating the individual.

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

- (a) A child 17 years of age or younger was abducted and there is reason to believe the victim is in imminent danger of serious bodily injury or death.
- (b) There is information available to disseminate to the general public that could assist with the safe recovery of the victim and/or the apprehension of the suspect.

An AMBER Alert should not be requested if there is no information to distribute.

### 407.4.2 PROCEDURE

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

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

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

BCA will manage press notifications through the EAS.

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

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

### **407.5 MINNESOTA CRIME ALERT NETWORK (MCAN)**

MCAN is a statewide communications network that enables law enforcement agencies to quickly alert the public (Minn. Stat. § 299A.61). In cases where the AMBER Alert criteria are not met, the supervisor shall issue a missing person alert through MCAN to notify the public and request information on the case (Minn. Stat. § 299C.53). Law enforcement agencies, businesses, schools, and community members participate in the network.

### 407.5.1 CRITERIA

MCAN is available for disseminating information regarding the commission of crimes, including information on missing and endangered children or vulnerable adults, or attempts to reduce theft and other crime.

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## Public Alerts

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### 407.5.2 PROCEDURE

If a supervisor determines that an MCAN alert should be requested, the supervisor should contact the BCA Operations Center and provide the requested information (Minn. Stat. § 299C.53).

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

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

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

### 407.6 BLUE ALERTS

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

#### 407.6.1 CRITERIA

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

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

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## *Public Alerts*

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

### 407.6.2 PROCEDURE

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

## Victim and Witness Assistance

### 408.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources, and that the agency meets all related legal mandates.

### 408.2 POLICY

The Lyon County Sheriff's Office is committed to providing guidance and assistance to the victims and witnesses of crime. The employees of the Lyon County Sheriff's Office will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

### 408.3 CRIME VICTIMS

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

Deputies should never guarantee a victim's safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Deputies should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written office material or available victim resources.

### 408.4 VICTIM INFORMATION

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

- (a) Shelters and other community resources for victims, including domestic abuse and sexual assault victims.
- (b) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109).
- (c) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.
- (d) A clear explanation of relevant court orders and how they can be obtained.
- (e) Information regarding available compensation for qualifying victims of crime.
- (f) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.
- (g) Notice regarding U visa and T visa application processes.
- (h) Resources available for victims of identity theft.



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## *Victim and Witness Assistance*

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- (i) A place for the deputy's name, badge number, and any applicable case or incident number.
- (j) Notices and information regarding the rights of crime victims, domestic abuse victims, and offender release as detailed in the following:
  1. Safe at Home address confidentiality program (Minn. Stat. § 5B.03)
  2. Offender release notification (Minn. Stat. § 244.052; Minn. Stat. § 244.053; Minn. Stat. § 611A.06; Minn. Stat. § 629.73)
  3. Tenancy issues (Minn. Stat. § 504B.205; Minn. Stat. § 504B.206)
  4. Victim and specific domestic abuse victim information/Minnesota CHOICE (Minn. Stat. § 611A.02 et seq.; Minn. Stat. § 629.341; Minn. Stat. § 629.72)
- (k) A notice that a decision to arrest is the deputy's and the decision to prosecute lies with the prosecutor, even when a victim requests no arrest or prosecution.
- (l) Contact information for the Office of Justice Programs and the Emergency Fund and Crime Victims Reimbursement (Minn. Stat. § 611A.66).

### **408.5 WITNESSES**

Deputies should never guarantee a witness' safety from future harm or that his/her identity will always remain confidential. Deputies may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

Deputies should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable.

## Electronic Mail

### 409.1 PURPOSE AND SCOPE

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

### 409.2 EMAIL RIGHT OF PRIVACY

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

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

### 409.3 PROHIBITED USE OF EMAIL

The Office email system shall not be used for personal purposes unless that use is authorized in writing by the Sheriff.

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

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

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

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### **409.4 EMAIL RECORD MANAGEMENT**

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

### **409.5 E-MAIL ADDRESSES**

All county e-mail addresses are public information, and can be shared with the public if asked for. The county provided e-mail service is publicly funded and is owned by the citizens of Lyon County.

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## Media Relations

### 410.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

### 410.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Sheriff. However, in situations not warranting immediate notice to the Sheriff and in situations where the Sheriff has given prior approval, supervisors and designated personnel may prepare and release information to the media in accordance with this policy and the applicable law.

#### 410.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to supervisory personnel. Prior to releasing any information to the media, members shall consider the following:

- (a) At no time shall any employee of this office make any comment or release any official information to the media without prior approval from the Sheriff or appropriate supervisor..
- (b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this office.
- (c) Under no circumstance should any member of this office make any comment(s) to the media regarding any law enforcement incident not involving this office without prior approval of the Sheriff.

### 410.3 MEDIA ACCESS

Authorized members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions:

- (a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
  - 1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should

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## Media Relations

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be coordinated through the office supervisory personnel or other designated spokesperson.

- (c) No member of this office shall be required to submit to media visits or interviews without the consent of the involved employee.
- (d) Media interviews with individuals who are in custody shall not be permitted unless in compliance with a jail facility policy. Exceptions are only permitted with the approval of the Sheriff and the express written consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Office members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Sheriff.

### 410.3.1 TEMPORARY FLIGHT RESTRICTIONS

Whenever the presence of media or other aircraft poses a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Sheriff. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR 91.137).

### 410.3.2 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of deputies and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media nor should media representatives be invited to be present at such actions except with the prior approval of the Sheriff.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception, the Sheriff will consider, at minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person or is otherwise prohibited by law.

## 410.4 SCOPE OF INFORMATION SUBJECT TO RELEASE

The Office will maintain a daily information log of significant law enforcement activities that shall be made available, upon request, to media representatives through the Sheriff's Office Records Division. This log will consist of data classified as public and should generally contain the following information (Minn. Stat. § 13.82):

- (a) The date, time, location, case number, type of crime, extent of injury or loss and names of individuals (except confidential informants) involved in crimes occurring within this

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jurisdiction, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.

- (b) The date, time, location, case number, name, birth date and charges for each person arrested by this office, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.
- (c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated media representative, the custodian of records, or if unavailable, to the Sergeant. Such requests will generally be processed in accordance with the provisions of the Minnesota Government Data Practices Act (Minn. Stat. § 13.03).

### 410.4.1 STATE RESTRICTED INFORMATION

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this office (see the Records Maintenance and Release Policy and the Personnel Records Policy). When in doubt, authorized and available legal counsel should be obtained.

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## Court Appearance and Subpoenas

### 411.1 PURPOSE AND SCOPE

This policy establishes the guidelines for office members who must appear in court. It will allow the Lyon County Sheriff's Office to cover any related work absences and keep the Office informed about relevant legal matters.

### 411.2 POLICY

Lyon County Sheriff's Office members will respond appropriately to all subpoenas and any other court-ordered appearances.

### 411.3 SUBPOENAS

Only office members authorized to receive a subpoena on behalf of this office or any of its members may do so (Minn. R. Civ. P. 45.02; Minn. R. Crim. P. 22.03).

A court notice from a prosecutor or other government attorney may be served by delivery to the member's workstation or mail box. Members shall check for delivery of such documents during each shift worked.

Subpoenas shall not be accepted in a civil action in which the member or Office is not a party without properly tendered fees pursuant to applicable law (Minn. Stat. § 357.23; Minn. R. Civ. P. 45.03).

#### 411.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the County Attorney or the prosecutor shall notify his/her immediate supervisor without delay regarding:

- (a) Any civil case where the County or one of its members, as a result of his/her official capacity, is a party.
- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Lyon County Sheriff's Office.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Lyon County Sheriff's Office.

The supervisor will then notify the Sheriff and the appropriate prosecuting attorney as may be indicated by the case. The Sheriff should determine if additional legal support is necessary.

No member shall be retaliated against for testifying in any matter.

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## *Court Appearance and Subpoenas*

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### 411.3.2 CIVIL SUBPOENA

The Office will compensate members who appear in their official capacities on civil matters arising out of their official duties, in accordance with any collective bargaining agreement.

The Office should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

### 411.3.3 OFF-DUTY RELATED SUBPOENAS

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

### 411.4 FAILURE TO APPEAR

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

### 411.5 STANDBY

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Office.

If a member on standby changes his/her location during the day, the member shall notify the designated office member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

### 411.6 COURTROOM PROTOCOL

When appearing in court, members shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in the office uniform or business attire. Business attire includes a suit jacket and tie.
- (c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

#### 411.6.1 TESTIMONY

Before the date of testifying, the subpoenaed member shall review a copy of relevant reports and become familiar with the content in order to be prepared for court.

### 411.7 OVERTIME APPEARANCES

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with any current collective bargaining agreement .



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## Outside Agency Assistance

### 412.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

### 412.2 POLICY

It is the policy of the Lyon County Sheriff's Office to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this office.

### 412.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the appropriate supervisor for approval. Any such response to assist an outside agency may be considered for authorization regardless of whether an agreement for reciprocal aid under Minn. Stat. § 626.76, Subd. 1 exists. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this office, the Sergeant may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this office.

Deputies may respond to a request for emergency assistance; however, they shall notify a supervisor of their activity as soon as practicable.

Arrestees may be temporarily detained by this office until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by this office will not ordinarily be booked at this office. Only in exceptional circumstances, and subject to supervisor approval, will this office provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, a report shall be prepared and submitted by the handling member unless otherwise directed by a supervisor.

#### 412.3.1 AGREEMENTS

The Office may, at the discretion of the Sheriff, establish an agreement with another law enforcement agency to (Minn. Stat. § 626.76, Subd.1):

- (a) Assist other peace officers in the line of their duty and within the course of their employment.
- (b) Exchange office peace officers with peace officers of another agency on a temporary basis.

## *Outside Agency Assistance*

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### 412.3.2 INITIATED ACTIVITY

Any on-duty deputy who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Lyon County Sheriff's Office shall notify his/her supervisor or the and Dispatch as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

### 412.4 REQUESTING OUTSIDE ASSISTANCE

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

### 412.5 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities that are not documented in a crime report shall be documented in a general case report or as directed by supervisory personnel. .

### 412.6 MANDATORY SHARING

Equipment and supplies purchased with federal funds or grants that require such equipment and supplies be shared with other agencies should be documented and updated as necessary by the appropriate supervisory personnel or the authorized designee.

The documentation should include:

- (a) The conditions relative to sharing.
- (b) The training requirements for:
  - 1. The use of the supplies and equipment.
  - 2. The members trained in the use of the supplies and equipment.
- (c) Any other requirements for use of the equipment and supplies.

Copies of the documentation should be provided to Dispatch to ensure use of the equipment and supplies is in compliance with the applicable sharing agreements.

The Officer should maintain documentation that the appropriate members have received the required training.

## Registered Predatory Offender

### 413.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Lyon County Sheriff's Office will address issues associated with certain offenders who are residing in the jurisdiction and how the Office will disseminate information and respond to public inquiries for information about registered offenders.

### 413.2 POLICY

It is the policy of the Lyon County Sheriff's Office to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

### 413.3 REGISTRATION

The Office shall establish a process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome or difficult for compliance. If it is reasonable to do so, an investigator assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Those assigned to register offenders should receive appropriate training regarding the registration process.

Upon conclusion of the registration process, the Deputy shall ensure that the registration information is provided to the Bureau of Criminal Apprehension (BCA) in accordance with Minn. Stat. § 243.166 within three days of the registration. Registration and updated information from a person who lacks a primary residence shall be forwarded within two business days. Updated primary address information from any registered predatory offender shall also be forwarded within two business days (Minn. Stat. § 243.166).

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to register.

#### 413.3.1 REGISTRATION PROCESS

When an offender arrives to register with this office, the assigned Deputy should:

- (a) Determine in what state the offense was committed.
- (b) Confirm the individual is required to register by reviewing the list of Minnesota offenses on the BCA's Predatory Offender Registration website or in the BCA Predatory Offender Registration (POR) Manual that is available on the BCA's secure website.
- (c) If a person is required to register, search the BCA's secure website to verify whether the offender is already registered and a DNA sample has been submitted.
- (d) If the offender is already registered, complete a Change of Information Form (available on the BCA's secure website).
- (e) If the offender is not registered, complete a POR Form (available at BCA's secure website).

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## *Registered Predatory Offender*

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- (f) If the offender is from another state, contact the state (information for each state is listed on the BCA's website) and request a copy of the offender's original registration form, criminal complaint and sentencing documents.
  - 1. Documents obtained should be submitted to the BCA with a registration form.
  - 2. The BCA will determine if registration is required and inform the office and the offender.

Additional information regarding offender registration is available in the POR Manual or by contacting the Predatory Offender Unit by phone or through the BCA secure website.

### 413.3.2 GUIDELINES AND FORMS

The registration process shall be in accordance with Minn. Stat. § 243.166 and follow the guidelines implemented by the BCA. Forms used in the registration process are available from the secure website operated by the BCA.

### 413.3.3 NOTIFICATION TO REGISTRANTS

The registration process established by the Lyon County Sheriff's Office should include procedures for determining whether an individual requires notification of his/her requirement to register because the individual was not otherwise notified of the requirement by the sentencing court or assigned a corrections agent (Minn. Stat. § 243.166).

## **413.4 MONITORING OF REGISTERED OFFENDERS**

The Office should establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:

- (a) Efforts to confirm residence using an unobtrusive method, such as an internet search or drive-by of the declared residence.
- (b) Review of information on the BCA secure website or the [Department of Corrections Offender Information \(DOC\)](#) website.
- (c) Contact with a registrant's parole or probation officer, if any.

Any discrepancies should be reported to BCA in writing.

The Office should also establish a procedure to routinely disseminate information regarding registered offenders to Lyon County Sheriff's Office personnel who have a need to know, including timely updates regarding new or relocated registrants.

## **413.5 DISSEMINATION OF PUBLIC INFORMATION**

Members will not make a public notification advising the community of a particular registrant's presence in the community without permission from the Sheriff. Members who believe notification is appropriate should promptly advise their supervisor. The supervisor should evaluate the request and forward the information to the Sheriff if warranted. A determination will be made by the Sheriff based on statutory requirements, with the assistance of legal counsel as necessary, whether such a public alert should be made.

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The Sergeant shall release local registered offender information to residents in accordance with state law (Minn. Stat. § 244.052; Minn. Stat. § 243.166, Subd. 7; Minn. Stat. § 13.01 et seq.) and in compliance with a Minnesota Government Data Practices Act request.

### 413.5.1 MANDATORY DISSEMINATION

The Office shall provide and release predatory offender data, or updated data, obtained from the DOC based upon the offender's status of a Level 1, 2, or 3.

The Office shall continue to disclose data on an offender as required by law for as long as the offender is required to register under Minn. Stat. § 243.166.

Disclosure to the health care facility, home care provider, or hospice provider of the status of any registered predatory offender under Minn. Stat. § 243.166 who is receiving care shall be made by this office (Minn. Stat. § 244.052, Subd. 4c).

The Office shall provide an offender's change of status to the entities and individuals who were initially notified if the Office becomes aware that the area where notification was made is no longer where the offender resides, is employed, or is regularly found (Minn. Stat. § 244.052, Subd. 4).

### 413.5.2 LEVEL 1 DISCLOSURE

Data maintained by law enforcement may be subject to limited disclosure (Minn. Stat. § 244.052, Subd. 4) (refer to the DOC document "Confidential Fact Sheet - For Law Enforcement Agency Use Only" or other DOC guidance):

- (a) Mandatory disclosure:
  - 1. Victims who have requested disclosure
  - 2. Adult members of the offender's immediate household
- (b) Discretionary disclosure:
  - 1. Other witnesses or victims
  - 2. Other law enforcement agencies

### 413.5.3 LEVEL 2 DISCLOSURE

Data is subject to limited disclosure for the purpose of securing institutions and protecting individuals in their care while they are on or near the premises of the institution (Minn. Stat. § 244.052, Subd. 4) (refer to DOC document "Law Enforcement Agency Fact Sheet - Notification of Release in Minnesota - Risk Level 2" or other DOC guidance):

- (a) In addition to Level 1 disclosure, the Office may disclose data to:
  - 1. Staff members of public and private educational institutions, day care establishments and establishments that primarily serve individuals likely to be victimized by the offender.
  - 2. Individuals likely to be victimized by the offender.

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- (b) Discretionary notification must be based on the offender's pattern of offending or victim preference as documented by the DOC or the Minnesota Department of Human Services (DHS).

### 413.5.4 LEVEL 3 DISCLOSURE

Data is subject to disclosure not only to safeguard facilities and protect the individuals they serve but also to protect the community as a whole (Minn. Stat. § 244.052, Subd. 4) (refer to the DOC document "Law Enforcement Agency Fact Sheet - Notification of Release in Minnesota" or other DOC guidance):

- (a) The Office shall disclose information to the persons and entities provided for Level 1 and 2 disclosures.
- (b) The Office shall disclose data to other members of the community that the offender is likely to encounter unless public safety would be compromised by the disclosure or a more limited disclosure is necessary to protect the identity of the victim.
- (c) A good faith effort must be made to complete the disclosure within 14 days of receiving a confirmed address from the DOC.
- (d) The process of notification is determined by this office. The DOC has recommended that the community be invited to a public meeting and disclose the necessary data. Assistance is available from the DOC Risk Assessment/Community Notification (RA/CN) Unit.

Data disclosed to the public of a Level 3 predatory offender shall be forwarded to the DOC within two days of the office's determination to disclose (Minn. Stat. § 244.052, Subd. 4(g)).

### 413.5.5 HEALTH CARE FACILITY NOTIFICATION

Upon notice that a registered predatory offender is planning to be in this jurisdiction or has been admitted to a health care facility, home care provider, or hospice provider in this jurisdiction, this office shall provide a fact sheet to the facility administrator with the following data (Minn. Stat. § 243.166, Subd. 4b) (refer to the DOC documents, "Law Enforcement Agency Fact Sheet Health Care Facility Notification Data on a Registered Offender Not For Distribution to Facility Residents" and "Law Enforcement Agency Fact Sheet Health Care Facility Notification Data on a Registered Offender For Distribution to Facility Residents" or other DOC guidance):

- (a) Name and physical description of the offender
- (b) Offender's conviction history, including the dates of conviction
- (c) Risk level assigned to the offender, if any
- (d) Profile of likely victims

### 413.5.6 SPECIALIZED NOTIFICATION

Offenders from other states and offenders released from federal facilities are also subject to notification (Minn. Stat. § 244.052, Subd. 3a):

- (a) If this office learns that a person under its jurisdiction is subject to registration and desires consultation on whether the person is eligible for notification, the Office must

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contact the DOC. The DOC will review the governing law of the other state and, if comparable to Minnesota requirements, inform this office whether to proceed with community notification in accordance with the level assigned by the other state.

- (b) If the DOC determines that the governing law in the other state is not comparable, community notification by this office may be made consistent with that authorized for risk Level 2.
- (c) If this office believes that a risk level assessment is needed, the Office may request an end-of-confinement review. The Office shall provide to the DOC the necessary documents required to assess a person for a risk level.

### 413.5.7 VICTIM NOTIFICATION

If a predatory offender resides, expects to reside, is employed or is regularly found in this jurisdiction, the Office shall provide victims who have requested notification with data that is relevant and necessary to protect the victim. Information disclosed should be obtained from the risk assessment report provided by DOC (Minn. § Stat. 244.052, Subd. 3).

The DOC will provide victim contact data to this office when there is a victim who has requested notification (refer to the DOC document "Victim Data Confidential for Law Enforcement Agency Use Only").

It may be appropriate for members of the Office to directly contact the victim. Community victim advocacy or prosecutor resources may also be available to assist with locating and notifying a victim. Assistance is also available from the DOC victim services staff.

Members of the Office may contact other victims, witnesses and other individuals who are likely to be victimized by the offender.

### 413.5.8 HOMELESS NOTIFICATION PROCESS

If public notice (Level 2 or 3) is required on a registered homeless offender, that notice should be as specific as possible. These offenders are required to check in weekly with local law enforcement, unless an alternative reporting procedure is approved by the Sheriff (Minn. Stat. § 243.166, Subd. 3a).

### 413.5.9 LIMITATIONS OF RELEASE OF DATA

Disclosures permitted or required for Level 2 or 3 offenders shall not be made if the offender is placed or resides in a DOC-licensed residential facility. Upon notification that the offender is released to a permanent address, the disclosures permitted or required by law shall be made (Minn. Stat. § 244.052, Subd. 4). Data regarding the victim or witnesses shall not be disclosed (Minn. Stat. § 244.052, Subd. 4(e)).

The broadest disclosures authorized under Minn. Stat. § 244.052, Subd. 4 may still be made for certain offenders (sexually dangerous persons or persons with a sexual psychopathic personality) even though still residing in a residential facility (Minn. Stat. § 253D.32, Subd. 1).

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### **413.6 DISCLOSURE TO LOCAL WELFARE AGENCY**

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



## Major Incident Notification

### 414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this office in determining when, how and to whom notification of major incidents should be made.

### 414.2 POLICY

The Lyon County Sheriff's Office recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this office to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

### 414.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Sheriff and the appropriate supervisor personnel. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides.
- Traffic collisions with fatalities.
- Officer-involved shooting, whether on- or off-duty (See Officer-Involved Shootings and Deaths Policy for special notifications).
- Significant injury or death to an employee, whether on- or off-duty.
- Death of a prominent Lyon official.
- Arrest of Office employee or prominent Lyon official.
- Aircraft crash with major damage and/or injury or death.
- In-custody deaths.
- Any other incident, which has or is likely to attract significant media attention.

### 414.4 NOTIFICATION

Any Office member having information, or investigating an incident that would require notification shall report such incident circumstances to the Sheriff, and appropriate supervisory personnel. the request for notification can be made through Dispatch.

Notification of completed incidents shall be made as soon as practical. On-going serious nature incidents shall be reported immediately to the Sheriff, and if appropriate other supervisory personnel. .

## Limited English Proficiency Services

### 415.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

#### 415.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - A person who has been screened and authorized by the Office to act as an interpreter and/or translator for others.

**Interpret or interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

**Limited English proficient (LEP)** - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations. This includes individuals who, because of difficulty in speaking or comprehending the English language, cannot fully understand any charges made against them, the seizure of their property, or they are incapable of presenting or assisting in the presentation of a defense (Minn. Stat. § 611.31).

**Qualified bilingual member** - A member of the Lyon County Sheriff's Office, designated by the Office, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

**Translate or translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

### 415.2 POLICY

It is the policy of the Lyon County Sheriff's Office to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Office will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

### 415.3 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Office will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal

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Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by office members, or who may benefit from programs or services within the jurisdiction of the Office or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with office members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

### **415.4 TYPES OF LEP ASSISTANCE AVAILABLE**

Lyon County Sheriff's Office members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Office will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Office will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept office-provided LEP services at no cost or they may choose to provide their own.

Office-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

### **415.5 WRITTEN FORMS AND GUIDELINES**

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The Office will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

### **415.6 AUDIO RECORDINGS**

The Office may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

### **415.7 QUALIFIED BILINGUAL MEMBERS**

Bilingual members may be qualified to provide LEP services when they have demonstrated through established office procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services

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must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

When a qualified bilingual member from this office is not available, personnel from other County departments, who have been identified by the Office as having the requisite skills and competence, may be requested.

### **415.8 AUTHORIZED INTERPRETERS**

Any person designated by the Office to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the office case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the Office which demonstrates that their skills and abilities include:

- (a) The competence and ability to communicate information accurately in both English and in the target language.
- (b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this office and of any particularized vocabulary or phraseology used by the LEP individual.
- (c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (d) Knowledge of the ethical issues involved when acting as a language conduit.

#### **415.8.1 SOURCES OF AUTHORIZED INTERPRETERS**

The Office may contract with authorized interpreters who are available over the telephone.

Other sources may include:

- Qualified bilingual members of this office or personnel from other County departments.
- Language Line
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this office, and with whom the Office has a resource-sharing or other arrangement that they will interpret according to office guidelines.

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### **415.8.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE**

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Office to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, office members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

### **415.9 CONTACT AND REPORTING**

While all law enforcement contacts, services and individual rights are important, this office will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this office is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Office or some other identified source.

### **415.10 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

The Lyon County Sheriff's Office will take reasonable steps and will work with the County Administrator's Office to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

#### **415.10.1 EMERGENCY CALLS TO 9-1-1**

Office members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in Dispatch, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

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Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

### **415.11 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the deputy is unable to effectively communicate with an LEP individual.

If available, deputies should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

### **415.12 INVESTIGATIVE FIELD INTERVIEWS**

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, deputies should consider calling for an authorized interpreter in the following order:

- An authorized office member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

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### **415.13 CUSTODIAL INTERROGATIONS**

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

#### **415.13.1 OTHER TIMING AND NOTIFICATION MANDATES**

The investigating or arresting deputy shall immediately make necessary contacts to get an authorized interpreter for an in-custody LEP person at the earliest possible time in order to assist the person throughout the interrogation or taking of a statement. This applies even when the interrogation will be conducted by a bilingual member (Minn. Stat. § 611.32).

The following shall be explained to the LEP person with the assistance of the authorized interpreter (Minn. Stat. § 611.32):

- (a) All charges filed against the person
- (b) All procedures relating to the person's detainment and release
- (c) In the case of any seizure under the provisions of the Asset Forfeiture Policy:
  - 1. The possible consequences of the seizure
  - 2. The person's right to judicial review

#### **415.13.2 OATH**

Every authorized interpreter shall be administered and take the following oath prior to assisting in taking a statement related to a criminal matter from an in-custody LEP person (Min. Stat. § 611.33):

"I will make, to the best of my skill and judgment, a true interpretation to the disabled person being examined of all the proceedings, in a language which said person understands, and to repeat the statements, in the English language, of said person to the officials before whom the proceeding is taking place."

### **415.14 BOOKINGS**

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

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### **415.15 COMPLAINTS**

The Office shall ensure that LEP individuals who wish to file a complaint regarding members of this office are able to do so. The Office may provide an authorized interpreter or translated forms, as appropriate.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this office.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

### **415.16 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this office are important to the ultimate success of more traditional law enforcement duties. This office will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

### **415.17 REQUIREMENTS**

To ensure that all members who may have contact with LEP individuals are properly trained, the Office will provide periodic training on this policy and related procedures, including how to access office-authorized telephonic and in-person interpreters and other available resources.

#### **415.17.1 TRAINING FOR AUTHORIZED INTERPRETERS**

An interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language, demonstrate knowledge in both languages of any specialized terms or phraseology, and understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.



# Communications with Persons with Disabilities

## 416.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

### 416.1.1 DEFINITIONS

Definitions related to this policy include:

**Auxiliary aids** - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

**Disability or impairment** - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102). This includes those who, because of a hearing, speech or other communication disorder, cannot fully understand any charges made against them, the seizure of their property or they are incapable of presenting or assisting in the presentation of a defense (Minn. Stat. § 611.31).

**Qualified Interpreter** - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, transliterators, sign language interpreters and intermediary interpreters.

## 416.2 POLICY

It is the policy of the Lyon County Sheriff's Office to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Office will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

## 416.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Sheriff shall act as the Office ADA Coordinator (28 CFR 35.107).

The responsibilities of the ADA Coordinator shall include, but not be limited to:

- (a) Working with the County ADA coordinator regarding the Lyon County Sheriff's Office's efforts to ensure equal access to services, programs and activities.
- (b) Developing reports, new procedures, or recommending modifications to this policy.

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- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to office services, programs and activities.
- (d) Ensuring that a list of qualified interpreter services is maintained and available to each office member. The list should include information regarding the following:
  - 1. Contact information
  - 2. Availability
  - 3. Type of services provided
- (e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- (f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.
- (g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to office services, programs and activities.

### **416.4 FACTORS TO CONSIDER**

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this office should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

- (a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.
- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).
- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However in an emergency availability may factor into the type of aid used.

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### **416.5 INITIAL AND IMMEDIATE CONSIDERATIONS**

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

Members should exercise special care in the use of all gestures and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation when a member knows or suspects an individual requires assistance to effectively communicate the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include for example exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Lyon County Sheriff's Office, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

### **416.6 TYPES OF ASSISTANCE AVAILABLE**

Lyon County Sheriff's Office members shall never refuse to assist an individual with disabilities who is requesting assistance. The Office will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Office will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept office-provided auxiliary aids or services or they may choose to provide their own.

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Office-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

### **416.7 AUDIO RECORDINGS AND ENLARGED PRINT**

The Office may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

### **416.8 QUALIFIED INTERPRETERS**

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or the investigation. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available by some means, even remotely, within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use office-approved procedures to request a qualified interpreter at the earliest reasonable opportunity and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

### **416.9 TTY AND RELAY SERVICES**

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time as needed for effective communication due to the slower nature of TTY and TDD communications.

The Office will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

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Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

### **416.10 COMMUNITY VOLUNTEERS**

Interpreter services may be available from community volunteers who have demonstrated competence in communication services such as ASL or SE, and have been approved by the Office to provide interpreter services.

Where qualified interpreters are unavailable to assist approved community volunteers who have demonstrated competence may be called upon when appropriate. However office members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

### **416.11 FAMILY AND FRIENDS**

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

### **416.12 REPORTING**

Whenever any member of this office is required to complete a report or other documentation and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Office or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

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### **416.13 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Office recognizes it would be virtually impossible to provide immediate access to complete communication services to every member of this office. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example it would be meaningless to verbally request consent to search if the deputy is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, deputies should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

#### **416.13.1 FIELD RESOURCES**

Examples of methods that may be sufficient for transactions such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress may, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.
- (d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.
- (e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

### **416.14 CUSTODIAL INTERROGATIONS**

In an effort to ensure the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this office will provide interpreter services before beginning an interrogation, unless exigent circumstances exist. The use of a video

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remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

To ensure that communications during custodial investigations are accurately documented and are admissible as evidence, as with all custodial interviews, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

### 416.14.1 OTHER TIMING AND NOTIFICATION MANDATES

The investigating or arresting deputy shall immediately make necessary contacts to get a qualified interpreter for a person in custody at the earliest possible time (Minn. Stat. § 611.32).

The following shall be explained with the assistance of the qualified interpreter (Minn. Stat. § 611.32):

- (a) All charges filed against the person
- (b) All procedures relating to the person's detainment and release
- (c) In the case of any seizure under the Asset Forfeiture Policy:
  - 1. The possible consequences of the seizure
  - 2. The person's right to judicial review

### 416.14.2 OATH

Every qualified interpreter shall be administered and take the following oath prior to assisting in taking a statement related to a criminal matter from an in-custody deaf or hard of hearing person (Minn. Stat. § 611.33):

"I will make, to the best of my skill and judgment, a true interpretation to the disabled person being examined of all the proceedings, in a language which said person understands, and to repeat the statements, in the English language, of said person to the officials before whom the proceeding is taking place."

### 416.15 ARRESTS AND BOOKINGS

If an individual with speech or hearing disabilities is arrested, the arresting deputy shall use office-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the deputy reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If

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necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

#### **416.16 COMPLAINTS**

The Office shall ensure that individuals with disabilities who wish to file a complaint regarding members of this office are able to do so. The Office may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the Sheriff or other supervisory personnel.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Office.

#### **416.17 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this office are important to the ultimate success of more traditional law enforcement duties. This office will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

#### **416.18 TRAINING**

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Office will provide periodic training that should include:

- (a) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (b) Procedures for accessing qualified interpreters and other available resources.
- (c) Working with in-person and telephone interpreters and related equipment.

##### **416.18.1 CALL-TAKER TRAINING**

Emergency call-takers shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, hard of hearing or who have speech impairments. Such training and information should include:

- (a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.
- (b) ASL syntax and accepted abbreviations.



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- (c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls, using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.
- (d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Training should be mandatory for all Dispatch members who may have contact with individuals from the public who are deaf, hard of hearing or have impaired speech. Refresher training should occur every six months.

## Pupil Arrest Reporting

### 417.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the procedures to follow when a pupil is arrested on school grounds and during school hours.

### 417.2 PUPIL ARREST REPORTING

In the event a school pupil is arrested, the arresting deputy shall include the necessary information in the report to ensure that the Sheriff's Office personnel notifies the chief administrative officer of the school, or an appropriate designee, of the pupil's arrest.

If there is probable cause to believe an incident involved alcohol or a controlled substance, the arresting deputy shall complete the appropriate form and submit the form with the report to the Sheriff's Office Records. The Sheriff's Office Records shall ensure the form is distributed to the chemical abuse pre-assessment team of the school within two weeks of the occurrence (Minn. Stat. § 121A.28).

#### 417.2.1 PUPIL ARREST AFTER NOTIFICATION

Based upon the circumstances of the investigation, it may be appropriate to notify the school prior to the arrest. Prior notification and assistance from the school, may reduce disruption to school operations and other students.

#### 417.2.2 PUPIL ARREST BEFORE NOTIFICATION

Based upon the circumstances of the investigation, it may be appropriate to arrest the pupil before notifying the school. This may be appropriate if the pupil is a flight risk, if prior notification will impede the investigation or if notification creates additional risks to students, faculty, the deputy or the public.

Proper notification to the school after the pupil's arrest should then be made when circumstances reasonably allow.

#### 417.2.3 PARENTAL NOTIFICATION

Upon arrest, it is the arresting deputy's responsibility to ensure the parents of the arrested pupil are properly notified. Notification shall be made by the deputy, regardless of subsequent notifications by the juvenile detention facility. Notifications should be documented and include the charges against the pupil and where the pupil will be taken.

## Biological Samples

### 418.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples collected from those required to register, for example, as sex offenders.

### 418.2 POLICY

The Lyon County Sheriff's Office will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

### 418.3 PERSONS SUBJECT TO BIOLOGICAL SAMPLE COLLECTION

The following persons must submit a biological sample:

- (a) Adults who are subject to a court order requiring a biological sample after sentencing (Minn. Stat. § 609.117).
- (b) Juveniles who are subject to a court order requiring a biological sample after being adjudicated delinquent (Minn. Stat. § 609.117).

### 418.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall attempt to obtain the sample in accordance with this policy.

#### 418.4.1 COLLECTION

The following steps should be taken to collect a sample:

- (a) Verify that the individual is required to provide a sample pursuant to Minn. Stat. § 609.117.
- (b) Verify that a biological sample has not been previously collected from the offender by querying the person's criminal history. There is no need to obtain a biological sample if one has been previously obtained.
- (c) Use the designated collection kit provided by the Minnesota Bureau of Criminal Apprehension to perform the collection and take steps to avoid cross contamination.

### 418.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, deputies should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order or approval

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of legal counsel and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

- (a) The person's parole or probation officer when applicable.
- (b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.
- (c) The judge at the person's next court appearance.
- (d) The person's attorney.
- (e) A chaplain.
- (f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.
- (g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

### 418.5.1 VIDEO RECORDING

A video recording should be made any time force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the office's records retention schedule.

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## Child and Dependent Adult Safety

### 419.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this office.

This policy does not address the actions to be taken during the course of a child abuse or vulnerable adult investigation. These are covered in the Child Abuse and Adult Abuse.

### 419.2 POLICY

It is the policy of this office to mitigate, to the extent reasonably possible, the stressful experience individuals may have when a parent or caregiver is arrested. The Lyon County Sheriff's Office will endeavor to create a strong cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

### 419.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, deputies should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, deputies should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken:

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Deputies should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, deputies should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, deputies should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be nonproductive, the deputy at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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### 419.3.1 AFTER AN ARREST

Whenever an arrest is made, the deputy should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Deputies should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
  - 1. Deputies should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.
- (b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), deputies should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
  - 1. Except when a court order exists limiting contact, the deputy should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify the county social services agency, if appropriate.
- (e) Notify the field supervisor or Sergeant of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting deputy should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

### 419.3.2 DURING THE BOOKING PROCESS

During the booking process, the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law.

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If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

### 419.3.3 REPORTING

- (a) For all arrests where children are present or living in the household, the reporting employee will document the following information:
  - 1. Name
  - 2. Sex
  - 3. Age
  - 4. Special needs (e.g., medical, mental health)
  - 5. How, where and with whom or which agency the child was placed
  - 6. Identities and contact information for other potential caregivers
  - 7. Notifications made to other adults (e.g., schools, relatives)
- (b) For all arrests where dependent adults are present or living in the household, the reporting employee should document the following information about the dependent adult:
  - 1. Name
  - 2. Sex
  - 3. Age
  - 4. Whether he/she reasonably appears able to care for him/herself
  - 5. Disposition or placement information if he/she is unable to care for him/herself

### 419.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling deputies, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

## **419.4 DEPENDENT WELFARE SERVICES**

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling deputy should contact the appropriate welfare service or other office-approved social service entity to determine whether protective custody is appropriate (Minn. Stat. § 260C.007; Minn. Stat. § 260C.175 ).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the sheriff's facility, transported in a marked patrol car or taken into formal protective custody.

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Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

### **419.5 TRAINING**

The appropriate supervisory personnel are responsible to ensure that all personnel of this office who may be involved in arrests affecting children or dependent adults receive approved training on effective safety measures when a parent, guardian or caregiver is arrested.



## Service Animals

### 420.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Lyon County Sheriff's Office recognizes this need and is committed to making reasonable modifications to its policies, practices and procedures in accordance with Title II of the Americans with Disabilities Act (ADA) to permit the use of service animals that are individually trained to assist a person with a disability.

#### 420.1.1 DEFINITIONS

Definitions related to this policy include:

**Service animal** - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

### 420.2 POLICY

It is the policy of the Lyon County Sheriff's Office to provide services and access to persons with service animals in the same manner as those without service animals. Office members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

### 420.3 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the public is allowed. Office members are expected to treat individuals with service animals with the same courtesy and respect that the Lyon County Sheriff's Office affords to all members of the public (see generally Minn. Stat. § 256C.02; Minn. Stat. § 363A.19).

#### 420.3.1 REMOVAL

If an animal exhibits vicious behavior, poses a direct threat to the health of others or unreasonably disrupts or interferes with normal business operations, a deputy may direct the owner to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the animal. Each incident must be considered individually. Past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this office are expected to provide all services as are reasonably available to an individual with the disability.

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### 420.3.2 INQUIRY

If it is apparent or if a deputy is aware the animal is a service animal, the owner should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the deputy should ask the individual only the following questions:

- Is the animal required because of a disability?
- What task or service has the animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal, and no further question as to the animal's status should be asked. The person should not be questioned about his/her disabilities nor should the person be asked to provide any license, certification or identification card for the service animal.

### 420.3.3 CONTACT

Service animals are not pets. Office members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

### 420.3.4 COMPLAINTS

When handling calls of a complaint regarding a service animal, members of this office should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their owner into all areas that other customers or members of the public are allowed.

Absent a violation of law independent of the ADA, deputies should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice or the Minnesota Department of Human Rights.

## **420.4 IDENTIFICATION AND USE OF SERVICE ANIMALS**

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar. Service animals are not pets and may be trained by an individual or organization to assist people with disabilities.

Examples of the ways service animals may be used to provide assistance include:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.

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- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

# Native American Graves Protection and Repatriation

## 421.1 PURPOSE AND SCOPE

This policy is intended to ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

### 421.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

**Funerary objects** - Objects that, as part of the death rite or ceremony of a Native American culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects are either associated funerary objects or unassociated funerary objects.

Associated funerary objects are any funerary objects related to removed human remains, where the location of the human remains is known. This includes objects that were made exclusively for burial purposes or to contain human remains, regardless of the physical location or existence of any related human remains.

Unassociated funerary objects are any other funerary objects that are identified by a preponderance of the evidence such as:

- Related to human remains but the remains were not removed, or the location of the remains is unknown.
- Related to specific individuals or families.
- Removed from specific burial sites with Native American cultural affiliation.
- Removed from an area where such burial sites are known to have existed, but the site no longer exists.

**Native American human remains** - Any physical part of the body of a Native American individual.

**Objects of cultural patrimony** - Objects having ongoing historical, traditional, or cultural importance that is central to the Native American group or culture itself and, therefore, cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

**Sacred objects** - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

## 421.2 POLICY

It is the policy of the Lyon County Sheriff's Office that the protection of Native American human remains, funerary objects, associated funerary objects, unassociated funerary objects, sacred

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objects, or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption, or complicated custody transfer processes.

### **421.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT**

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, unassociated funerary objects, sacred objects, or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.5).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.5):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land - State archaeologist (Minn. Stat. § 307.08, Subd. 7)
- Tribal land - Responsible Indian tribal official

### **421.4 EVIDENCE AND PROPERTY**

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.7).

### **421.5 BURIAL GROUNDS**

All human burials, human remains and human burial grounds shall be afforded equal treatment and respect for human dignity, regardless of ethnic origins, cultural backgrounds or religious affiliations (Minn. Stat. § 307.08, Subd. 1).

This office shall cooperate with other government agencies, the Minnesota Office of the State Archaeologist and the Minnesota Indian Affairs Council to carry out any provisions of state law (Minn. Stat. § 307.08, Subd. 9).

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# Information Technology Use

## 422.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of office information technology resources, including computers, electronic devices, hardware, software and systems.

### 422.1.1 DEFINITIONS

Definitions related to this policy include:

**Computer system** - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented, or licensed by the Lyon County Sheriff's Office that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Office or office funding.

**Cybersecurity incident** - An action taken through the use of an information system or network that results in an actual or potentially adverse effect on an information system, network, or the information within (Minn. Stat. § 16E.36, Subd. 1).

**Hardware** - Includes but is not limited to computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, modems, or any other tangible computer device generally understood to comprise hardware.

**Software** - Includes but is not limited to all computer programs, systems, and applications, including shareware. This does not include files created by the individual user.

**Temporary file, permanent file, or file** - Any electronic document, information, or data residing or located, in whole or in part, on the system including but not limited to spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs, or videos.

## 422.2 INSPECTION OR REVIEW

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Office involving one of its members or a member's duties, an alleged or suspected violation of any office policy, a request for disclosure of data, or a need to perform or provide a service.

The IT staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the office computer system when requested by a supervisor or during the course of regular duties that require such information.

# Lyon County Sheriff's Office

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## *Information Technology Use*

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### **422.3 PROTECTION OF AGENCY SYSTEMS AND FILES**

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care and maintenance of the computer system.

Members shall ensure office computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present. Access passwords, logon information and other individual security data, protocols and procedures are confidential information and are not to be shared.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the Internet) to a supervisor.

### **422.4 POLICY**

It is the policy of the Lyon County Sheriff's Office that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the Office in a professional manner and in accordance with this policy.

### **422.5 RESTRICTED USE**

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors or Sergeants.

Members shall not use another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor.

#### **422.5.1 SOFTWARE**

Members shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company's copyright and license agreement.

To reduce the risk of a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any office computer. Members shall not install personal copies of any software onto any office computer.

When related to criminal investigations, software program files may be downloaded only with the approval of the information systems technology (IT) staff and with the authorization of the Sheriff or the authorized designee.

No member shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the Office while on office premises, computer systems or electronic devices. Such unauthorized use of software exposes the Office and involved members to severe civil and criminal penalties.

# Lyon County Sheriff's Office

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## *Information Technology Use*

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Introduction of software by members should only occur as part of the automated maintenance or update process of office- or County-approved or installed programs by the original manufacturer, producer or developer of the software.

Any other introduction of software requires prior authorization from IT staff and a full scan for malicious attachments.

### **422.5.2 INTERNET USE**

Internet access provided by or through the Office shall be strictly limited to office-related activities. Internet sites containing information that is not appropriate or applicable to office use and which shall not be intentionally accessed include, but are not limited to, adult forums, pornography, gambling, chat rooms and similar or related Internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

Downloaded information shall be limited to messages, mail and data files.

### **422.5.3 OFF-DUTY USE**

Members shall only use technology resources provided by the Office while on-duty or in conjunction with specific on-call assignments unless specifically authorized by a supervisor. This includes the use of telephones, cell phones, texting, email or any other "off the clock" work-related activities. This also applies to personally owned devices that are used to access office resources.

Refer to the Personal Communication Devices Policy for guidelines regarding off-duty use of personally owned technology.

### **422.6 PRIVACY EXPECTATION**

Members forfeit any expectation of privacy with regard to emails, texts or anything published, shared, transmitted or maintained through file-sharing software or any Internet site that is accessed, transmitted, received or reviewed on any office computer system.

The Office reserves the right to access, audit and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Office, including the office email system, computer network and/or any information placed into storage on any office system or device. This includes records of all keystrokes or Web-browsing history made at any office computer or over any office network. The fact that access to a database, service or website requires a username or password will not create an expectation of privacy if it is accessed through office computers, electronic devices or networks.

### **422.7 CYBERSECURITY INCIDENTS**

The Sheriff or the authorized designee shall report any cybersecurity incident that impacts the Office to the Minnesota Bureau of Criminal Apprehension within 72 hours after an incident has been identified (Minn. Stat. § 16E.36, Subd. 2).



## Off-Duty Law Enforcement Actions

### 423.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place a deputy as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for deputies of the Lyon County Sheriff's Office with respect taking law enforcement action while off-duty.

### 423.2 POLICY

Deputies generally should not initiate law enforcement action while off-duty. Deputies should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

When the safety of the public or the prevention of major property damage requires immediate action, deputies should first consider reporting and monitoring the activity and only take direct action as a last resort.

Deputies are not expected to place themselves in unreasonable peril. However, any licensed member of this office who becomes aware of an incident or circumstance that the member reasonably believes would justify the use of deadly force or result in significant property damage may take reasonable action to minimize or eliminate the threat. See the Use of Force Policy for additional guidance.

### 423.3 FIREARMS

Deputies of this office may carry firearms while off-duty in accordance with federal regulations, state law and office policy. All firearms and ammunition must meet guidelines as described in the Firearms Policy. When carrying firearms while off-duty, deputies shall also carry their office-issued badge and identification.

Deputies should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any deputy who has consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the deputy's senses or judgment.

#### 423.3.1 FIELD TRAINING OFF-DUTY FIREARMS

Deputies while in field training shall not carry department issued firearms while off-duty. Deputies shall have completed the field training program and have been certified for solo patrol prior to the carrying of department issued firearms while off-duty in accordance with POLICY 443.3. The prohibition to carrying of department issued firearms off-duty while in field training does not limit the deputy from carrying of personally owned firearms under a valid permit to carry in accordance to federal, state regulations and/or Lyon County Sheriff's Office Policy.

## *Off-Duty Law Enforcement Actions*

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### **423.4 DECISION TO INTERVENE**

There is no legal requirement for off-duty deputies to take law enforcement action. However, should deputies decide to intervene, they must evaluate whether the action is necessary or desirable and should take into consideration:

- (a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.
- (b) The inability to communicate with responding units.
- (c) The lack of equipment, such as handcuffs, Oleoresin Capsicum (OC) spray or a baton.
- (d) The lack of cover.
- (e) The potential for increased risk to bystanders if the off-duty deputy were to intervene.
- (f) Unfamiliarity with the surroundings.
- (g) The potential for the off-duty deputy to be misidentified by other peace officers or members of the public.

Deputies should consider waiting for on-duty uniformed deputies to arrive and gather as much accurate intelligence as possible instead of immediately intervening.

#### **423.4.1 INTERVENTION PROCEDURE**

If involvement is reasonably necessary, the deputy should attempt to call or have someone else call 9-1-1 to request immediate assistance. The operator should be informed that an off-duty deputy is on-scene and should be provided a description of the deputy if reasonably possible.

Whenever reasonably practicable, the deputy should loudly and repeatedly identify him/herself as an Lyon County Sheriff's Office deputy until acknowledged. Official identification should also be displayed.

#### **423.4.2 INCIDENTS OF PERSONAL INTEREST**

Deputies should refrain from handling incidents of personal interest (e.g., family or neighbor disputes) and should remain neutral. In such circumstances, deputies should call the responsible agency to handle the matter.

#### **423.4.3 NON-LICENSED RESPONSIBILITIES**

Non-licensed personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and reasonably practicable.

#### **423.4.4 OTHER CONSIDERATIONS**

When encountering a non-uniformed deputy in public, uniformed deputies should wait for acknowledgement by the non-uniformed deputy in case he/she needs to maintain an undercover capability.

# Lyon County Sheriff's Office

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## *Off-Duty Law Enforcement Actions*

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### **423.5 REPORTING**

Any deputy, prior to taking any off-duty law enforcement action, shall notify and receive approval of an Lyon County Sheriff's Office supervisor (or other applicable enforcement authority if acting outside the jurisdiction of the Lyon County Sheriff's Office). The Sergeant shall determine whether a report should be filed by the employee.

Deputies should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

## Canines

### 424.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of Police Service Canines to augment law enforcement services in the community including, but not limited to locating individuals and searching for contraband or other articles..

### 424.2 POLICY

It is the policy of the Lyon County Sheriff's Office that teams of handlers and canines meet and maintain the appropriate proficiency to effectively and reasonably carry out legitimate law enforcement objectives.

### 424.3 REQUESTS FOR CANINE TEAMS

Patrol Deputies are encouraged to request the use of a canine at any time in which the use of a canine team may be of assistance in an investigation. The canine handler is responsible for determining the canine's suitability for such assignments based on the conditions and the particular abilities of the canine.

#### 424.3.1 OUTSIDE AGENCY REQUEST

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

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.
- (b) The canine handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable based on the conditions and the particular abilities of the canine..
- (c) Calling out off-duty canine teams is discouraged, but will be evaluated by a supervisor on a case-by-case basis as a request is received.
- (d) It shall be the responsibility of the canine handler to coordinate operations with the requesting agency personnel in order to minimize the risk of any unintended injury.
- (e) It shall be the responsibility of the canine handler to complete all necessary written Incident reports, or completion of any other documentation or reports as directed.

#### 424.3.2 PUBLIC DEMONSTRATIONS

All public requests for a canine team shall be reviewed and, if appropriate, approved by the Chief Deputy or appropriate supervisor

prior to making any resource commitment. The canine handler is responsible for obtaining resources and coordinating involvement in the demonstration to include proper safety protocols.

## Canines

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### **424.4 NON-APPREHENSION GUIDELINES**

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

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

#### **424.4.1 ARTICLE DETECTION**

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

#### **424.4.2 NARCOTICS DETECTION**

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

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

A narcotics-detection trained canine will not be used to search a person for narcotics unless the canine is trained to passively indicate the presence of narcotics.

### **424.5 HANDLER SELECTION**

The selection of Deputy Canine Handlers, including their assignment to the program, deployment and continued service is at the sole discretion of the Sheriff.

The minimum qualifications for the assignment as Deputy Canine Handler include:

- (a) A Deputy who is currently off probation and has a minimum of three years patrol experience.

## Canines

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- (b) Resides within Lyon County or within reasonable response for off-duty deployment at the discretion of the Sheriff.

### **424.6 HANDLER RESPONSIBILITIES**

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

The canine handler will be responsible for the following:

- (a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all office equipment under his/her control in a clean and serviceable condition.
- (c) Handlers shall permit the Chief Deputy to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.
- (d) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine coordinator as soon as possible.
- (e) When off-duty the canine shall be in a kennel provided by the Lyon County Sheriff's Office at the home of the handler. While a canine is kenneled at the handler's home the gate shall be secured. When off-duty the canine may be let out of the kennel while under the direct control or direction of the handler.
- (f) The canine should be permitted to socialize in the home with the handler's family under the direct supervision or direction of the handler.
- (g) Under no circumstances will the canine be lodged at another location unless approved by the Chief Deputy.
- (h) When off-duty the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the Chief Deputy or Sheriff.
- (i) Whenever a canine handler is off-duty for an extended number of days it may be necessary to temporarily relocate the canine. In those situations the handler shall give reasonable notice to the Chief Deputy so that appropriate arrangements can be made.

#### **424.6.1 CANINE IN PUBLIC AREAS**

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

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

## Canines

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### **424.7 HANDLER COMPENSATION**

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

### **424.8 CANINE INJURY AND MEDICAL CARE**

In the event that a canine is injured, or there is an indication that the canine is not in good physical condition, the injury or condition will be reported to the Chief Deputy as soon as practical as well as appropriately documented by the canine handler.

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

### **424.9 TRAINING**

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

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

All canine training should be conducted while on-duty unless otherwise approved by the Chief Deputy or Sergeant.

#### **424.9.1 CONTINUED TRAINING**

Each canine team shall thereafter be re-certified to a current National Police Canine Association (NPCA) standard, United States Police Canine Association (USPCA) standard, or other nationally recognized and approved certification standards

on an annual basis. Additional training considerations are as follows:

- (a) Canine handlers are encouraged to engage in additional training with approval of the Chief Deputy.
- (b) To ensure that all training is consistent no handler, trainer or outside vendor is authorized to train to a standard that is not reviewed and approved by this office.

## Canines

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### 424.9.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

Any canine team failing to graduate or obtain certification shall not be deployed in the field for tasks the team is not certified to perform until graduation or certification is achieved. When reasonably practicable, pending successful certification, the canine handler shall be temporarily reassigned to regular patrol duties.

### 424.9.3 TRAINING RECORDS

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

### 424.9.4 TRAINING AIDS

Training aids are required to effectively train and maintain the skills of canines. Deputies possessing, using or transporting controlled substances or explosives for canine training purposes must comply with federal and state requirements. Alternatively, the Lyon County Sheriff's Office may work with outside trainers with the applicable licenses or permits.

### 424.9.5 CONTROLLED SUBSTANCE TRAINING AIDS

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

The Sheriff or the authorized designee may authorize a member to seek a court order to allow controlled substances seized by the Lyon County Sheriff's Office to be possessed by the member or a narcotics-detection canine trainer who is working under the direction of this office for training purposes, provided the controlled substances are no longer needed as criminal evidence.

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

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

### 424.9.6 CONTROLLED SUBSTANCE PROCEDURES

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

- (a) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler or trainer.
- (b) The weight and test results shall be recorded and maintained by this office.
- (c) Any person possessing controlled substance training samples pursuant to court order or DEA registration shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.



## Canines

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(d) All controlled substance training samples will be inspected, weighed, and tested Bi-Annually. The results of the Bi-Annual testing shall be recorded and maintained by the canine handler with a copy forwarded to the dispensing agency.

(e) All controlled substance training samples will be stored in locked, airtight, and watertight cases at all times, except during training. The locked cases shall be secured in the trunk of the canine handler's assigned patrol vehicle during transport and stored in an appropriate locked container. There are no exceptions to this procedure.

(f) The canine supervisor shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.

(g) Any unusable controlled substance training samples shall be returned to the Evidence Room or to the dispensing agency.

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

### **424.10 REPORTING BITES AND INJURIES.**

Any unintended bite or injury caused by a canine, whether on- or off-duty, shall be promptly reported to the Chief Deputy. Unintended bites or injuries caused by a canine should be documented in an Incident Narrative report and properly documented.

If an individual alleges an injury, either visible or not visible, a supervisor shall be notified and both the individual's injured and uninjured areas shall be photographed as soon as reasonably practicable after first tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current office evidence procedures. The photographs shall be retained until the criminal proceeding is completed and the time for any related civil proceeding has expired.

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

### **424.11 CANINE OWNERSHIP**

Each Police Service Canine is the property of the Lyon County Sheriff's Office. The Lyon County Sheriff's Office will provide all dog food, medical expenses, and kenneling and housing material for the working life of the Police Service Canine. The handler, at the time of the canine's retirement or replacement, may have the first opportunity to obtain ownership of and care for the canine for the remainder of the canine's life. Ownership and care assumption responsibility will be documented via a written canine separation agreement.

## Asset Forfeiture

### 425.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with specified designated offenses and controlled substance offenses (Minn. Stat. § 609.531 to Minn. Stat. § 609.5318).

### 425.2 POLICY

The Lyon County Sheriff's Office recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential of revenue shall not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations or the due process rights of citizens.

It is the policy of the Lyon County Sheriff's Office that all employees of the agency, all employees assigned to another law enforcement agency's task force and all employees assigned to a task force from an outside law enforcement agency, in which this agency serves as the Fiscal Agent, follow all state and federal laws pertaining to forfeiture.

### 425.3 DEFINITIONS

Definitions related to this policy include:

**Cash** - Money in the form of bills or coins, traveler's checks, money orders, checks, or other forms of electronic money or stored value cards, including but not limited to gift cards, debit cards, gift cards/certificates, or other negotiable financial instruments.

**Conveyance device** - A device used for transportation. It includes but is not limited to a motor vehicle, trailer, snowmobile, airplane, and vessel, and any equipment attached to it. The term "conveyance device" does not include property which has been stolen or taken in violation of the law.

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

**Fiscal Agent** - The person designated by the Lyon County Sheriff's Office to be responsible for securing and maintaining seized assets and distributing any proceeds as a result of any forfeiture proceedings. This includes anytime the Lyon County Sheriff's Office seizes property for forfeiture or when the Lyon County Sheriff's Office is acting as the fiscal agent pursuant to a multi-agency agreement.

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

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## Asset Forfeiture

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**Forfeiture Reviewer** - The Lyon County Sheriff's Office employee assigned by the Lyon County Sheriff's Office responsible for reviewing all forfeiture cases and for acting as the liaison between the Office and the prosecutor's office.

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

**Property subject to administrative forfeiture** - The following property is subject to administrative forfeiture under Minnesota Law (Minn. Stat. § 609.5314):

- (a) All cash totaling \$1500 or more, precious metals, and precious stones that there is probable cause to believe represent the proceeds of a controlled substance offense, and all cash found in proximity to controlled substances when there is probable cause to believe that the cash was exchanged for the purchase of a controlled substance.
- (b) All conveyance devices containing controlled substances with a retail value of \$100 or more if there is probable cause to believe that the conveyance device was used in the transportation or exchange of a controlled substance intended for distribution or sale.
- (c) All firearms, ammunition, and firearm accessories found:
  1. In a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance.
  2. On or in proximity to a person from whom a felony amount of controlled substance is seized.
  3. On the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under Minnesota Statutes, Chapter 152.

**Seizure** - The act of law enforcement officials taking property, including cash and conveyance devices that have been used in connection with or acquired by illegal activities.

### 425.4 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy.

#### 425.4.1 PROPERTY SUBJECT TO SEIZURE

The following property is subject to seizure.

- (a) The following property may be seized upon review and approval of a supervisor and in coordination with the Forfeiture Reviewer:
  1. Controlled substances and associated property as described in Minn. Stat. § 609.5311.
  2. Property intended for use to commit or facilitate the commission of a designated offense, as listed in Minn. Stat. § 169A.63, Subd. 6 and limited by Minn. Stat. §

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169A.63, Subd. 7, and as listed in Minn. Stat. § 609.531, Subd. 1(f) and limited by Minn. Stat. § 609.5312.

- (b) Property subject to administrative forfeiture may be seized without prior supervisor approval if the item has a retail value of \$50,000 or less (Minn. Stat. § 609.5314).

### 425.4.2 CASH

Peace officers shall not seize cash having an aggregate value less than \$20 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 as soon as practicably possible.

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 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.

### 425.4.3 PROPERTY NOT SUBJECT TO SEIZURE

The following property should not be seized for forfeiture:

- (a) Cash and property that does not meet the prosecuting agency's current minimum forfeiture thresholds.
- (b) Cash totaling less than \$1,500, unless prerecorded buy funds are included in the cash seized.

### 425.4.4 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.

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### 425.4.5 SEIZURE OF PROPERTY TO BE FORFEITED

A deputy may seize property subject to forfeiture based on a court order. A deputy may also seize property without a court order under any of the following conditions (Minn. Stat. § 609.531, Subd. 4; Minn. Stat. § 169A.63, Subd. 2):

- (a) The seizure is incident to a lawful arrest or a lawful search.
- (b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding.
- (c) The deputy has probable cause to believe that a delay to obtain a warrant or other process would result in the removal or destruction of the property and that either of the following apply:
  1. The property was used or is intended to be used in commission of a felony.
  2. The property is dangerous to health or safety.

### 425.4.6 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.

### 425.4.7 FIREARMS/AMMUNITION/FIREARM ACCESSORIES

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

## 425.5 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

When property or cash subject to this policy is seized, the deputy making the seizure should ensure compliance with the following:

- (a) If the retail value of the asset to be seized is \$50,000 or less, completely and accurately prepare the Notice of Seizure and Intent to Forfeit Property Form (seizure form) and present it to the person from whom the property is to be seized for that person's signature. If the person refuses to sign, the deputy shall indicate on the seizure form that the person refused. The seizure form is not used when the value of the seized property exceeds \$50,000.
- (b) Prepare and provide a receipt for the items seized to the person from whom the property is being seized.
  1. If cash or property is seized from more than one person, a separate property inventory receipt must be completed for each person specifying the amount of cash seized. The receipt shall include a detailed description of all property, checks, money orders, traveler's checks or other financial instruments.

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- (c) Complete and submit a report within 24 hours of the seizure if practicable. The report must include, at minimum, the following:
  - 1. A description of the items seized
  - 2. The location where the property was turned in or stored
  - 3. The name of the individual who was served with the seizure form
  - 4. The date that the seizure form was served
  - 5. The name of the deputy making the seizure
  - 6. Whether the individual signed the seizure form
- (d) If property is seized from multiple individuals, a separate seizure form will be completed for each individual. A copy of the receipt and seizure form must be given to the individual from whom the property was seized.
- (e) When property is seized and no one claims possession of the property, the deputy must leave a receipt in the place where the property was found if it is reasonably possible to do so.
- (f) The deputy will book seized property into the Deputy as evidence, with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.
- (g) Forward the original and the pink copy of the seizure form, and any seized property processing worksheets, property receipts and reports to the Forfeiture Reviewer within 10 days of seizure.
- (h) Inform the Forfeiture Reviewer of the estimated retail value of drugs found in proximity to the asset seized.

### 425.5.1 CASH HANDLING

It is the responsibility of the seizing deputy to secure and count cash consistent with this policy and the Cash Handling, Security and Management Policy. All cash shall be counted in the presence of another deputy and the envelope initialed by both deputies. A supervisor shall be contacted for cash in excess of \$1,000. The supervisor shall also witness the count, and will initial and date the property documentation and specify any additional security procedures to be used.

All forfeitable cash seized will be turned over to the Forfeiture Reviewer or property/evidence room as soon as practicable.

Prior to deposit with the Forfeiture Reviewer, deputies shall examine all cash seized to determine whether it contains any prerecorded buy funds. Deputies shall document the recovery of all buy funds and deposit those funds with the Forfeiture Reviewer to be returned to the appropriate buy fund account.

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### 425.5.2 JEWELRY/PRECIOUS METALS/PRECIOUS STONES

Deputies seizing jewelry, precious metals and/or precious stones will write a detailed description of each item on the property inventory receipt. A copy of the property inventory receipt and any photographs of the jewelry, precious metals and/or precious stones shall be delivered to the Forfeiture Reviewer.

Deputies seizing jewelry, precious metals and/or precious stones shall book those items according to current property and evidence procedures as soon as practicable.

### 425.5.3 VEHICLES

Any conveyance device seized for forfeiture shall be taken to a secure designated area or to a department-approved impound facility as soon as practicable.

Deputies shall inventory the conveyance device and its contents in accordance with the Vehicle Towing Policy. Deputies shall also complete applicable report forms and distribute them appropriately. A copy of the vehicle storage report shall be included with the seizure documentation that is submitted to the Forfeiture Reviewer.

### 425.5.4 FIREARMS/AMMUNITION/FIREARM ACCESSORIES

When firearms, ammunition or firearms accessories are seized, they shall be inventoried and delivered to the Deputy in accordance with the current booking procedures and the Deputy Policy.

## 425.6 MAINTAINING SEIZED PROPERTY

The Deputy supervisor is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition (Minn. Stat. § 609.531 Subd. 5).
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or returned to the claimant or person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.

## 425.7 FORFEITURE REVIEWER

The Sheriff will appoint a deputy as the Forfeiture Reviewer. Prior to assuming duties, or as soon as practicable thereafter, the Forfeiture Reviewer should attend a office-approved course on asset forfeiture.

The responsibilities of Forfeiture Reviewer include the following:

- (a) Confer regularly with the prosecuting attorney's office to remain familiar with forfeiture laws, particularly Minn. Stat. § 609.531 through Minn. Stat. § 609.5318, Minn. Stat. § 169A.63, and the forfeiture policies of the prosecuting agency.

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- (b) Make reasonable efforts to obtain annual training that includes best practices in pursuing, seizing, and tracking forfeitures.
- (c) Ensure responsibilities, including designation of a Fiscal Agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (d) Ensure that a seizure form, property inventory receipt, and a forfeited property processing worksheet is available and appropriate for office use. The seizure form will minimally include the following (Minn. Stat. § 609.5314):
  - 1. Space for an itemized list of items seized
  - 2. The location and date of the seizure
  - 3. A place for the name of the individual served with the seizure form
  - 4. The date and signature of the deputy conducting the seizure
  - 5. The agency case number
  - 6. A space for the signature of the person from whom property is seized or an appropriate space or check box for the deputy to indicate that the person refused to sign
  - 7. At least an original and the pink copy
  - 8. Information in English, Hmong, Somali and Spanish explaining the right to obtain judicial review and the procedure provided by Minn. Stat. § 609.5314.
- (e) Ensure that deputies who may be involved in asset forfeiture receive training in the proper use of the seizure form and the forfeiture process. The training should be developed in consultation with the prosecuting attorney and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins, or office directives. The training should be based on this policy and address any relevant statutory changes and court decisions.
- (f) Review each asset forfeiture case to ensure the following:
  - 1. Written documentation of the seizure and items seized is present in the case file.
  - 2. Independent prosecutorial review of the circumstances and propriety of the seizure is made in a timely manner.
  - 3. A timely notice of seizure has been given to interest holders of seized property.
  - 4. Property is promptly released to those entitled to its return.
- (g) Forward all changes to forfeiture status to any supervisor who initiates a forfeiture case.
- (h) Deposit any cash received with the Fiscal Agent.
- (i) Ensure the current minimum forfeiture thresholds are communicated appropriately to deputies.
- (j) Annually review and update this policy and any related policies to reflect current federal and state statutes and case law.



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- (k) Prepare a written plan for the Sheriff to address any extended absence of the Forfeiture Reviewer to ensure that contact information for other law enforcement officers and attorneys who may assist in these matters is available.
- (l) Ensure the Office disposes of property as provided by law following any forfeiture (Minn. Stat. § 609.5315).
- (m) Ensure that any forfeited property used in an undercover capacity, or that is sold or added to the office inventory is done so according to Minnesota law.
- (n) Ensure that all forfeited property is used or disposed of in a manner consistent with the use and disposition of similar property by this office.
- (o) Upon completion of any forfeiture process, ensure that no property is retained by the Lyon County Sheriff's Office unless the Lyon County Sheriff's Office authorizes in writing the retention of the property for official use.
- (p) Ensure that forfeiture proceeds are maintained in a separate fund or account subject to appropriate accounting control with regular reviews or audits of all deposits and expenditures (Minn. Stat. § 609.5315).
- (q) Ensure that records of forfeiture are retained for a minimum of six years.
- (r) Ensure forfeiture reporting is made to the state auditor in the manner prescribed by the auditor (Minn. Stat. § 609.5315, Subd. 6).

### **425.8 DISPOSITION OF FORFEITED PROPERTY**

Legal disposition may include (Minn. Stat. § 609.5315; Minn. Stat. § 169A.63, Subd. 10):

- (a) Retention by the Office and/or prosecuting agency.
  - 1. If a forfeited motor vehicle is kept for Office use, the Office will make a reasonable effort to ensure the vehicle is available for use and adaptation by deputies who participate in the Office's Drug Abuse Resistance Education program (Minn. Stat. §609.5315).
- (b) Destruction.
- (c) Sale performed in a commercially reasonable manner.
- (d) Other disposition pursuant to applicable provisions of Minnesota Statutes.

No member of this office may use property that has been seized for forfeiture until the forfeiture action has been completed and the Lyon County Sheriff's Office has given written authorization to retain the property for official use.

Members of this office or persons related to members of this office by blood or marriage are prohibited from purchasing forfeited items sold by this office (Minn. Stat. § 609.5315, Subd. 1(c)).

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## Office Use of Social Media

### 426.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Office is consistent with the office mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by office members (see the Employee Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this office (see the Investigation and Prosecution Policy).

#### 426.1.1 DEFINITIONS

Definitions related to this policy include:

**Social media** - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the office website or social networking services.

### 426.2 POLICY

The Lyon County Sheriff's Office may use social media as a method of effectively informing the public about office services, issues, investigations and other relevant events.

Office members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

### 426.3 AUTHORIZED USERS

Only members authorized by the Sheriff or the authorized designee may utilize social media on behalf of the Office. Authorized members shall use only office-approved equipment during the normal course of duties to post and monitor office-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Sheriff may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a supervisor prior to posting.

Requests to post information over office social media by members who are not authorized to post should be made through the member's chain of command.

### 426.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the office mission and conforms to all office policies regarding the release of information may be posted.

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Examples of appropriate content include:

- (a) Announcements.
- (b) Tips and information related to crime prevention.
- (c) Investigative requests for information.
- (d) Requests that ask the community to engage in projects that are relevant to the office mission.
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.
- (f) Traffic information.
- (g) Press releases.
- (h) Recruitment of personnel.

### 426.4.1 INCIDENT-SPECIFIC USE

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Sergeant or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Commander.

### 426.5 PROHIBITED CONTENT

Content that is prohibited from posting includes, but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
- (c) Any information that could compromise an ongoing investigation.
- (d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Lyon County Sheriff's Office or its members.
- (e) Any information that could compromise the safety and security of office operations, members of the Office, victims, suspects or the public.
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy or a supervisor.

Any member who becomes aware of content on this Office's social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

### 426.5.1 PUBLIC POSTING PROHIBITED

Office social media sites shall be designed and maintained to prevent posting of content by the public.

The Office may provide a method for members of the public to contact office members directly.

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## *Office Use of Social Media*

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### **426.6 RETENTION OF RECORDS**

The Custodian of Records should establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules.

### **426.7 TRAINING**

Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on office sites.

## Extreme Risk Protection Orders (ERPO)

### 427.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for petitioning for and serving extreme risk protection orders and accounting for firearms obtained pursuant to those orders.

#### 427.1.1 DEFINITIONS

Definitions related to this policy include (Minn. Stat. § 624.7171):

**Extreme risk protection order (ERPO)** - An order prohibiting a named person from possessing or purchasing prohibited items.

**Prohibited items** - Firearms that are prohibited by an ERPO.

### 427.2 POLICY

It is the policy of the Lyon County Sheriff's Office to petition for and serve ERPOs in compliance with state law, and to properly account for prohibited items obtained and/or seized by the Lyon County Sheriff's Office pursuant to such orders, or as obtained and seized pursuant to a valid Order or warrant of the Court.

### 427.3 ERPO COORDINATOR

The Chief Deputy shall act as the ERPO Coordinator for the Lyon County Sheriff's Office or other supervisor designee(s) in their absence when appropriate

The responsibilities of the ERPO Coordinator include:

- (a) Developing and maintaining procedures for the filing of a petition for an ERPO or a renewal of an ERPO by department members.
- (b) Identifying factors to consider when assessing whether to seek an ERPO, including:
  - (a) Whether threats have been made, and if so, whether the threats are credible and specific.
  - (b) Whether the potential victim is within close proximity to the ERPO respondent.
  - (c) Whether the person has expressed suicidal tendencies.
  - (d) Whether the person has access to firearms.
  - (e) Whether the person has committed an act of violence toward themselves or another person.
  - (f) The criminal history of the person, in particular any history of criminal violence, including whether the person is currently on parole, probation, or monitored supervised release.
  - (g) The mental health history of the person, in particular whether the person has any history of mental illness or has ever been detained for being a danger to themselves or others.

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## *Extreme Risk Protection Orders (ERPO)*

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- (h) Any known upcoming holidays, anniversaries, or other dates of significance that may serve as a trigger for the person, such as the death of a family member.
- (i) Whether the person has any history of drug or alcohol abuse.
- (c) Developing and maintaining procedures for the receipt and service of ERPOs consistent with the requirements of Minn. Stat. § 624.7172; Minn. Stat. § 624.7175;
  - (a) Procedures should include:
    - (a) Evaluation of an Order to determine appropriate service and necessary precautions.
    - (b) Forwarding ERPOs to Civil Process for data entry and recording in appropriate databases and required notice to the court, as applicable.
    - (c) Preparing or obtaining a search warrant prior to attempting service of an ERPO, when appropriate (Minn. Stat. § 624.7175).
  - (d) Coordinating with the Deputy -Sergeants to provide deputies who may be involved in petitioning for or serving ERPOs with training on such orders. Training should include determining when a petition is appropriate, the process for seeking ERPOs, and the service of such orders.
  - (e) Reviewing each petition and any associated court documents for an ERPO prepared by members, for compliance with this policy, Lyon County Sheriff's Office procedures, and state law.
  - (f) Developing and maintaining procedures for members to accept voluntarily surrendered prohibited items at times other than when an ERPO is being served by the Lyon County Sheriff's Office (Minn. Stat. § 624.7175). Procedures should include:
    - (a) Preparing and providing a receipt identifying all prohibited items to the person surrendering the prohibited items (i.e. firearms) .
    - (b) Proper handling and processing of surrendered items.

### **427.4 EXTREME RISK PROTECTION ORDERS**

A Deputy or Office member who reasonably believes that an ERPO is appropriate should obtain approval from the extreme risk protection order coordinator or other authorized designee of the Sheriff prior to seeking petitioning for an ERPO.

#### **427.4.1 STANDARDS**

Extreme risk protection orders may be appropriate if a person poses a significant danger of bodily harm to other persons or is at significant risk of suicide by possessing a firearm (Minn. Stat. § 624.7171, Subd. 4).

If a person poses a significant danger of bodily harm to other persons or is at significant risk of suicide by possessing a firearm, and presents an immediate and present danger of either bodily harm to others or of taking their life, an ERPO may be appropriate (Minn. Stat. § 624.7174).

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## *Extreme Risk Protection Orders (ERPO)*

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### 427.4.2 REQUIREMENTS OF PETITION

An application for an ERPO should be prepared, filed, and served consistent with state law and the procedures developed by the ERPO Coordinator (Minn. Stat. § 624.7171).

### **427.5 SERVICE OF ORDERS**

Deputies should serve a copy of an ERPO, along with any accompanying notice of hearing and petition, affidavit, as applicable, on the person named in the order as soon as reasonably practicable (Minn. Stat. § 624.7172).

Service of ERPOs should take precedence over the service of other orders, except for orders of a similar emergency nature.

#### 427.5.1 SAFETY CONSIDERATIONS

Upon receipt of an ERPO, the Deputy -Sergeant or Deputy assigned to service of the Order should evaluate the circumstances of the order and consider what precautions are appropriate for service of the protection order.

At least two deputies should be present when an ERPO is being served.

#### 427.5.2 SURRENDER OF PROHIBITED ITEMS

Deputies serving an ERPO should request that the named person immediately surrender all prohibited items as required by the order and take custody of any items surrendered pursuant to the order (Minn. Stat. § 624.7172; Minn. Stat. § 624.7175).

The deputy serving the ERPO should prepare a receipt identifying all surrendered items and a copy of the receipt should be given to the person. The deputy should ensure an accurate original receipt is included in the case file and forwarded to the Criminal Records Clerk as soon as practicable.

All items collected should be handled and booked in accordance with the evidence and property handling policies.

#### 427.5.3 SEARCH WARRANTS

Deputies should consider whether a search warrant may be reasonably necessary prior to attempting service of an ERPO.

Deputies should also consider whether to seek a search warrant if the named person refuses to surrender any prohibited items or if the deputy serving an ERPO reasonably believes there are prohibited items within the persons custody, control, or possession that have not been surrendered.

### **427.6 RELAYING OF ERPOS TO LOCAL JURISDICTIONS**

Office personnel should relay for service, without delay, ERPOs that are sent or provided to the sheriff's office that are of, and upon a respondent of municipality with jurisdiction that employ local police department services within Lyon County. Such ERPOs should be forwarded without delay to the CLEO or other supervisory personnel or appropriate personnel of the police department with jurisdiction with a copy of the ERPO and also relay any other pertinent information regarding

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the subject respondent of the ERPO or any other information related to the service of ERPO that may be pertinent.

Sheriff's Office personnel may assist as needed the local police department with service of the Order. The local police department should be prepared for the proper handling and storage of the prohibited items seized consistent with Minn. Stat. § 624.7171 to Minn. Stat. § 624.7178 for the duration of the ERPO.

### **427.6.1 RELAY OF THREATENING OR OTHER HARMFUL BEHAVIOR**

If the Office receives information regarding a subject's threatening behavior or significant risk of suicide, such information shall be forwarded to the local municipality of jurisdiction if the municipality employs a local police department for law enforcement services within Lyon County, or to the appropriate county sheriff or local police department CLEO if the respondent is found to be a resident of another county. Documentation of the relay and transfer of information shall be documented along with any other pertinent information regarding the notification. Minn. Stat. § 624.7171 sub 5.

### **427.7 RELEASE OF PROHIBITED ITEMS**

Any person requesting the release of any prohibited items in custody of the Lyon County Sheriff's Office pursuant to an ERPO should be referred to the ERPO Coordinator.

### **427.8 EXTENSION OF EXTREME RISK PROTECTION ORDER**

The ERPO Coordinator is responsible for the review of any ERPO obtained by the Lyon County Sheriff's Office to determine if renewal or extension of the order should be requested within the time prescribed by law (Minn. Stat. § 624.7172; Minn. Stat. § 624.7173).



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# Foreign Diplomatic and Consular Representatives

## 428.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Lyon County Sheriff's Office extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

## 428.2 POLICY

The Lyon County Sheriff's Office respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

## 428.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

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### **428.4 ENFORCEMENT ACTION**

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
  1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
  1. Diplomatic-level staff of missions to international organizations and recognized family members
  2. Diplomatic agents and recognized family members
  3. Members of administrative and technical staff of a diplomatic mission and recognized family members
  4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
  1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
  2. Support staff of missions to international organizations.
  3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
  4. Honorary consular officers.

### **428.5 DOCUMENTATION**

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

### **428.6 DIPLOMATIC IMMUNITY TABLE**

Reference table on diplomatic immunity:

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<b>Category</b>	<b>Arrested or Detained</b>	<b>Enter Residence Subject to Ordinary Procedures</b>	<b>Issued Traffic Citation</b>	<b>Subpoenaed as Witness</b>	<b>Prosecuted</b>	<b>Recognized Family Members</b>
<b>Diplomatic Agent</b>	No (note b)	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Member of Admin and Tech Staff</b>	No (note b)	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Service Staff</b>	Yes (note a)	Yes	Yes	Yes	No for official acts Yes otherwise (note a)	No immunity or inviolability (note a)
<b>Career Consul Officer</b>	Yes if for a felony and pursuant to a warrant (note a)	Yes (note d)	Yes	Yes	No for official acts Yes otherwise (note a)	No immunity or inviolability
<b>Honorable Consul Officer</b>	Yes	Yes	Yes	No for official acts Yes otherwise	No for official acts Yes otherwise	No immunity or inviolability
<b>Consulate Employees</b>	Yes (note a)	Yes	Yes	No for official acts Yes otherwise	No for official acts Yes otherwise (note a)	No immunity or inviolability (note a)
<b>Int'l Org Staff (note b)</b>	Yes (note c)	Yes (note c)	Yes	Yes (note c)	No for official acts Yes otherwise (note c)	No immunity or inviolability
<b>Diplomatic-Level Staff of Missions to Int'l Org</b>	No (note b)	No	Yes	No	No	Same as sponsor (full immunity & inviolability)

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<b>Support Staff of Missions to Int'l Orgs</b>	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability
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Notes for diplomatic immunity table:

- (a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.
- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

# Law Enforcement Support Office 1033 Program (LESO 1033 PROGRAM)

## 429.1 PURPOSE AND SCOPE

The LESO "1033" Program, as it is known as was established in 1997 provides for the US Secretary of Defense to transfer to eligible local law enforcement agencies the opportunity to acquire and utilize excess, obsolete and decommissioned surplus property, materials, supplies and equipment of the Dept of Defense (DOD) turned in by the US Military. The DOD property and materials, including "controlled property", which is requested and approved by the MN State Coordinator and the LESO 1033 Program, for operation for utilization by the requesting law enforcement agency through the course of its official duties providing services to the people it serves at the federal, state and local levels.

The CLEO (Sheriff) of the Lyon County Sheriff's Office in participation in the (LESO 1033) program completes an application (SPO) and, as required, to the LESO 1033 Program through the MN State LESO Coordinator and upon approval agrees to follow the general guidelines, policies and procedures and protocols for acquisition and maintenance of the property, equipment, including acquisition of controlled property obtained through the LESO 1033 Program. Office members having been issued or assigned (1033 Program) equipment shall comply with the standards and policies for utilization and tracking of the equipment and materials. This policy provides guidance to the supervision, procurement, use, training and documentation of equipment and materials obtained by the Office through the LESO 1033 Program by the Lyon County Sheriff's Office. Individual (specialized equipment) policy and procedures for specifically identified equipment obtained through the LESO 1033 Program shall encompass and comply with and follow the general protocols and policies as outlined in this policy and shall follow the policy and procedures for participation in the LESO 1033 Program as required by the LESO 1033 Program and the MN LESO State Coordinator.

Should the Office determine that they no longer wish to participate in the program, or have (controlled) equipment obtained through the LESO 1033 Program, that equipment shall be turned in for disposal, or re-allocation to another eligible agency through the LESO 1033 Program. The Office shall follow all guidelines and policies required for the return of property as required by the LESO 1033 Program or the MN State LESO Coordinator for controlled items of equipment it maintains in its inventory and is responsible for, and maintain, utilize and ultimately dispose of any non-serviceable and used non-controlled equipment, items and materials according to state and local laws and according to County and Office policies and procedures.

## 429.2 DEFINITIONS

The following acronyms have the following meanings:

**LESO** - Law Enforcement Support Office Program (AKA LESO 1003 Program)

**SPO** - State Plan of Operations

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## Law Enforcement Support Office 1033 Program (LESO 1033 PROGRAM)

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**LEA** - Law Enforcement Agency

**CLEO**- Chief Law Enforcement Officer

**OFFICE** - Lyon County Sheriff's Office

**MEMBER** - Employee of the Lyon County Sheriff's Office

**DOD** - US Dept of Defense

**LRAD**- Long Range Acoustic Device

**DLA** -Defense Logistics Agency

**Controlled Property** - Consists of military items that are provided via a conditional transfer or "loan" basis where title remains with DoD/DLA. This includes items such as small arms/personal weapons, demilitarized vehicles and aircraft and night vision equipment. This property always remains in the LESO property book because it still belongs to and is accountable to DoD. When a law enforcement agency no longer wants the controlled property, it must be returned to DLA's LESO for proper disposition.

**Non-Controlled Property** (also called General Property)- Consists of common items DLA would sell to the general public, such as office equipment, first aid kits/supplies, hand tools, sleeping bags, computers and digital cameras. After one year, general property becomes the property of the law enforcement agency. It is no longer subject to the annual inventory requirements and is removed from the LESO database. This general property should be maintained and ultimately disposed of in accordance with provisions in state/territory and local laws that govern public property.

### 429.3 GENERAL POLICING STANDARDS

Policy, procedures and protocol of the Office in areas affected by the acquisition and utilization of equipment and material obtained through the LESO 1033 Program shall comply with and adhere to the following principles and standards.

#### 429.3.1 COMMUNITY POLICING

**Community Policing**- LEA policies/procedures should reflect the concept that trust and mutual respect between police and the communities they serve are critical to public safety. Community policing fosters relationships between law enforcement and the local community which promotes public confidence in LEAs therefore increasing LEA ability to investigate crimes and keep the peace.

#### 429.3.2 CONSTITUTIONAL POLICING

**Constitutional Policing**- LEA policies/procedures must emphasize that all police work should be carried out in a manner consistent with the requirements of the U.S. Constitution and federal law. Policies/procedures must include First, Fourth, and Fourteenth Amendment principles in law enforcement activity, as well as compliance with Federal and State civil rights laws. LEA

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certified law enforcement officers receive training on the rights embodied by such Constitutional Amendments and how these amendments inform policing policies/procedures.

### 429.3.3 COMMUNITY INPUT AND IMPACT

**Community Input and Impact-** LEA policies/procedures must identify mechanisms that LEAs will use to engage the communities they serve to inform them and seek their input about LEAs actions, role in, and relationships with the community. LEAs should make particular efforts to seek the input of communities where controlled property is likely to be used so as to mitigate the effect that such use may have on public confidence in the police. This could be achieved through the LEAs regular interactions with the public through community forums, town halls, or meetings with the Chief, or community outreach divisions.

### 429.4 CONTROLLED PROPERTY STANDARDS

The Lyon County Sheriff's Office and members acquiring and utilizing (controlled) equipment and materials obtained through the LESO 1033 Program shall comply with and adopt in its participation in the program the following LESO 1033 Program principles.

#### 429.4.1 APPROPRIATE USE OF CONTROLLED PROPERTY

**Appropriate Use of Controlled Property-** LEA policies/procedures must define appropriate use of controlled property; officers who are authorized to use controlled property must be trained on these policies/procedures. LEAs should examine scenarios in which controlled property will likely be deployed, the decision-making processes that will determine whether controlled property is used, and the potential that both use and misuse of controlled property could create fear and distrust in the community. Policies/procedures should consider whether measures can be taken to mitigate that effect (i.e., keep armored vehicles at a staging area until needed) and any alternatives to the use of such property and tactics to minimize negative effects on the community, while preserving officer safety.

#### 429.4.2 SUPERVISION OF USE

**Supervision of Use-** LEA policies/procedures must specify appropriate supervision of personnel operating or utilizing controlled property. Supervision must be tailored to the type of controlled property being used and the nature of the engagement or operation during which the property will be used. Policies/procedures must describe when a supervisor of appropriate authority is required to be present and actively overseeing the property being used.

#### 429.4.3 EFFECTIVENESS EVALUATION

**Effectiveness Evaluation-** LEA policies/procedures must articulate that the LEA will regularly monitor and evaluate the effectiveness and value of controlled property to determine whether continued deployment and use is warranted on operational, tactical, and technical grounds. LEAs should routinely review after-action reports and analyze any data on, for example, how often controlled property is used or whether controlled property is used more frequently in certain law enforcement operations or in particular locations or neighborhoods.

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### 429.4.4 AUDITING AND ACCOUNTABILITY

**Auditing and Accountability-** LEA must establish policies/procedures that are designed to prevent misuse, unauthorized use and/or loss of controlled property. LEA will hold personnel accountable to agree and comply with State, local, Tribal and Federal controlled property use policies/procedures.

### 429.4.5 TRANSPARENCY AND NOTICE

**Transparency and Notice-** LEA policies/procedures must articulate that LEA will engage the community regarding controlled property, policies/procedures governing its use, and review of "significant incidents" with the understanding that there are reasonable limitations on disclosures of certain information and law enforcement sensitive operations and procedures.

### 429.5 RECORD-KEEPING

The Lyon County Sheriff's Office shall comply with the following record-keeping principles as it relates to the controlled property acquired and utilized through the LESO 1033 Program.

- Upon LESO request, LEAs must provide a copy of the general policing standards and specific controlled property standards that were adopted, to include any related policies/procedures.
- Record#Keeping Requirement- LEAs must retain comprehensive training records, either in the personnel file of the officer who was trained or by the LEAs training division or equivalent entity, for a period of at least three (3) years, and must provide a copy of these records, upon LESO request.

### 429.6 TRAINING

The Lyon County Sheriff's Office shall establish written policies for the use of all acquired controlled property obtained through the LESO 1033 Program. The appropriate policy(s) will include the the following principles.

- a) Provide annual training on general policing standards to personnel who may use the controlled property.
- b) Provide annual training on property standards to personnel who may use the controlled property.
- c) Provide controlled property operational and technical training to personnel and ensure personnel are proficient prior to using controlled property.
- d) Provide scenario#based training to personnel that combines constitutional and community policing principles with controlled property specific training. LEA personnel authorizing or directing the use of controlled property should have enhanced scenario#based training to examine, deliberate, and review the circumstances in which controlled property should or should not be used.



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### **429.7 SIGNIFICANT INCIDENTS**

The Lyon County Sheriff's Office shall collect and retain the following information when any law enforcement activity results in a significant incident and involves the utilization of controlled property obtained through the LESO 1033 Program.

#### 429.7.1 DEFINITION

##### **SIGNIFICANT INCIDENT**

A "Significant Incident" is defined as any law enforcement operation or action that involves:

- 1) a violent encounter among civilians or between civilians and the police.
- 2) a use#of#force that causes death or serious bodily injury.
- 3) a demonstration or other public exercise of First Amendment rights.
- 4) an event that draws, or could be reasonably expected to draw, a large number of attendees or participants, such as those where advanced planning is needed.

#### 429.7.2 DOCUMENTATION

The Lyon County Sheriff's Office shall collect and maintain and make available to the LESO Program, and as applicable by law "public" data any and all documentation for the use of controlled property obtained through the LESO 1033 Program. This documentation shall be made available and retained for a minimum of 3 years.

Written reports through the course of general operations, logs, UOF reports, after-action-reports, incident reports, operations plan, may contain and include the documentation and no additional reports or documentation is required if the reports contain the following information in an easily searchable, identifiable and organized manner:

1. Name and quantity of controlled property used, including relevant details such as make/model/serial number of controlled property used.
2. Description of the LEA action/operation involving the controlled property.
3. Identification of LEA personnel who used and directed the use of the controlled property.
4. Identify or describe civilians who were the subject or target of LEA action/operation. For large crowds or multiple persons, the LEA must provide general description of the civilians (i.e., a crowd of approximately 250 people).
5. Result of the action/operation in which controlled property was used (i.e., arrests, citations, injuries or fatalities, use#of#force, victim extraction, or property damage).

### **429.8 ANNUAL CERTIFICATION**

The Lyon County Sheriff's Office by entering into and signing the SPO (State Plan of Operations) and the SPO addendum dated 08/15/2022 do certify compliance with the following certification statements as required for continued participation in the LESO 1033 Program and continued maintenance and utilization of controlled equipment and materials obtained through the LESO 1033 Program:

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- a) Certify they have authorization from their Civilian Governing Body (CGB) to participate in the LESO Program.
- b) Certify they have provided their CGB and local community a comprehensive list of controlled property that may be requested through the LESO Program.
  - 1. Notification may be made electronically or in writing and must be translated into appropriate languages to inform individuals with limited English proficiency. It is recommended this notification be done on an annual basis.
  - 2. If controlled property is not identified in the comprehensive list provided to the CGB and local community, an updated notification to CGB and local community must be made. The CGB and local community will be afforded 30-days to review what additional items are being requested.
- c) Certify the request for controlled property comports/complies with all applicable approval requirements of the CGB.
- d) Certify they have adopted and comply with controlled property standards (i.e., appropriate use, supervision of use, effectiveness evaluation, auditing/accountability of use, transparency/notice of use, and record-keeping requirements.
- e) Certify they have provided annual training to personnel on the maintenance, sustainment, and appropriate use of controlled property, including respect for the rights of citizens under the Constitution of the United States and de-escalation of force.
- f) Law enforcement Agency (LEA) with Long Range Acoustic Devices (LRAD) certify that the LRAD is utilized exclusively as a public address system for commercial purposes.
- g) Certify that controlled property vehicle(s) are utilized exclusively for disaster-related emergencies; active shooter scenarios; hostage or other search and rescue operations; or anti-terrorism preparedness, protection, prevention, response, recovery, or relief.
- h) Certify that controlled property requiring a license (or other authorization), is only utilized by personnel who hold license (or other authorization) to operate such property.
- i) Certify that controlled property will be returned to DLA Disposition Services when no longer needed.
- j) Certify that they are abiding by the current LESO Program SPO and SPO Addendum, and maintain a signed copy of these documents on file.
- k) Certify the Application for Participation on-file with LESO Program is current and accurately reflects the number of officers in the agency when fully staffed. (Note: If Application for Participation is not accurate, LEA must provide an updated Application for Participation to State Coordinators Office).
- l) Certify they are compliant with LESO Program allocation limits. (Note: Property allocation limits are based on the number of officers at an LEA when fully staffed).

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m) Certify that they agree to return the controlled property if the Department of Justice (DOJ) determines or a Federal, State, Tribal, local, or territorial court enters a final judgment finding that the LEA has engaged in a pattern or practice of civil rights violations.

n) Campus LEAs must also certify that their policies and training include specific provisions on using controlled property in a way that does not chill speech, is not disruptive to the educational environment, and does not foster a hostile climate among students.

o) Program participants who are part of a regional sharing agreement must also certify that the other LESO Program participant in the regional sharing agreement requesting the property under a conditional loan:

- 1) Have adopted requisite protocols in or will adopt those protocols before their personnel use the controlled property
- 2) Have provided requisite training or will provide that training before their personnel use the controlled property, and
- 3) Will adhere to the information collection and retention requirements.

## Brady Material Disclosure

### 430.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called “*Brady* information”) to a prosecuting attorney.

#### 430.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** - Information known or possessed by the Lyon County Sheriff's Office that is both favorable and material to the current prosecution or defense of a criminal defendant.

### 430.2 POLICY

The Lyon County Sheriff's Office will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Lyon County Sheriff's Office will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Office will identify and disclose to the prosecution potentially exculpatory information as provided in this policy.

### 430.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Deputies must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If a deputy learns of potentially incriminating or exculpatory information any time after submission of a case, the deputy or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor's office.

If information is believed to be privileged or confidential (e.g., informant or attorney-client information, attorney work product), the deputy should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If a deputy is unsure whether evidence or facts are material, the deputy should address the issue with a supervisor.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the Office case file.

### 430.4 DISCLOSURE OF REQUESTED INFORMATION

If *Brady* information is located, the following procedure shall apply:

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- (a) In the event that a motion has not already been filed by the criminal defendant or other party, the prosecuting attorney and office member shall be notified of the potential presence of *Brady* material in the member's personnel file.
- (b) The prosecuting attorney or County Attorney should then be requested to file a motion in order to initiate an in-camera review by the court.
  - 1. If no motion is filed, the Custodian of Records should work with the appropriate counsel to determine whether the records should be disclosed to the prosecutor.
- (c) The Custodian of Records shall accompany all relevant personnel files during any in-camera inspection to address any issues or questions raised by the court.
- (d) If the court determines that there is relevant *Brady* material contained in the files, only that data ordered released will be copied and released to the parties filing the motion.
  - 1. Prior to the release of any materials pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use and further dissemination of such materials to the involved case and requiring the return of all copies upon completion of the case.
- (e) If a court has determined that relevant *Brady* information is contained in the member's file in any case, the prosecutor should be notified of that fact in all future cases involving that member.

### **430.5 INVESTIGATING BRADY ISSUES**

If the Office receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

### **430.6 TRAINING**

Office personnel should receive periodic training on the requirements of this policy.

### **430.7 BRADY PROCESS**

The Sheriff shall select a member of the Office to coordinate requests for *Brady* information. This person shall be directly responsible to the Sheriff or the authorized designee.

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

- (a) Working with the appropriate prosecutors' offices and the County Attorney's office to establish systems and processes to determine what constitutes *Brady* information and the method for notification and disclosure.
- (b) Maintaining a current list of members who have *Brady* information in their files or backgrounds.
  - 1. Updating this list whenever potential *Brady* information concerning any office member becomes known to the Office or is placed into a personnel or internal affairs file.

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### **430.8 SUBPOENA PROCESSING**

The individual processing subpoenas (or the supervisor of the subpoenaed member) shall check the subpoenaed member's name against the current list of those who are known to have *Brady* information in their files or background, and shall alert the coordinator if a person on the list is subpoenaed.

## Chapter 5 - Patrol Deputy and Call Response Related Guidelines

## Deputy Patrol

### 500.1 PURPOSE AND SCOPE

The purpose of this policy is to define the functions of the deputy proactive and reactive patrol of the Office to ensure intra-organization cooperation and information sharing.

#### 500.1.1 FUNCTION

Deputies will generally patrol in clearly marked vehicles, patrol assigned jurisdictional areas of Lyon County, respond to calls for assistance, act as a deterrent to crime, enforce state, local and, when authorized or empowered by agreement or statute, federal laws and respond to emergencies 24 hours per day, seven days per week.

Patrol will generally provide the following services within the limits of available resources:

- (a) Patrol that is directed at the prevention of criminal acts, traffic violations and collisions, the maintenance of public order and the discovery of hazardous situations or conditions.
- (b) Crime prevention activities, such as residential inspections, business inspections and community presentations.
- (c) Calls for service, both routine and emergency.
- (d) Investigation of both criminal and non-criminal acts.
- (e) The apprehension of criminal offenders.
- (f) Community Oriented Policing and problem-solving activities, such as citizen assists and individual citizen contacts of a positive nature.
- (g) The sharing of information between the Patrol and other division within the Office, as well as other government agencies.
- (h) The application of resources to specific problems or situations within the community that may be improved or resolved by Community Oriented Policing and problem-solving strategies.
- (i) Traffic direction and control.

#### 500.1.2 TERRORISM

It is the goal of the Lyon County Sheriff's Office to make every reasonable effort to accurately and appropriately gather and report any information that may relate to either foreign or domestic terrorism. Deputies should advise a supervisor as soon as practicable of any activity believed to be terrorism related and should document such incidents with a written report.

### 500.2 PATROL INFORMATION SHARING PROCEDURES

The following guidelines are intended to develop and maintain intra-organization cooperation and information flow between the various divisions of the Lyon County Sheriff's Office.



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### 500.2.1 MESSAGE BOARDS

A bulletin board and a white (dry erase) board will be kept in the LEC Squad Room for display of suspect information, investigative reports and photographs as well as notice of upcoming events and announcements. It is the responsibility of personnel to check the LEC bulletin boards and designated announcement locations.

### **500.3 CROWDS, EVENTS AND GATHERINGS**

Deputies may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Deputies should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Deputies responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action. Deputies are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Deputies should consider enforcement of applicable state and local laws, when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

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# Traffic Enforcement Function and Responsibility

## 501.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventative patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on collision data, enforcement activity records, traffic volume and traffic conditions. This office provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in collision situations but also in terms of traffic-related needs.

## 501.2 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This office does not establish ticket quotas and the number of citations issued by any deputy shall not be used when evaluating deputy performance (Minn. Stat. § 169.985; Minn. Stat. § 299D.08). The visibility and quality of a deputy's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

### 501.2.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant.

### 501.2.2 TRAFFIC CITATIONS

Traffic citations may be issued when a deputy believes it is appropriate. It is essential that deputies fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Deputies should provide the following information at a minimum:

- (a) Explanation of the violation or charge.
- (b) Court appearance procedure, including the optional or mandatory appearance by the motorist.
- (c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court.
- (d) The court contact information.

### 501.2.3 TRAFFIC CITATION COURT JURISDICTION

A deputy who issues a traffic citation shall ensure that the citation is properly directed to the court having jurisdiction (Minn. Stat. § 169.91 Subd. 3).

### 501.2.4 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses. These physical arrest cases usually deal with, but are not limited to (Minn. Stat. § 169.91):

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- (a) Negligent homicide.
- (b) Driving under the influence of alcohol/drugs.
- (c) Hit-and-run resulting in serious injury or death.
- (d) Hit-and-run resulting in damage to any vehicle or property.

### 501.2.5 LIMITATION AND DISCLOSURE OF REASON FOR TRAFFIC STOP

Deputies conducting a traffic stop for violations of Minnesota Statute Chapters 168 or 169 shall not ask the motorist if they can identify the reason for the traffic stop. Deputies shall state a reason for the stop unless it would be unreasonable to do so under the totality of the circumstances (Minn. Stat. § 169.905).

### 501.3 HIGH-VISIBILITY VESTS

The Office has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of office members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; Minn. R. 5205.0030).

Although intended primarily for use while performing traffic-related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

#### 501.3.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, collision investigations, lane closures and while at disaster scenes, or any time high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, deputies should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plain clothes deputy might benefit from being readily identified as a deputy.

#### 501.3.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests shall be maintained in each patrol and investigation unit. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored and available for use.

The Sergeant should be promptly notified whenever a high-visibility vest has become damaged or is no longer serviceable and shall ensure that a replacement vest is provided..

## Deputy Response to Calls

### 502.1 PURPOSE AND SCOPE

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

### 502.2 RESPONSE TO CALLS

#### 502.2.1 RESPONSE TO EMERGENCY CALLS

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

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

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

#### 502.2.2 LIGHTING EXEMPTION OF LAW ENFORCEMENT VEHICLES

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

### 502.3 REQUESTING EMERGENCY ASSISTANCE

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

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

- The unit number

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

### 502.3.1 NUMBER OF UNITS PARTICIPATING

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

### 502.4 INITIATING EMERGENCY CALL RESPONSE

If a deputy believes an emergency call response to any call is appropriate, the deputy shall immediately notify Dispatch. Emergency responses of more than one unit should include, if circumstances reasonably permit, coordination of the response with other units to avoid unanticipated intersecting of response routes.

### 502.5 RESPONSIBILITIES OF RESPONDING DEPUTIES

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

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

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

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

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

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### **502.6 COMMUNICATIONS RESPONSIBILITIES**

A dispatcher shall ensure acknowledgment and response of assisting units when a deputy requests emergency assistance or when the available information reasonably indicates that the public is threatened with serious injury or death and an immediate law enforcement response is needed. In all other circumstances, the dispatcher shall obtain authorization from the Sergeant or a field supervisor prior to assigning an emergency response. The dispatcher shall:

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

### **502.7 SUPERVISORY RESPONSIBILITIES**

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

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

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

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

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

- The type of call or crime involved.

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- The necessity of a timely response.
- Traffic and roadway conditions.
- The location of the responding units.

### **502.8 FAILURE OF EMERGENCY EQUIPMENT**

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

### **502.9 TRAINING**

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

### **502.10 OFF-DUTY REPORTING IN EMERGENCY SITUATIONS**

Members while off- duty shall, upon notice, report immediately prepared for duty upon receipt of such notification and comply with instructions given at the time of the notification. Members shall report for duty immediately without notice in the event of any major or natural disaster.

### **502.11 POLICY**

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

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## Rapid Response and Deployment

### 503.1 PURPOSE AND SCOPE

Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist deputies in situations that call for rapid response and deployment.

### 503.2 POLICY

The Lyon County Sheriff's Office will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Office in protecting themselves or others from death or serious injury.

### 503.3 FIRST RESPONSE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding deputies should consider reasonable options to reduce, prevent or eliminate the threat. Deputies must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, deputies should take immediate action, if reasonably possible, while requesting additional assistance.

Deputies should remain aware of the possibility that an incident may be part of a coordinated multi-location attack that may require some capacity to respond to other incidents at other locations.

When deciding on a course of action deputies should consider:

- (a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advance or engagement should be based on information known or received at the time.
- (b) Whether to wait for additional resources or personnel. This does not preclude an individual deputy from taking immediate action.
- (c) Whether individuals who are under imminent threat can be moved or evacuated with reasonable safety.
- (d) Whether the suspect can be contained or denied access to victims.
- (e) Whether the deputies have the ability to effectively communicate with other personnel or resources.



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- (f) Whether planned tactics can be effectively deployed.
- (g) The availability of rifles, shotguns, shields, breaching tools, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

In a case of a barricaded suspect with no hostages and no immediate threat to others, deputies should consider summoning and waiting for additional assistance (special tactics and/or hostage negotiation team response).

### **503.4 CONSIDERATIONS**

When dealing with a crisis situation members should:

- (a) Assess the immediate situation and take reasonable steps to maintain operative control of the incident.
- (b) Obtain, explore and analyze sources of intelligence and known information regarding the circumstances, location and suspect involved in the incident.
- (c) Attempt to attain a tactical advantage over the suspect by reducing, preventing or eliminating any known or perceived threat.
- (d) Attempt, if feasible and based upon the suspect's actions and danger to others, a negotiated surrender of the suspect and release of the hostages.

### **503.5 PLANNING**

The supervisory personnel should coordinate critical incident planning. Planning efforts should consider:

- (a) Identification of likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Availability of building plans and venue schematics of likely critical incident target sites.
- (c) Communications interoperability with other law enforcement and emergency service agencies.
- (d) Training opportunities in critical incident target sites, including joint training with site occupants.
- (e) Evacuation routes in critical incident target sites.
- (f) Patrol first-response training.
- (g) Response coordination and resources of emergency medical and fire services.
- (h) Equipment needs.
- (i) Mutual aid agreements with other agencies.
- (j) Coordination with private security providers in critical incident target sites.

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### **503.6 TRAINING**

The supervisory personnel should include rapid response to critical incidents in the training plan.

This training should address:

- (a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Communications interoperability with other law enforcement and emergency service agencies.
- (c) Patrol first-response training, including patrol rifle, shotgun, breaching tool and control device training.
- (d) First aid, including gunshot trauma.
- (e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).

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# **PUBLIC ASSEMBLY AND FIRST AMENDMENT ACTIVITY**

## **504.1 REFERENCES**

**First Amendment US Constitution**

**Minnesota Constitution**

**MSS 609.705. Unlawful Assembly**

**MSS 609.71 Riot**

**MSS 609. 066 Authorized Use of Force by Peace Officers**

**MSS 609.06 Authorized Use of Force**

## **504.2 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 Lyon County Sheriff's Office 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 personnel of the Lyon County Sheriff's Office regarding the application and operation of acceptable law enforcement actions addressing public assemblies and First Amendment Activity.

## **504.3 POLICY**

The Lyon County Sheriff's Office 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 Lyon County Sheriff's Office 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.

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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.

### **504.4 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: Lyon County Sheriff's Office 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: Lyon County Sheriff's Office 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.

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- 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.

### **504.5 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.

#### **A. 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.

### **504.6 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.

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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.

#### **C. 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.

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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. 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.

#### **504.7 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 Lyon County Sheriff's Office 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 must not be used for crowd control, crowd containment, or crowd dispersal.
2. 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 (i.e. Wooden Dowels and Stinger Grenades) may be used as a last resort if other crowd dispersal techniques have failed or have been deemed ineffective.

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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.
8. Chemical munitions use in a crowd situation is subject to the following:
  - (a) Chemical munitions must be used only when:
    1. The use of chemical munitions is approved by the on-scene supervisor/incident commander, and
    2. sufficient egress to safely allow the crowd to disperse exists, and
    3. 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.
  - (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.



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- (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 Lyon County Sheriff's Office's UOF policy.

### **504.8 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.

### **504.9 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. 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.
- C. Arrestees in flex-cuffs must be monitored to prevent injury.
- D. 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.

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#### **504.10 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.

#### **504.11 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 crowd monitors must not be targeted for dispersal or enforcement action because of their status.
- C. 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.

#### **504.12 DOCUMENTATION OF PUBLIC ASSEMBLY AND FIRST AMENDMENT ACTIVITY**

- A. The purpose of any visual documentation by Lyon County Sheriff's Office 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.

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- 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.

## Report Preparation

### 505.1 PURPOSE AND SCOPE

Report preparation is a major part of each employee's job. The purpose of reports is to document sufficient information to refresh the employee's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized and on-the-job training.

#### 505.1.1 REPORT PREPARATION

Employees should ensure that their reports are sufficient for their purpose and reasonably free of errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty, unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

All reports are to be prepared in a complete and legible manner. Reports will be reviewed by supervisors and those reports that are not complete and legible will be returned for correction and completeness.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

All written reports, at the very least, shall consist of a "Narrative" report in addition to any required forms or associated documents for the type of call.

### 505.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate Office-approved form unless otherwise approved by a supervisor.

#### 505.2.1 CRIMINAL ACTIVITY

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution.

Activity to be documented in a written report includes:

- (a) All arrests
- (b) All felony crimes
- (c) All incidents involving violations of crimes or ordinances motivated by bias (Minn. Stat. § 626.5531)

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- (d) Non-felony incidents involving threats or stalking behavior
- (e) Situations covered by separate policy. These include:
  - 1. Use of Force Policy
  - 2. Domestic Abuse Policy
  - 3. Child Abuse Policy
  - 4. Adult Abuse Policy
  - 5. Hate or Prejudice Crimes Policy
  - 6. Suspicious Activity Reports Policy
- (f) All misdemeanor crimes where the victim desires a report

Misdemeanor crimes where the victim does not desire a report shall be documented using the office-approved alternative reporting method (e.g., dispatch log).

### 505.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

- (a) Any time a deputy points a firearm at any person
- (b) Any use of force against any person by a member of this office (see the Use of Force Policy)
- (c) Any firearm discharge (see the Firearms Policy)
- (d) Any time a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)
- (e) Any found property or found evidence
- (f) Any traffic collisions above the minimum reporting level (see the Traffic Collisions Policy)
- (g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy
- (h) All protective custody detentions
- (i) Suspicious incidents that may place the public or others at risk
- (j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor
- (k) Any watercraft collision or accident, drowning death and/or general water accident should be reported on the appropriate Department of Natural Resource Form (Minn. Stat. § 86B.105(a))

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### 505.2.3 DEATH REPORTS

Reports shall be completed by the handling employee. All deaths shall be handled in compliance with the Death Investigations Policy.

### 505.2.4 INJURY COUNTY PERSONNEL

Reports shall be taken if an injury occurs that is a result of an act of a County employee.

### 505.2.5 MISCELLANEOUS INJURIES

Any injury that is reported to this office shall require a report when:

- (a) The injury is a result of a drug overdose.
- (b) Attempted suicide.
- (c) The injury is major or serious, whereas death could result.
- (d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event.

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

## **505.3 GENERAL POLICY OF EXPEDITIOUS REPORTING**

In general, all employees and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

Reports are to be completed following a call or investigation or by the end of the deputies current shift. If a report cannot be completed in by the end of the deputy's current shift approval from a supervisor should be sought, and the full report is not needed for the next day. All additional reports will be completed and filed in a manner that makes it possible for the case to be reviewed in a timely manner, not to exceed (1) one week. It is understood that follow-up investigation will come in as it does, however, the initial report(s) should be completed as soon as possible, but within the (1) week period.

### 505.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS

Some incidents and report forms lend themselves to block print rather than typing. In general, the narrative portion of those reports where an arrest is made or when there is a long narrative should be typed .

Supervisors may require, with the foregoing general policy in mind, block printing or typing of reports of any nature for Office consistency.

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### 505.3.2 GENERAL USE OF OTHER HANDWRITTEN FORMS

County, state and federal agency forms may be block printed as appropriate. In general, the form itself may make the requirement for typing apparent.

### 505.4 REPORT CORRECTIONS

Supervisors and Investigators shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor or Investigator shall return the report with indication of the deficiency. The original report should be returned to the reporting employee for correction as soon as practicable. It shall be the responsibility of the originating employee to ensure that any report returned for correction is processed in a timely manner.

### 505.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Sheriff's Office Records for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Sheriff's Office Records may be corrected or modified by the authoring employee only with the knowledge and authorization of the reviewing supervisor.

### 505.6 FIREARM INJURY REPORTING FROM HEALTH PROFESSIONALS

Members receiving a report from a health professional of a bullet or gunshot wound, powder burns or any other injury arising from, or caused by, the discharge of any gun, pistol or any other firearm shall thoroughly investigate the facts surrounding the incident (Minn. Stat. § 626.52, Subd. 2; Minn. Stat. § 626.553, Subd. 1).

The Sheriff's Office Records shall ensure that the report received from the health professional is forwarded to the commissioner of the Department of Health (Minn. Stat. § 626.53, Subd. 2). If the injury resulted from a hunting incident, the Sheriff's Office Records shall ensure that the findings of the investigation are forwarded to the commissioner of the Department of Natural Resources using the form provided by the commissioner (Minn. Stat. § 626.553, Subd. 1).

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# MOTOR VEHICLE PURSUITS - 07/2024 POST - POLICE PURSUIT MODEL POLICY REF MSS 626.8458

## 506.1 POLICY

The primary purpose of this policy is to ensure officers and any member of the Lyon County Sheriff's Office 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.

## 506.2 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.



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## MOTOR VEHICLE PURSUITS - 07/2024 POST - POLICE PURSUIT MODEL POLICY REF MSS 626.8458

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### 506.3 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.

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- 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.

### 506.4 PROCEDURE

#### 506.4.1 PURSUIT CONSIDERATIONS

- (a) 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.
- (b) 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.

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### **506.5 PROCEDURES & TACTICS FOR AN OFFICER ENGAGING IN A PURSUIT– MINN. STAT. §626.8458 SUBD. 2 (3)**

- (a) Emergency vehicles shall be driven in a safe manner and with due regard for public safety.
- (b) 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.

### **506.6 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:

- **T** Travel direction/location/traffic and road conditions
  - **R** eason for initial contact (specific violations)
  - **I** dentity of fleeing driver, if known
  - **P** late number, if available, and/or vehicle description
  - **S** peed of fleeing vehicle
- (a) Provide relevant evolving information to dispatch
  - (b) 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)
  - (c) Roadblocks must conform to the agency's policy on use of force
  - (d) Only law enforcement vehicles with emergency lights and siren will be used as pursuit vehicles
  - (e) 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.

### **506.7 PROCEDURES & TACTICS FOR SUPPORT UNITS**

- (a) 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.
- (b) 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.
- (c) All participating units should operate under emergency conditions.

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### **506.8 SUPERVISION OF PURSUIT ACTIVITIES**

- (a) 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)).

- (b) 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
- (c) 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)
- (d) Post-pursuit chain of command notification of Sheriff if not already completed during pursuit.

### **506.9 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.

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### **506.10 FACTORS INFLUENCING THE TERMINATION OF A PURSUIT:**

- (a) The officer deems the conditions of the pursuit too risky for the safe continuation of the pursuit.
- (b) A supervisor orders it terminated.
- (c) Information is communicated that indicates the pursuit is out of compliance with policy.
- (d) Communication is broken.
- (e) Visual contact is lost for a reasonable period of time or the direction of travel cannot be determined.
- (f) 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.

### **506.11 INTERJURISDICTIONAL PURSUIT MINN STAT 626.8458 SUBD 2 (5)**

- (a) The primary unit shall update critical information to the dispatcher before leaving its jurisdiction.
- (b) The primary law enforcement vehicle shall remain the primary vehicle in other jurisdictions unless the controlling pursuit authority transfers its authority to another jurisdiction.
- (c) 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.
- (d) 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.

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### **506.12 FRESH PURSUIT OUTSIDE STATE BOUNDARIES**

Subject to the conditions identified under 506.11 (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.)

### **506.13 AIR SUPPORT**

- (a) 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.

### **506.14 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:
  - the reason(s) for, and the circumstances surrounding the pursuit;
  - the alleged offense;
  - the length of the pursuit in distance and time;
  - the outcome of the pursuit;
  - any injuries or property damage resulting from the pursuit; and
  - any pending criminal charges against the driver.
  - other information deemed relevant by the Commissioner of Public Safety.

### **506.15 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

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- Summoning additional units to the scene for assistance with the injured persons and/or traffic control

### **506.16 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.

### **506.17 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.

### **506.18 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.

### **506.19 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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# AVOIDING RACIAL PROFILING - POST MODEL POLICY 07/2022

## 507.1 POLICY

It is the policy of the Lyon County Sheriff's Office 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.

## 507.2 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.

## 507.3 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;



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## *AVOIDING RACIAL PROFILING - POST MODEL POLICY 07/2022*

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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.

### **507.4 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.

### **507.5 VIOLATIONS**

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

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## Crime and Disaster Scene Integrity

### 508.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

### 508.2 POLICY

It is the policy of the Lyon County Sheriff's Office to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

### 508.3 SCENE RESPONSIBILITY

The first deputy at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Deputies shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once a deputy has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, the deputy shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor or other designated person.

### 508.4 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the first responder's function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:

- (a) Broadcast emergency information, including requests for additional assistance and resources.
- (b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.
- (c) Locate or identify suspects and determine whether dangerous suspects are still within the area.
- (d) Provide first aid to injured parties if it can be done safely.
- (e) Evacuate the location safely as required or appropriate.
- (f) Secure the inner perimeter.
- (g) Protect items of apparent evidentiary value.
- (h) Secure an outer perimeter.
- (i) Identify potential witnesses.
- (j) Start a chronological log noting critical times and personnel allowed access.

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## *Crime and Disaster Scene Integrity*

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### **508.5 SEARCHES**

Deputies arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to determine if suspects are present and continue to pose a threat. Once deputies are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Deputies should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

#### **508.5.1 CONSENT**

When possible, deputies should seek written consent to search from authorized individuals. However, in the case of serious crimes or major investigations, it may be prudent to also obtain a search warrant. Consent as an additional authorization may be sought, even in cases where a search warrant has been granted.

### **508.6 EXECUTION OF HEALTH ORDERS**

Any licensed member of this office may assist in the enforcement of all directives of the local health officer issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease (Minn. Stat. § 144.4195, Subd. 2(c)).

# Hazardous Material Response

## 509.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees as a result of their exposure. To comply with Minnesota law, the following represents the policy of this office.

### 509.1.1 HAZARDOUS MATERIAL DEFINED

**Hazardous material** - Any refuse, sludge or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid or contained gaseous form, which, because of its quantity, concentration, or chemical, physical or infectious characteristics may (Minn. Stat. § 116.06 Subd. 11):

- (a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.
- (b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

## 509.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic collision, chemical spill or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and other persons.

The fire department is the agency trained and equipped to properly respond and mitigate most hazardous materials and biohazards.

Responders should not perform tasks or use equipment absent proper training. A responder entering the area may require decontamination before he/she is allowed to depart the scene and should be evaluated by appropriate technicians and medical professionals for signs of exposure.

The following steps should be considered at any scene involving suspected hazardous materials:

- (a) Attempt to identify the type of hazardous material. Identification can be determined by placard, driver's manifest or statements from the person transporting the material
- (b) Notify the appropriate fire department.
- (c) Provide first aid to injured parties if it can be done safely and without contamination.
- (d) Begin evacuation of the immediate and surrounding areas dependent on the material. Voluntary evacuation should be considered. Depending on the material, mandatory evacuation may be necessary.
- (e) Contact the Minnesota Duty Officer (800-422-0798).
- (f) Responders should remain uphill and upwind of the hazard until a zone of entry and a decontamination area are established.

# Lyon County Sheriff's Office

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## *Hazardous Material Response*

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### **509.3 REPORTING EXPOSURE(S)**

Office personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee in an employee memorandum that shall be forwarded via chain of command to their supervisor. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.

Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness, in addition to a crime report or incident report.

#### **509.3.1 SUPERVISOR RESPONSIBILITIES**

When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of employees, safety equipment is available through supervisory personnel. Safety items not maintained by the Office will be obtained through the appropriate fire department.

# Hostage and Barricade Incidents

## 510.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where deputies have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the deputies by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that deputies encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

### 510.1.1 DEFINITIONS

Definitions related to this policy include:

**Barricade situation** - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

**Hostage situation** - An incident where it is reasonable to believe a person is unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.

## 510.2 POLICY

It is the policy of the Lyon County Sheriff's Office to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

## 510.3 COMMUNICATION

When circumstances permit, initial responding deputies should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Deputies should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, office-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

### 510.3.1 EMERGENCY COMMUNICATION

A supervisor with probable cause to believe that a person is being unlawfully confined may order a telephone company to cut, reroute, or divert telephone lines for the purpose of establishing and controlling communications with a suspect (Minn. Stat. § 609.774).

## *Hostage and Barricade Incidents*

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### **510.4 FIRST RESPONDER CONSIDERATION**

First responding deputies should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding deputy should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding deputy shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The deputy shall continually evaluate the situation, including the level of risk to deputies, to the persons involved and to bystanders, and the resources currently available.

The handling deputy should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

#### **510.4.1 BARRICADE SITUATION**

Unless circumstances require otherwise, deputies handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (d) Provide responding emergency personnel with a safe arrival route to the location.
- (e) Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.
- (f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.
- (h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (i) Determine the need for and notify the appropriate persons within and outside the Office, such as command officers and the Sergeant.

## *Hostage and Barricade Incidents*

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- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.

### 510.4.2 HOSTAGE SITUATION

Deputies presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that deputies react quickly to developing or changing threats. The following options while not all-inclusive or in any particular order, should be considered:

- Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).
- Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.
- Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- Provide responding emergency personnel with a safe arrival route to the location.
- Evacuate non-injured persons in the immediate threat area if it is reasonably safe to do so.
- Coordinate pursuit or surveillance vehicles and control of travel routes.
- Attempt or obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
- Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
- Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- Determine the need for and notify the appropriate persons within and outside the Office, such as command officers and the Sergeant.



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- If necessary and available, establish a tactical or exclusive radio frequency for the incident.

### **510.5 SUPERVISOR RESPONSIBILITY**

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting a BLRR Unit response if appropriate and apprising the BLRR Unit Commander of the circumstances. In addition, the following options, listed here in no particular order, should be considered:

- (a) Ensure injured persons are evacuated and treated by medical personnel.
- (b) Ensure the completion of necessary first responder responsibilities or assignments.
- (c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.
- (d) Establish a command post location as resources and circumstances permit.
- (e) Designate assistants who can help with intelligence information and documentation of the incident.
- (f) If it is practicable to do so, arrange for video documentation of the operation.
- (g) Consider contacting utility and communication providers when restricting such services (e.g., restricting electric power, gas, telephone service).
- (h) Ensure adequate law enforcement coverage for the remainder of the County during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or Dispatch.
- (i) Identify a media staging area outside the outer perimeter and have the media representative provide media access in accordance with the Media Relations Policy
- (j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.
- (k) Debrief personnel and review documentation as appropriate.

### **510.6 CRISIS RESPONSE UNIT**

It will be the Incident Commander's decision, with input from the BLRR Unit Commander, whether to deploy the BLRR Unit during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the BLRR Unit Commander or the authorized designee will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for the BLRR Unit. The Incident Commander and the BLRR Unit Commander or the authorized designee shall maintain communications at all times.

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### **510.7 REPORTING**

Unless otherwise relieved by a supervisor or Incident Commander, the handling deputy at the scene is responsible for completion and/or coordination of incident reports.

## Response to Bomb Calls

### 511.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Lyon County Sheriff's Office in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

### 511.2 POLICY

It is the policy of the Lyon County Sheriff's Office to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

### 511.3 RECEIPT OF BOMB THREAT

Office members receiving a bomb threat should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established office evidence procedures.

The member receiving the bomb threat should ensure that the supervisory personnel are immediately advised and informed of the details. This will enable the supervisory personnel to ensure that the appropriate personnel are dispatched and, as appropriate, the threatened location is given an advance warning.

### 511.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

#### 511.4.1 LYON COUNTY SHERIFF'S OFFICE FACILITY

If the bomb threat is against the Lyon County Sheriff's Office facility, the supervisory personnel will direct and assign deputies as required for coordinating a general building search or evacuation of the sheriff's office, as he/she deems appropriate.

#### 511.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the Lyon County Sheriff's Office that is not the property of this office, the appropriate agency will be promptly informed of the threat. Assistance to the other entity may be provided as the supervisory personnel deem appropriate.

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## Response to Bomb Calls

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### 511.5 PRIVATE FACILITY OR PROPERTY

When a member of this office receives notification of a bomb threat at a location in the County of Lyon, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

- (a) The location of the facility.
- (b) The nature of the threat.
- (c) Whether the type and detonation time of the device is known.
- (d) Whether the facility is occupied, and if so, the number of occupants currently on-scene.
- (e) Whether the individual is requesting sheriff's assistance at the facility.
- (f) Whether there are any internal facility procedures regarding bomb threats in place, such as:
  1. No evacuation of personnel and no search for a device.
  2. Search for a device without evacuation of personnel.
  3. Evacuation of personnel without a search for a device.
  4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the Sergeant is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

#### 511.5.1 ASSISTANCE

The Sheriff or supervisory personnel should be notified when sheriff's assistance is requested. The Sheriff and/or supervisory personnel will make the decision whether the Office will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including sheriff's control over the facility.

Should the Sheriff or supervisory personnel determine that the Office will assist or control such an incident, he/she will determine:

- (a) The appropriate level of assistance.
- (b) The plan for assistance.
- (c) Whether to evacuate and/or search the facility.
- (d) Whether to involve facility staff in the search or evacuation of the building.
  1. The person in charge of the facility should be made aware of the possibility of damage to the facility as a result of a search.
  2. The safety of all participants is the paramount concern.
- (e) The need for additional resources, including:
  1. Notification and response, or standby notice, for fire and emergency medical services.

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## *Response to Bomb Calls*

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Even though a facility does not request sheriff's assistance to clear the interior of a building, based upon the circumstances and known threat, deputies may be sent to the scene to evacuate other areas that could be affected by the type of threat, or for traffic and pedestrian control.

### **511.6 FOUND DEVICE**

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.
- (b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.
- (c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes the following:
  1. Two-way radios
  2. Cell phones
  3. Other personal communication devices
- (d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.
- (e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.
- (f) A safe access route should be provided for support personnel and equipment.
- (g) Search the area for secondary devices as appropriate and based upon available resources.
- (h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.
- (i) Promptly relay available information to the Sergeant including:
  1. The time of discovery.
  2. The exact location of the device.
  3. A full description of the device (e.g., size, shape, markings, construction).
  4. The anticipated danger zone and perimeter.
  5. The areas to be evacuated or cleared.

### **511.7 EXPLOSION/BOMBING INCIDENTS**

When an explosion has occurred, there are multitudes of considerations which may confront the responding deputies. As in other catastrophic events, a rapid response may help to minimize injury to victims, minimize contamination of the scene by gathering crowds, or minimize any additional damage from fires or unstable structures.

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## *Response to Bomb Calls*

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### 511.7.1 CONSIDERATIONS

Deputies responding to explosions, whether accidental or a criminal act, should consider the following actions:

- (a) Assess the scope of the incident, including the number of victims and extent of injuries.
- (b) Request additional personnel and resources, as appropriate.
- (c) Assist with first aid.
- (d) Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.
- (e) Assist with the safe evacuation of victims, if possible.
- (f) Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.
- (g) Preserve evidence.
- (h) Establish an outer perimeter and evacuate if necessary.
- (i) Identify witnesses.

### 511.7.2 NOTIFICATIONS

When an explosion has occurred, the following people should be notified as appropriate:

- Fire department
- Bomb squad
- Additional office personnel, such as investigators and forensic services
- Sheriff and other appropriate supervisory personnel
- Other law enforcement agencies, including local, state or federal agencies, such as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Other government agencies, as appropriate

### 511.7.3 CROWD CONTROL

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

### 511.7.4 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene. The supervisory personnel should assign deputies to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

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## Civil Commitments

### 512.1 PURPOSE AND SCOPE

This policy provides guidelines for when deputies may place an individual in protective custody and request a 72-hour hold under the Minnesota Commitment and Treatment Act (Minn. Stat. § 253B.051).

### 512.2 POLICY

It is the policy of the Lyon County Sheriff's Office to protect the public and individuals through legal and appropriate use of the 72-hour hold process.

### 512.3 AUTHORITY

A deputy, having probable cause to believe that any individual because of mental illness, chemical dependency, or public intoxication is in danger of injuring him/herself or others if not immediately detained, may take, or cause to be taken, the individual to an appropriate treatment facility for a 72-hour evaluation (Minn. Stat. § 253B.051, Subd. 1).

The deputy shall make written application for admission of the individual to an appropriate treatment facility. The application shall contain the deputy's reasons for and circumstances under which the individual was taken into custody. If danger to specific individuals is a basis for the requested emergency hold, the statement must include identifying information for those individuals to the extent reasonably practicable. The deputy shall also provide the office contact information for purposes of receiving notice if the individual is released prior to the 72-hour admission or leaves the facility without consent. The facility shall make a copy of the statement available to the individual taken into custody (Minn. Stat. § 253B.051, Subd. 1).

#### 512.3.1 VOLUNTARY EVALUATION

If a deputy encounters an individual who may qualify for a 72-hour hold, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the individual so desires, the deputies should:

- (a) Transport the individual to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to the Minnesota Commitment and Treatment Act.
- (b) If at any point the individual changes his/her mind regarding voluntary evaluation, deputies should proceed with the application for a 72-hour hold, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

### 512.4 CONSIDERATIONS AND RESPONSIBILITIES

Any deputy handling a call involving an individual who may qualify for a 72-hour hold should consider, as time and circumstances reasonably permit:

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- (a) Available information that might assist in determining the cause and nature of the individual's action or stated intentions.
- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade deputies from taking reasonable action to ensure the safety of the deputies and others.

### **512.5 TRANSPORTATION**

When transporting any individual for a 72-hour hold, the transporting deputy should have Dispatch notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Deputies may transport individuals in a patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of a deputy during the transport.

### **512.6 TRANSFER TO APPROPRIATE FACILITY**

Upon arrival at the facility, the deputy will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the deputy should provide the staff member with the written application for a 72-hour hold and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting deputy should not assist facility staff with the admission process. However, if the individual is transported and delivered while restrained, the deputy may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, deputies will not apply facility-ordered restraints.

### **512.7 DOCUMENTATION**

The deputy should complete an application for emergency admission, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The deputy should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

### **512.8 CRIMINAL OFFENSES**

Deputies investigating an individual who is suspected of committing a minor criminal offense and who is being taken into custody for purposes of a 72-hour hold should resolve the criminal matter by issuing a warning or a citation, as appropriate.



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When an individual who may qualify for a 72-hour hold has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the deputy should:

- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 72-hour hold.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 72-hour hold.

In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this office to regain custody of the individual, office resources (e.g., posting a guard) and other relevant factors in making this decision.

### **512.9 FIREARMS AND OTHER WEAPONS**

Whenever an individual is taken into custody for a 72-hour hold, the handling deputies should seek to determine if the individual owns or has access to any firearm or other deadly weapon. Deputies should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Deputies are cautioned that a search warrant may be needed before entering a residence or other place to search unless lawful warrantless entry has already been made (e.g., exigent circumstances, consent). A warrant may also be needed before searching for or seizing weapons.

The handling deputies should further advise the individual of the procedure for the return of any firearm or other weapon that has been taken into custody.

### **512.10 TRAINING**

This office will endeavor to provide office-approved training on interaction with mentally disabled persons, 72-hour holds and crisis intervention.

## Vehicle Towing

### 513.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Lyon County Sheriff's Office and under the authority of Minn. Stat. § 168B.035.

### 513.2 STORAGE AND IMPOUNDS

Vehicles may be towed for violations of Minn. Stat. § 168B.035, including parking, registration and snow emergency violations.

Vehicles may be moved or removed from a highway when in violation of Minn. Stat. § 169.32(a) or when left unattended upon any street or highway or upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic (Minn. Stat. § 169.33).

The responsibilities of those employees storing or impounding a vehicle are as follows:

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

Office members requesting towing of a vehicle shall complete a narrative and an inventory report.

Inventories shall be completed on all vehicles stored on Lyon County property, and immediately prepared so that they are available for inquiries and release.

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

When a vehicle has been involved in a traffic collision and must be removed from the scene, the deputy shall have the driver select a towing company, if reasonably possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the list of towing companies in Dispatch.

If the owner is incapacitated or for any reason it is necessary for the Office to assume responsibility for a vehicle involved in a collision, the deputy shall request the dispatcher to call a company selected from the list of towing companies. The deputy will then conduct an inventory if the vehicle is to be stored on County property.

#### 513.2.3 DRIVING A NON-CITY VEHICLE

Vehicles that have been towed by or at the direction of the Office should not be driven by sheriff's personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

#### 513.2.4 DISPATCHER'S RESPONSIBILITIES

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

### 513.3 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

## *Vehicle Towing*

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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 Office will not be responsible for theft or damages.

### **513.4 VEHICLE INVENTORY**

All property in a stored or impounded vehicle, stored on County property, shall be inventoried and listed on a written report 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 sheriff's custody, to provide for the safety of deputies and the public, and to protect the Office against fraudulent claims of lost, stolen or damaged property.

### **513.5 PRESERVATION OF EVIDENCE**

A deputy 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, deputies 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.

### **513.6 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, deputy 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.

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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.

## Traffic Citations

### 514.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the collection of data, the procedure for dismissal, correction and voiding of traffic citations.

### 514.2 RESPONSIBILITIES

The Office shall be responsible for the development and design of all General Order traffic citations in compliance with state law (Minn. Stat. § 169.99 and Minn. Stat. § 169.999 Subd. 3).

#### 514.2.1 DATA COLLECTION

The Sheriff's Office Records when required should maintain information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

- (a) The race or ethnicity of the individual detained.
- (b) Whether a search was conducted and, if so, whether the person detained consented to the search.

The Sheriff's Office Records when required should submit an annual report to the Sheriff of the information collected to assist in the implementation and administration of the Office's Bias-Based Policing Policy required by state law (Minn. Stat. § 626.8471 Subd. 4).

### 514.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this office do not have the authority to dismiss a citation once it has been issued and submitted through Records to the citation processing center. Only the Court or Prosecutor has the authority to dismiss a citation that has been issued and submitted to the Courts

Should a deputy determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate, the deputy may request the prosecutor to dismiss the citation.

Members of the Office should provide a report or other verification to the owner of a stolen vehicle that may have received a citation during the time of the theft for the purpose of dismissing the citation (Minn. Stat. § 169.042 Subd. 2).

### 514.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been submitted by Records to the Courts or where it is completed but not issued and submitted. Or, in circumstances where a citation should be voided for the purposes of preparation of a formal complaint.

Citations may be voided at the direction of the Sheriff or Sergeant under circumstances involving the interests of justice, or where errors in charging have been made or elements of the charged crime have not been established.

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Citations may also be voided upon the request of the prosecuting authority.

### **514.5 CORRECTION OF TRAFFIC CITATIONS**

When a traffic citation is issued and in need of correction, the deputy issuing the citation may make corrections to the citation only prior to submission of the citation to the Courts by Records.

Citations already submitted to the Courts will need to be amended by the prosecuting authority, or dismissed and a new citation issued.

Citations may also be corrected for errors by supervisory personnel following the same process, or issuance of a new citation with the appropriate charges.

### **514.6 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE**

Disposition of notice of parking violation appeals is conducted pursuant to Minnesota state law and local regulations (Minn. Stat. § 169.04 (a) (1)).

### **514.7 JUVENILE CITATIONS**

Completion of traffic citation forms for juveniles may vary slightly from the procedure for adults. The juvenile's age, place of residency and the type of offense should be considered before issuing the juvenile a citation. Most all petty misdemeanor traffic offenses are charged by issuance of a citation and proceed through the adult traffic court system. All other misdemeanor, gross misdemeanor and felony level charges require a formal juvenile petition through the Lyon County Attorney's Office.

- (a) When appropriate, any juvenile 16 years of age or older is issued a citation for an adult court traffic offense, the deputy shall follow the arrest procedures prescribed in Minn. Stat. § 169.91 and shall make reasonable effort to notify the child's parent or guardian of the violation and the nature of the charge. Notifications should be documented (Minn. Stat. § 260B.225 Subd. 3).
- (b) When a juvenile is issued a traffic or charged by citation for any other citation permissible charge, the Deputy shall gather pertinent parent(s) named and contact information. the Deputy shall prepare a formal notification to the parent, notifying them of the contact and relevant charges and any other pertinent information relative to the incident.
- (c) For incidents other than PM traffic offenses, persona, or at a minimum of telephone contact shall be made with a parent, legal guardian explaining the contact and any other pertinent incident information, and determination as to disposition of the juvenile.

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## Citation Releases

### 515.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of the Lyon County Sheriff's Office with guidance on when to release adults who are suspected offenders on a citation for a criminal offense, rather than having the person held in custody for a court appearance or released on bail.

This policy also provides guidance on when a court orders that a person be released.

Additional release restrictions may apply to those detained for domestic violence, as outlined in the Domestic Abuse Policy.

### 515.2 POLICY

The Lyon County Sheriff's Office will consider its resources and its mission of protecting the community when exercising any discretion to release suspected offenders on a citation, when authorized to do so.

### 515.3 RELEASE

A suspected offender shall be released on issuance of a citation:

- (a) When the offender has been arrested without a warrant and either a prosecutor or district court judge orders that the offender should be released (Minn. R. Crim. P. 4.02; Minn. R. Crim. P. 6.01).
  - 1. Release is not required if a reviewing supervisor determines that the offender should be held pursuant to Minn. R. Crim. P. 6.01 Subd. 1.
- (b) When the offender is charged with a petty or fine-only misdemeanor (Minn. R. Crim. P. 6.01).
- (c) In misdemeanor cases unless it reasonably appears to the arresting deputy that the offender will (Minn. R. Crim. P. 6.01):
  - 1. Cause bodily injury to him/herself or another if he/she is not detained.
  - 2. Continue engaging in criminal conduct.
  - 3. Not respond to a citation.
- (d) When the offender is from another state which has a reciprocal agreement with Minnesota unless the offense is (Minn. Stat. § 169.91):
  - 1. One which would result in the revocation of the offender's driver's license under Minnesota law upon conviction.
  - 2. A violation of a highway weight limitation.
  - 3. A violation of a law governing the transportation of hazardous materials.
  - 4. That the offender was driving without a valid driver's license.

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## Citation Releases

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### 515.4 PROHIBITIONS

The release of a suspected offender on a citation is not permitted when:

- (a) The offender has committed a driving while impaired (DWI) offense (Minn. Stat. § 169A.40; Minn. Stat. § 169.91).
- (b) The offender is arrested for a violation of state law or an ordinance related to the operation or registration of a vehicle punishable as a misdemeanor or felony and (Minn. Stat. § 169.91):
  1. The offender demands an immediate appearance before a judge.
  2. The offender is charged with:
    - (a) An offense involving an accident that resulted in injury or death.
    - (b) Criminal vehicular homicide.
    - (c) Failure to stop after being involved in an accident that resulted in death, personal injuries or damage to property.
  3. There is reasonable cause to believe that the offender may leave the state.

See the Domestic Abuse Policy for release restrictions related to those investigations.

### 515.5 CONSIDERATIONS

In determining whether to cite and release a person when discretion is permitted, deputies should consider:

- (a) The type of offense committed.
- (b) The known criminal history of the suspected offender.
- (c) The ability to identify the suspected offender with reasonable certainty.
- (d) Whether there is any record of the individual failing to appear in previous cases or other articulable indications that the individual may not appear in court for this offense.
- (e) The individual's ties to the area, such as residence, employment or family.
- (f) Whether there is reasonable likelihood that criminal conduct by the individual will continue.

### 515.6 FISH AND GAME AND ENVIRONMENT-RELATED OFFENSES

In the case of game and fish laws or other environment-related offenses, as specified in Minn. Stat. § 97A.211, deputies should release the offender unless there is reason to believe that criminal conduct will continue or that the offender will not respond as required by the citation (Minn. Stat. § 97A.211).



## Immigration Violations

### 516.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Lyon County Sheriff's Office relating to immigration and interacting with federal immigration officials.

### 516.2 POLICY

It is the policy of the Lyon County Sheriff's Office that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this office in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

### 516.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or Minnesota constitutions.

### 516.4 DETENTIONS

A deputy should not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant.

A deputy who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of federal immigration law may detain the person for a reasonable period of time in order to contact federal immigration officials to verify whether an immigration violation is a federal civil violation or a criminal violation. If the violation is a criminal violation, the deputy may continue to detain the person for a reasonable period of time if requested by federal immigration officials (8 USC § 1357(g)(10)). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the deputy has facts that establish probable cause to believe that a person already lawfully detained has committed a criminal immigration offense, he/she may continue the detention and may request a federal immigration official to respond to the location to take custody of the detained person (8 USC § 1357(g)(10)).

A deputy is encouraged to forgo detentions made solely on the basis of a misdemeanor offense when time limitations, availability of personnel, issues of officer safety, communication capabilities, or the potential to obstruct a separate investigation outweigh the need for the detention.

## *Immigration Violations*

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A deputy should notify a supervisor as soon as practicable whenever an individual is being detained for a criminal immigration violation.

### **516.4.1 SUPERVISOR RESPONSIBILITIES**

When notified that a deputy has detained an individual and established reasonable suspicion or probable cause to believe the person has violated a criminal immigration offense, the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Lawfully arrest the person for a criminal offense or pursuant to a judicial warrant (see the Law Enforcement Authority Policy).

### **516.5 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT**

Generally, a deputy should not notify federal immigration officials when booking arrestees at a county jail facility. Any required notification will be handled according to jail operation procedures. No individual who is otherwise ready to be released should continue to be detained solely for the purpose of notification.

### **516.6 FEDERAL REQUESTS FOR ASSISTANCE**

Requests by federal immigration officials for assistance from this office should be directed to a supervisor. The Office may provide available support services, such as traffic control or peacekeeping efforts.

### **516.7 INFORMATION SHARING**

No member of this office will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials
- (b) Maintaining such information in office records
- (c) Exchanging such information with any other federal, state, or local government entity

#### **516.7.1 IMMIGRATION DETAINERS**

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 unless the person has been charged with a federal crime or the detainer is accompanied by a warrant, affidavit of probable cause, or removal order. Notification to the federal authority issuing the detainer should be made prior to the release.

### **516.8 U VISA AND T VISA NONIMMIGRANT STATUS**

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

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## *Immigration Violations*

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Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Investigations supervisor assigned to oversee the handling of any related case. The Investigations supervisor should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.
  - 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

### **516.9 TRAINING**

The Sergeant should ensure deputies receive training on this policy.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration offense has been committed.

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## Emergency Utility Service

### 517.1 PURPOSE AND SCOPE

The various Municipalities within Lyon County have a Public Works Department who have personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Sheriff's Office. Requests for such service received by this office should be handled in the following manner.

#### 517.1.1 BROKEN WATER LINES

The County or City's responsibility ends at the water meter. Any break or malfunction in the water system from the water meter to the citizen's residence or business is the customer's responsibility. Public Works can only turn off the valve at the meter. The citizen can normally accomplish this.

If a break occurs on the County/City side of the meter, emergency personnel should be called as soon as practicable by Dispatch.

#### 517.1.2 ELECTRICAL LINES

County and most City Public Works do not maintain electrical lines to street light poles. When a power line poses a hazard, a deputy should be dispatched to protect against personal injury or property damage that might be caused by power lines. The electric company or Public Works should be promptly notified, as appropriate.

#### 517.1.3 RESERVOIRS, PUMPS AND WELLS

Public Works maintains the reservoirs and public water equipment, as well as several underpass and other street drainage pumps. In the event of flooding or equipment malfunctions, emergency personnel should be contacted as soon as possible.

#### 517.1.4 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies will be maintained by Dispatch.

## Traffic Collisions

### 518.1 PURPOSE AND SCOPE

This policy provides guidelines for responding to and investigating traffic related crashes.

### 518.2 POLICY

It is the policy of the Lyon County Sheriff's Office to respond to traffic collisions and render or summon aid to injured victims as needed. The Office will investigate and prepare reports according to the established minimum reporting requirements with the goal of reducing the occurrence of collisions by attempting to identify the cause of the collision and through enforcing applicable laws. Unless restricted by law, traffic collision reports will be made available to the public upon request.

### 518.3 RESPONSE

Upon arriving at the scene, the responding member should assess the need for additional resources and summon assistance as appropriate. Generally, the member initially dispatched to the scene will be responsible for the investigation and report, if required, unless responsibility is reassigned by a supervisor.

A supervisor should be called to the scene, or notified when the incident:

- (a) Is within the jurisdiction of this office and there is:
  - (a) A life-threatening injury.
  - (b) A fatality.
  - (c) A County vehicle involved.
  - (d) A County official or employee involved.
  - (e) Involvement of an on- or off-duty member of this office.
- (b) Is within another jurisdiction and there is:
  - 1. A County of Lyon vehicle involved.
  - 2. A County of Lyon official involved.
  - 3. Involvement of an on-duty member of this office.

#### 518.3.1 MEMBER RESPONSIBILITIES

Upon arriving at the scene, the responding member should consider and appropriately address:

- (a) Traffic direction and control
- (b) Proper placement of emergency vehicles, cones, roadway flares or other devices if available to provide protection for members, the public and the scene.
- (c) First aid for any injured parties if it can be done safely.
- (d) The potential for involvement of hazardous materials.

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## Traffic Collisions

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- (e) The need for additional support as necessary (e.g., traffic control, emergency medical services, fire department, HAZMAT, tow vehicles).
- (f) Clearance and cleanup of the roadway.

### 518.4 NOTIFICATION

If a traffic collision involves a life-threatening injury or fatality, the responding deputy shall notify a supervisor and ensure that notification is made to the Sheriff in accordance with the Major Incident Notification Policy.

#### 518.4.1 NOTIFICATION OF FAMILY

In the event of a life-threatening injury or fatality, the investigating deputy responsible for the incident should ensure notification of the victim's immediate family or coordinate such notification with the County Coroner, or another suitable person. Notification should be made as soon as practicable following positive identification of the victim.

The identity of any person seriously injured or deceased in a traffic collision should not be released until notification is made to the victim's immediate family.

### 518.5 MINIMUM REPORTING REQUIREMENTS

A MN State Crash Report (SCR) report shall be completed when:

- (a) A fatality, any injury (including complaint of pain), impaired driving or hit and run is involved.
- (b) An on-duty member of the County of Lyon is involved.
- (c) The collision results in any damage to any County-owned or leased vehicle.
- (d) The collision involves any other public agency driver or vehicle.
- (e) There is damage to public property.
- (f) There is damage to any vehicle to the extent that towing is required.
- (g) Prosecution or follow-up investigation is contemplated.
- (h) Directed by a supervisor.

#### 518.5.1 PRIVATE PROPERTY

Generally, reports should not be taken when a traffic collision occurs on private property unless there is an injury or fatality, a hit-and-run violation or other traffic law violation involved. Members may provide assistance to motorists as a public service, such as exchanging information and arranging for the removal of the vehicles.

#### 518.5.2 COUNTY VEHICLE INVOLVED

A MN State Crash Report (SCR) shall be taken when a County vehicle is involved in a traffic collision that results in property damage or injury.

A general information report may be taken in lieu of a MN State Crash Report (SCR) at the direction of a supervisor when the incident occurs entirely on private property AND does not involve

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another vehicle or damage to property of another **AND** damage appears to be less than \$1000 and no injuries were a result of the collision.

Whenever there is damage to a County vehicle, a written narrative report by the involved county personnel summarizing the nature and cause of the damage to county property shall be completed. A MN State Crash Report (SCR) does not take the place of a written narrative report that is to be completed by the involved personnel.

### 518.5.3 INJURED ANIMALS

Office members should refer to the [Animal Control] Policy when a traffic collision involves the disposition of an injured animal.

### 518.6 INVESTIGATION

When a traffic collision meets minimum reporting requirements the investigation should include, at a minimum:

- (a) Identification and interview of all involved parties.
- (b) Identification and interview of any witnesses.
- (c) A determination of whether a violation of law has occurred and the taking of appropriate enforcement action.
- (d) Identification and protection of items of apparent evidentiary value.
- (e) Documentation of the incident as necessary (e.g., statements, measurements, photographs, collection of evidence and reporting) on the appropriate forms.

#### 518.6.1 INVESTIGATION BY OUTSIDE LAW ENFORCEMENT AGENCY

The investigating deputy or a supervisor should request that the Minnesota State Patrol or other outside law enforcement agency investigate and complete a traffic collision investigation and written report when a crash involves an injury or fatal traffic collision or damage to a vehicle or property of another within the jurisdiction of the Lyon County Sheriff's Office and involves:

- (a) An on- or off-duty member of the Office
- (b) An on-or off-duty official or employee of the County of Lyon.

Office members shall promptly notify a supervisor when any office vehicle is involved in a traffic collision. The collision investigation and report shall be completed by the agency having jurisdiction.

#### 518.6.2 COMMERCIAL VEHICLE COLLISIONS

Commercial vehicle collisions additionally require notification to the Minnesota State Patrol if the collision results in (Minn. Stat. § 169.783):

- (a) A fatality.
- (b) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the collision.

## *Traffic Collisions*

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- (c) One or more vehicles incurring disabling damage as a result of the collision, requiring the vehicle to be transported away from the scene by tow truck or other motor vehicle.

A waiver or inspection by a state trooper or other authorized person is required before a person may drive a commercial motor vehicle that was involved in such a collision (Minn. Stat. § 169.783).

### **518.7 ENFORCEMENT ACTION**

After a thorough investigation in which physical evidence or independent witness statements indicate that a violation of a traffic law contributed to the collision, authorized members should issue a citation or arrest the offending driver, as appropriate.

More serious violations, such as driving under the influence of drugs or alcohol, vehicular manslaughter, or other felonies, shall be enforced. If a driver who is subject to enforcement action is admitted to a hospital, a supervisor shall be contacted to determine the best enforcement option.

### **518.8 REPORTS**

Office members shall utilize forms approved by the Minnesota Department of Public Safety as required for the reporting of traffic collisions (Minn. Stat. § 169.09, Subd. 9). All such reports shall be forwarded to the Sergeant for approval and filing. In addition to the crash report, a written narrative report shall also be completed as required in POL 507 Report Preparation.

#### **518.8.1 REPORT MODIFICATION**

A change or modification of a written report that alters a material fact in the report may be made only by the member who prepared the report, and only prior to its approval and distribution. Once a report has been approved and distributed, corrections shall only be made by way of a written supplemental report. A written supplemental report may be made by any authorized member.

### **518.9 SUPERVISOR RESPONSIBILITIES FOR COUNTY VEHICLE LOSS AND DAMAGE**

Supervisory personnel shall gather information, data and any other pertinent information related to loss of County property including damage and loss of property sustained in County vehicle related motor vehicle collisions. Loss and damage includes collisions and damage investigated by Office personnel and those incidents and crashes investigated by an outside agency.

Supervisory personnel shall gather the pertinent information and data related to the loss of County property and make a determination based on the information determine if the actions and conduct of Office personnel are contrary to law or office policy, procedures and practices. Supervisory personnel shall determine if further investigation is required, if a violation of law or policy is found or suspected and forward those findings to the Sheriff for review. If supervisory personnel determine that misconduct has or is suspected to have occurred, supervisory personnel shall act in accordance with the ALLEGATIONS OF EMPLOYEE MISCONDUCT policy and collective bargaining agreements.

Data, reports and collected information and data should be compiled and retained in a manner that also allows them to be easily accessible and in a format to be forwarded and disseminated to the County insurance provider (i.e. MCIT) as required for reporting purposes.



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### 518.9.1 RELEVANT INVESTIGATIVE DATA

Supervisory personnel shall gather any and all available data as it relates to the damage and loss of County property.

This includes, but is not exclusive of the gathering of the following:

- Completed crash reports.
- Squad camera video footage
- BWC footage available
- Surveillance video
- Photos of the damaged vehicle and scene photos (if applicable).
- Witness statements.
- Damage estimates (if applicable).
- Any other written narrative reports.
- Any vehicle performance related data (i.e. black box data)
- Crash reconstruction or mappings.
- Any other data, photos, video or relevant evidence related to the loss of County property.

## Aircraft Crashes

### 519.1 PURPOSE AND SCOPE

The purpose of this policy is to provide office members with guidelines for handling aircraft crashes.

This policy does not supersede, and is supplementary to, applicable portions of the Crime and Disaster Scene Integrity, Emergency Operations Plan and Hazardous Material Response policies.

#### 519.1.1 DEFINITIONS

Definitions related to this policy include:

**Aircraft** - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

### 519.2 POLICY

It is the policy of the Lyon County Sheriff's Office to provide an appropriate emergency response to aircraft crashes. This includes emergency medical care and scene management.

### 519.3 ARRIVAL AT SCENE

Deputies or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

- (a) Protect persons and property.
- (b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.
- (c) Preserve ground scars and marks made by the aircraft.
- (d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.
- (e) Maintain a record of persons who enter the accident site.
- (f) Consider implementation of an Incident Command System (ICS).

### 519.4 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

## *Aircraft Crashes*

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### **519.5 NOTIFICATIONS**

When an aircraft crash is reported to this office, the responding supervisor shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), and when applicable, the appropriate branch of the military.

Supervisors shall ensure other notifications are made once an aircraft crash has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft crash has occurred, it is generally necessary to notify the following:

- (a) Fire department
- (b) Appropriate airport tower
- (c) Emergency medical services (EMS)

### **519.6 CONTROLLING ACCESS AND SCENE AUTHORITY**

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

- (a) FAA.
- (b) Fire department, EMS or other assisting law enforcement agencies.
- (c) Medical Examiner.
- (d) Air Carrier/Operators investigative teams with NTSB approval.
- (e) Appropriate branch of the military, when applicable.
- (f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB has primary responsibility for investigating crashes involving civil aircraft. In the case of a military aircraft crashes, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB or military representative arrives on-scene, the efforts of this office will shift to a support role for those agencies.

If NTSB or a military representative determines that an aircraft or crash does not qualify under its jurisdiction, the on-scene office supervisor should ensure the crash is still appropriately investigated and documented.

### **519.7 DANGEROUS MATERIALS**

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

- (a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.
- (b) Pressure vessels, compressed gas bottles, accumulators and tires.

## Aircraft Crashes

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- (c) Fluids, batteries, flares and igniters.
- (d) Evacuation chutes, ballistic parachute systems and composite materials.

### 519.8 DOCUMENTATION

All aircraft crashes occurring within the County of Lyon shall be documented. At a minimum the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of LCSO members deployed to assist; other County resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

#### 519.8.1 WRECKAGE

When reasonably safe, members should:

- (a) Obtain the aircraft registration number (N number) and note the type of aircraft.
- (b) Attempt to ascertain the number of casualties.
- (c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.
  1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).
- (d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.
- (e) Acquire copies of any recordings from security cameras that may have captured the incident.

#### 519.8.2 WITNESSES

Members tasked with contacting witnesses should obtain:

- (a) The location of the witness at the time of his/her observation relative to the accident site.
- (b) A detailed description of what was observed or heard.
- (c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.
- (d) The names of all persons reporting the accident, even if not yet interviewed.
- (e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

### 519.9 MEDIA RELATIONS

The supervisory personnel should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the surrounding community.

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## *Aircraft Crashes*

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Any release of information regarding details of the accident itself should be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The Sergeant should coordinate with other involved entities before the release of information.

## Obtaining Air Support

### 520.1 PURPOSE AND SCOPE

The use of air support can be invaluable in certain situations. This policy specifies potential situations where the use of air support may be requested and the responsibilities for making a request.

### 520.2 REQUEST FOR AIR SUPPORT ASSISTANCE

If a supervisor or deputy in charge of an incident determines that the use of air support would be beneficial, a request to obtain air support assistance may be made.

#### 520.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for air support, the supervisor or designee will call the closest agency having air support available. The supervisor will apprise that agency of the specific details of the incident prompting the request.

#### 520.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Law enforcement air support may be requested under any of the following conditions:

- (a) When the aircraft is activated under existing mutual aid agreements.
- (b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the aircraft may reduce such hazard.
- (c) When the use of aircraft will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community.
- (d) When an aircraft is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard.
- (e) Vehicle pursuits (Minn. Stat. § 626.8458).
- (f) When the supervisor or equivalent authority determines a reasonable need exists.

While it is recognized that the availability of air support will generally provide valuable assistance to ground personnel, the presence of air support will rarely replace the need for deputies on the ground.

## Contacts and Temporary Detentions

### 521.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

#### 521.1.1 DEFINITIONS

Definitions related to this policy include:

**Consensual encounter** - When a deputy contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the deputy is voluntary.

**Field interview (FI)** - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the deputy's suspicions.

**Field photographs** - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Video Recorder (MVR) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

**Pat-down search** - A type of search used by deputies in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the [officer\_deputy], the detainee, or others.

**Reasonable suspicion** - When, under the totality of the circumstances, a deputy has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

**Temporary detention** - When a deputy intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when a deputy actually restrains a person's freedom of movement.

### 521.2 FIELD INTERVIEWS

Based on observance of suspicious circumstances or upon information from investigation, a deputy may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the deputy's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Lyon County Sheriff's Office to strengthen community involvement, community awareness, and problem identification.

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## *Contacts and Temporary Detentions*

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### 521.2.1 INITIATING A FIELD INTERVIEW

When initiating the stop, the deputy should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act.
- (b) Actions suggesting that he/she is engaged in a criminal activity.
- (c) Presence in an area at an inappropriate hour of the day or night.
- (d) Presence in a particular area is suspicious.
- (e) Carrying of suspicious objects or items.
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon.
- (g) Location in proximate time and place to an alleged crime.
- (h) Physical description or clothing worn that matches a suspect in a recent crime.
- (i) Prior criminal record or involvement in criminal activity as known by the deputy.

### 521.3 PAT-DOWN SEARCHES

Once a valid stop has been made, and consistent with the deputy's training and experience, a deputy may pat a suspect's outer clothing for weapons if the deputy has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the deputy to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of weapons is involved.
- (b) Where more than one suspect must be handled by a single deputy.
- (c) The hour of the day and the location or area where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.
- (e) The actions and demeanor of the suspect.
- (f) Visual indications which suggest that the suspect is carrying a firearm or other dangerous weapon.

Whenever practicable, a pat-down search should not be conducted by a lone deputy. A cover deputy should be positioned to ensure safety and should not be involved in the search.

### 521.4 POLICY

The Lyon County Sheriff's Office respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the deputy, the decision to temporarily detain a person and complete an FI, pat-down search, or field photograph shall be



## *Contacts and Temporary Detentions*

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left to the deputy based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

### **521.5 WITNESS IDENTIFICATION AND INTERVIEWS**

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, deputies should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

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

## Mobile Video Recorders

### 522.1 PURPOSE AND SCOPE

The Lyon County Sheriff's Office has equipped marked patrol cars with Mobile Video Recording (MVR) systems to provide records of events and assist deputies in the performance of their duties. This policy provides guidance on the use of these systems.

#### 522.1.1 DEFINITIONS

Definitions related to this policy include:

**Activate** - Any process that causes the MVR system to transmit or store video or audio data in an active mode.

**In-car camera system and Mobile Video Recorder (MVR)** - Synonymous terms - that refer to any system that captures audio and video signals that is capable of installation in a vehicle and that includes at minimum, a camera, microphone, recorder and monitor.

**Law Enforcement Operator (LEO)** - Primarily a licensed peace officer but on occasion may be a non-licensed representative of the Office who is authorized and assigned to operate MVR-equipped vehicles to the extent consistent with Minn. Stat. § 169.98.

**MGDPA** - The Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13.

**Recorded media** - Audio-video signals recorded or digitally stored on a storage device or portable media.

### 522.2 POLICY

It is the goal of the Lyon County Sheriff's Office to use mobile video recorder (MVR) technology to more effectively fulfill the office's mission and to ensure these systems are used securely and efficiently.

### 522.3 DEPUTY RESPONSIBILITIES

Prior to going into service each deputy will properly equip him/herself to record audio and video in the field.

At the start of each shift, deputies should test the MVR system operation in accordance with manufacturer specifications and office operating procedures and training.

If the system is malfunctioning, the deputy shall take the vehicle out of service unless a supervisor requests the vehicle remain in service.

### 522.4 ACTIVATION OF THE MVR

The MVR system is designed to turn on whenever the unit's emergency lights are activated. The system remains on until it is turned off manually. The audio portion is automatically activated

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## Mobile Video Recorders

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whenever the unit's emergency lights are activated, and should be activated manually by the deputy whenever appropriate. When audio is being recorded the video will also record.

Operators are encouraged to narrate events using the audio recording so as to provide the best documentation for pretrial and courtroom presentation.

### 522.4.1 REQUIRED ACTIVATION OF THE MVR

This policy is not intended to describe every possible situation in which the MVR system may be used, although there are many situations where its use is appropriate. A deputy may activate the system any time the deputy believes its use would be appropriate and/or valuable to document an incident.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However the audio portion can be valuable evidence and is subject to the same activation requirements as the MVR. The MVR system should be activated in any of the following situations:

- (a) All field contacts involving actual or potential criminal conduct within video or audio range:
  - 1. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
  - 2. Priority responses
  - 3. Vehicle pursuits
  - 4. Suspicious vehicles
  - 5. Arrests
  - 6. Vehicle searches
  - 7. Physical or verbal confrontations or use of force
  - 8. Prisoner transports
  - 9. Non-custody transports
  - 10. Pedestrian checks
  - 11. DWI investigations including field sobriety tests
  - 12. Consensual encounters
  - 13. Crimes in progress
  - 14. Responding to an in-progress call
  - 15. Medical incidents attended to by members of the Office
- (b) All self-initiated activity in which a deputy would normally notify Dispatch
- (c) Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect:
  - 1. Family violence calls

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2. Disturbance of peace calls
  3. Offenses involving violence or weapons
- (d) Any other contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording
- (e) Any other circumstance where the deputy believes that a recording of an incident would be appropriate

### 522.4.2 CESSATION OF RECORDING

Once activated the MVR system should remain on until the incident has concluded. For purposes of this section conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and all witnesses and victims have been interviewed. Recording may cease if a deputy is simply waiting for a tow truck or a family member to arrive, or in other similar situations.

### 522.4.3 WHEN ACTIVATION IS NOT REQUIRED

Activation of the MVR system is not required when exchanging information with other deputies or during breaks, lunch periods, when not in service or actively on patrol.

No member of this office may surreptitiously use County equipment to record a conversation of any other member of this office except with a court order or when lawfully authorized by the Sheriff or the authorized designee for the purpose of conducting a criminal or administrative investigation.

### 522.4.4 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if vehicles with non-functioning MVR systems should be placed into service.

At reasonable intervals, supervisors should validate that:

- (a) Beginning and end-of-shift recording procedures are followed.
- (b) When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, peace officer-involved shootings, office-involved collisions), a supervisor shall respond to the scene and ensure that the appropriate supervisor properly retrieves the recorded media. The media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media. Copies may be distributed to investigators as appropriate to the investigation.

## 522.5 REVIEW OF MVR RECORDINGS

All recording media, recorded images and audio recordings are the property of the agency and subject to the provisions of the MGDPA. Dissemination outside of the agency is strictly

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prohibited except to the extent permitted or required under the MGDPA, Peace Officer Disciplinary Procedures Act or other applicable law.

To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the office MVR technician or forensic media staff. When reasonably possible a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

Recordings may be reviewed in any of the following situations.

- (a) For use when preparing reports or statements
- (b) By a supervisor investigating a specific act of deputy conduct
- (c) By a supervisor to assess deputy performance
- (d) To assess proper functioning of MVR systems
- (e) By office investigators, after approval of a supervisor, who are participating in an official investigation such as a personnel complaint, administrative inquiry or a criminal investigation
- (f) By office personnel who request to review recordings
- (g) By a deputy who is captured on or referenced in the video or audio data and reviews and uses the data for any purpose relating to his/her employment
- (h) By court personnel through proper process or with permission of the Sheriff or the authorized designee
- (i) By the media through proper process or with an MGDPA request (Minn. Stat. § 13.01 et seq.)
- (j) To assess possible training value
- (k) Recordings may be shown for staff or public safety training purposes. If an involved deputy objects to showing a recording, his/her objection will be submitted to the staff to determine if the training value outweighs the deputy's objection

Employees desiring to view any previously uploaded or archived MVR recording should submit a request in writing to the Sergeant. Approved requests should be forwarded to the MVR technician for processing.

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

### **522.6 DOCUMENTING MVR USE**

If any incident is recorded with either the video or audio system, the existence of that recording shall be documented in the deputy's report. If a citation is issued, the deputy shall make a notation on the citation indicating that the incident was recorded.

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### **522.7 RECORDING MEDIA STORAGE AND INTEGRITY**

Once submitted for storage all recording media will be stored electronically on the server and individual video files will be saved to other electronic evidence storage locations on the server. All recording media that is not saved as evidence will be retained at established records retention schedule.

#### **522.7.1 COPIES OF ORIGINAL RECORDING MEDIA**

Upon proper request a copy of the original recording media will be made for use as authorized in this policy.

Original recording media may only be released in response to a court order or upon approval by the Sheriff or the authorized designee.

#### **522.7.2 MVR RECORDINGS AS EVIDENCE**

Deputies who reasonably believe that an MVR recording is likely to contain evidence relevant to a criminal offense, potential claim against the deputy or against the Lyon County Sheriff's Office should indicate this in an appropriate report. Deputies should ensure relevant recordings are preserved.

### **522.8 SYSTEM OPERATIONAL STANDARDS**

- (a) MVR system vehicle installations should be based on officer safety requirements and vehicle and device manufacturer recommendations.
- (b) The MVR system should be configured to minimally record for 30 seconds prior to an event.
- (c) The MVR system may not be configured to record audio data occurring prior to activation.
- (d) To prevent bleed-over and/or noise from other MVRs in systems using low band transmitters (analog) only the primary LEO initiating the contact shall activate his/her audio recorder.
- (e) LEOs using digital transmitters that are individually synchronized to their individual MVR shall activate both audio and video recordings when responding in a support capacity in order to obtain additional perspectives of the incident scene.
- (f) LEOs shall not erase, alter, reuse, modify or tamper with MVR recordings. Only a supervisor, or other approved designee may erase and reissue previously recorded recordings and may only do so pursuant to the provisions of this policy.
- (g) To prevent damage original recordings shall not be viewed on any equipment other than the equipment issued or authorized by supervisory personnel..

### **522.9 SUPERVISOR RESPONSIBILITIES**

Supervisory personnel are responsible for:

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- (a) Ordering, issuing, retrieving, storing, erasing and duplicating of all recorded media.
- (b) Collecting all completed media for oversight and verification of wireless downloaded media. Once collected the MVR technician:
  - 1. Ensures it is stored in a secured location with authorized controlled access.
  - 2. Makes appropriate entries in the chain of custody log.
- (c) Erasing of media:
  - 1. Pursuant to a court order.
  - 2. In accordance with established records retention policies, including reissuing all other media deemed to be of no evidentiary value.
- (d) Assigning all media an identification number prior to issuance to the field.
  - 1. Maintaining a record of issued media.
- (e) Ensuring that an adequate supply of recording media is available.
- (f) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the office evidence storage protocols and the records retention schedule.

## Foot Pursuits

### 523.1 PURPOSE AND SCOPE

This policy provides guidelines to assist deputies in making the decision to initiate or continue the pursuit of suspects on foot.

### 523.2 DECISION TO PURSUE

The safety of office members and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Deputies must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and office members.

Deputies may be justified in initiating a foot pursuit of any individual the deputy reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as the sole justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity or being wanted by law enforcement.

Deciding to initiate or continue a foot pursuit is a decision that a deputy must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits potentially place office members and the public at significant risk. Therefore, no deputy or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, a deputy should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as the following:

- (a) Containment of the area.
- (b) Saturation of the area with law enforcement personnel, including assistance from other agencies.
- (c) A canine search.
- (d) Thermal imaging or other sensing technology.
- (e) Air support.
- (f) Apprehension at another time, when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to



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immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the foot pursuit.

### **523.3 GENERAL GUIDELINES**

When reasonably practicable, deputies should consider alternatives to engaging in or continuing a foot pursuit when:

- (a) Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory.
- (b) The deputy is acting alone.
- (c) Two or more deputies become separated, lose visual contact with one another or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single deputy keep the suspect in sight from a safe distance and coordinate the containment effort.
- (d) The deputy is unsure of his/her location and direction of travel.
- (e) The deputy is pursuing multiple suspects and it is not reasonable to believe that the deputy would be able to control the suspect should a confrontation occur.
- (f) The physical condition of the deputies renders him/her incapable of controlling the suspect if apprehended.
- (g) The deputy loses radio contact with Dispatch or with assisting or backup deputies.
- (h) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient deputies to provide backup and containment. The primary deputy should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.
- (i) The deputy becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to deputies or the public.
- (j) The deputy reasonably believes that the danger to the pursuing deputies or public outweighs the objective of immediate apprehension.
- (k) The deputy loses possession of his/her firearm or other essential equipment.
- (l) The deputy or a third party is injured during the foot pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- (m) The suspect's location is no longer known.
- (n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no

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immediate threat to Office personnel or the public if the suspect is not immediately apprehended.

- (o) The deputy's ability to safely continue the pursuit is impaired by inclement weather, darkness or other environmental conditions.

### 523.4 RESPONSIBILITIES IN FOOT PURSUITS

#### 523.4.1 INITIATING DEPUTY RESPONSIBILITIES

Unless relieved by another deputy or a supervisor, the initiating deputy shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating deputy should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient deputies are present to safely apprehend the suspect.

Early communication of available information from the involved deputies is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Deputies initiating a foot pursuit should broadcast the following information as soon as it becomes practicable and available:

- (a) Location and direction of travel
- (b) Call sign identifier
- (c) Reason for the foot pursuit, such as the crime classification
- (d) Number of suspects and description, to include name if known
- (e) Whether the suspect is known or believed to be armed with a dangerous weapon

Deputies should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any deputy unable to promptly and effectively broadcast this information should terminate the foot pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the deputy will notify Dispatch of his/her location and the status of the foot pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary, to include requesting medical aid as needed for deputies, suspects or members of the public.

#### 523.4.2 ASSISTING DEPUTY RESPONSIBILITIES

Whenever any deputy announces that he/she is engaged in a foot pursuit, all other deputies should minimize nonessential radio traffic to permit the involved deputies maximum access to the radio frequency.

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### 523.4.3 SUPERVISOR RESPONSIBILITIES

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever reasonably possible. The supervisor does not, however, need to be physically present to exercise control over the foot pursuit. The supervisor should continuously assess the situation in order to ensure the foot pursuit is conducted within established office guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing deputies or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor should promptly proceed to the termination point to direct the post-pursuit activity.

### 523.4.4 DISPATCH RESPONSIBILITIES

Upon notification or becoming aware that a foot pursuit is in progress, the dispatcher is responsible for:

- (a) Clearing the radio channel of non-emergency traffic.
- (b) Coordinating pursuit communications of the involved deputies.
- (c) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (d) Ensuring that a field supervisor is notified of the foot pursuit.
- (e) Notifying and coordinating with other involved or affected agencies as practicable.
- (f) Notifying the Sergeant as soon as practicable.
- (g) Assigning an incident number and logging all pursuit activities.

### 523.5 REPORTING

The initiating deputy shall complete the appropriate crime/arrest reports documenting, at minimum:

- (a) Date and time of the foot pursuit.
- (b) Initial reason and circumstances surrounding the foot pursuit.
- (c) Course and approximate distance of the foot pursuit.
- (d) Alleged offenses.
- (e) Involved vehicles and deputies.
- (f) Whether a suspect was apprehended as well as the means and methods used.
  - 1. Any use of force shall be reported and documented in compliance with the Use of Force Policy.
- (g) Arrestee information, if applicable.
- (h) Any injuries and/or medical treatment.

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- (i) Any property or equipment damage.
- (j) Name of the supervisor at the scene or who handled the incident.

Assisting deputies taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.

In any case in which a suspect is not apprehended and there is insufficient information to warrant further investigation, a supervisor may authorize that the initiating deputy need not complete a formal report.

### **523.6 POLICY**

It is the policy of this office that deputies, when deciding to initiate or continue a foot pursuit, must continuously balance the objective of apprehending the suspect with the risk and potential for injury to office members, the public or the suspect.

Deputies are expected to act reasonably, based on the totality of the circumstances.

## Portable Audio/Video Recorders

### 524.1

This policy provides guidelines for the use of portable audio/video recording devices by members of this office while in the performance of their duties (Minn. Stat. § 626.8473). Portable audio/video recording devices include all recording systems whether body-worn, hand-held or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Lyon County Sheriff's Office facility, undercover operations, wiretaps or eavesdropping (concealed listening devices) unless captured by a portable recording system.

#### 524.1.1 DEFINITIONS

Definitions related to this policy include:

**Portable recording system** - A device worn by a member that is capable of both video and audio recording of the member's activities and interactions with others or collecting digital multimedia evidence as part of an investigation and as provided in Minn. Stat. § 13.825.

### 524.2 POLICY

The Lyon County Sheriff's Office may provide members with access to portable recorders for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Office by accurately capturing contacts between members of the Office and the public.

### 524.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any office-issued device at any time or while acting in an official capacity of this office, regardless of ownership of the device, shall remain the property of the Office. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

### 524.4 MEMBER RESPONSIBILITIES

Prior to going into service, uniformed members will be responsible for making sure that they are equipped with a portable recorder issued by the Office, and that the recorder is in good working order (Minn. Stat. § 13.825). If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to their supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner at or above the mid-line of the waist and notify persons that they are being recorded, whenever reasonably practicable (Minn. Stat. § 626.8473).

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

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When using a portable recorder, the assigned member shall record their name, employee number, and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording (Minn. Stat. § 626.8473). Members should include the reason for deactivation.

### **524.5 ACTIVATION OF THE AUDIO/VIDEO RECORDER**

This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity in which a member would normally notify Dispatch
- (d) Serving of civil process.
- (e) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

#### **524.5.1 CESSATION OF RECORDING**

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

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### 524.5.2 SURREPTITIOUS RECORDINGS

Minnesota law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Minn. Stat. § 626A.02).

Members of the Office may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

Members shall not surreptitiously record another office member without a court order unless lawfully authorized by the Sheriff or the authorized designee.

### 524.5.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

## **524.6 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or mark the recordings in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an under-cover officer or confidential informant.
- (g) The recording or portions of the recording may be protected under the Minnesota Data Practices Act.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

## **524.7 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource (See the Officer-Involved Shootings and Deaths Policy for guidance in those cases. However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

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Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- (a) By a supervisor as part of internal audits and reviews as required by Minn. Stat. § 626.8473.
- (b) Upon approval by a supervisor, by any member of the Office who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (c) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (d) In compliance with the Minnesota Data Practices Act request, if permitted or required by the Act, including pursuant to Minn. Stat. § 13.82, Subd. 15, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records or their designee prior to public release (See the Records Maintenance and Release Policy). Recordings that are clearly offensive to common sensibilities should not be publicly released unless disclosure is required by law or order of the court (Minn. Stat. § 13.82, Subd. 7).

### **524.8 COORDINATOR**

The Sheriff or the authorized designee should designate a coordinator responsible for (Minn. Stat. § 626.8473; Minn. Stat. § 13.825):

- (a) Establishing procedures for the security, storage, and maintenance of data and recordings.
  - 1. The coordinator should work with the Custodian of Records and the member assigned to coordinate the use, access, and release of protected information to ensure that procedures comply with requirements of the Minnesota Government Data Practices Act (MGDPA) and other applicable laws (Minn. Stat. § 13.01 et seq.) (see the Protected Information and the Records Maintenance and Release policies).
  - 2. The coordinator should work with the Custodian of Records to identify recordings that must be retained for a specific time frame under Minnesota law (e.g., firearm discharges, certain use of force incidents, formal complaints).
- (b) Establishing procedures for accessing data and recordings.
  - 1. These procedures should include the process to obtain written authorization for access to non-public data by LCSO members and members of other governmental entities and agencies.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging, or marking events.



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- (e) Establishing an inventory of portable recorders including:
  1. Total number of devices owned or maintained by the Lyon County Sheriff's Office.
  2. Daily record of the total number deployed and used by members and, if applicable, the precinct or district in which the devices were used.
  3. Total amount of recorded audio and video data collected by the devices and maintained by the Lyon County Sheriff's Office.
- (f) Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9.
- (g) Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Lyon County Sheriff's Office that expands the type or scope of surveillance capabilities of the office's portable recorders.
- (h) Ensuring that this Portable Audio/Video Recorders Policy is posted on the Office website.

### **524.9 PROHIBITED USE OF AUDIO/VIDEO RECORDERS**

Members are prohibited from using office-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with office-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Sergeant. Any member who uses a personally owned recorder for office-related activities shall comply with the provisions of this policy, including retention and release requirements and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

### **524.10 RETENTION OF RECORDINGS**

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

If an individual captured in a recording submits a written request, the recording shall be retained for an additional time period. The coordinator should be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825).

Members shall not alter, erase, or destroy any recordings before the end of the applicable records retention period (Minn. Stat. § 626.8473).

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### 524.10.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

### 524.10.2 ACCESS TO RECORDINGS

Except as provided by Minn. Stat. § 13.825, Subd. 2, audio/video recordings are considered private or nonpublic data.

Any person captured in a recording may have access to the recording. If the individual requests a copy of the recording and does not have the consent of other non-law enforcement individuals captured on the recording, the identity of those individuals must be blurred or obscured sufficiently to render the subject unidentifiable prior to release. The identity of on-duty peace officers may not be obscured unless their identity is protected under Minn. Stat. § 13.82, Subd. 17.

### 524.11 ACCOUNTABILITY

Any member who accesses or releases recordings without authorization may be subject to discipline (see the Standards of Conduct and the Protected Information policies) (Minn. Stat. § 626.8473).

## Homeless Persons

### 525.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that personnel understand the needs and rights of the homeless and to establish procedures to guide deputies during all contacts with the homeless, whether consensual or for enforcement purposes. The Lyon County Sheriff's Office recognizes that members of the homeless community are often in need of special protection and services. The Lyon County Sheriff's Office will address these needs in balance with the overall missions of this office. Therefore, deputies will consider the following policy when serving the homeless community.

### 525.2 FIELD CONTACTS

Deputies are encouraged to contact the homeless for purposes of rendering aid, support and for community-oriented policing purposes. Nothing in this policy is meant to dissuade a deputy from taking reasonable enforcement action when facts support a reasonable suspicion of criminal activity. However, when encountering a homeless person who has committed a non-violent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, deputies are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest. Deputies should provide homeless persons with resource and assistance information whenever it is reasonably apparent such services may be appropriate.

#### 525.2.1 OTHER CONSIDERATIONS

Homeless members of the community will receive the same level and quality of service provided to other members of our community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Deputies should consider the following when handling investigations involving homeless victims, witnesses or suspects:

- (a) Documenting alternate contact information. This may include obtaining addresses and telephone numbers of relatives and friends.
- (b) Document places the homeless person may frequent.
- (c) Provide homeless victims with victim/witness resources when appropriate.
- (d) Obtain statements from all available witnesses in the event a homeless victim is unavailable for a court appearance.
- (e) Consider whether the person may be a dependent adult or elder and if so proceed in accordance with the Adult Abuse Policy.
- (f) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.

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- (g) Consider whether a crime should be reported and submitted for prosecution even when a homeless victim indicates he/she does not desire prosecution.

### **525.3 PERSONAL PROPERTY**

The personal property of homeless persons must not be treated differently than the property of other members of the public. Deputies should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, deputies should make reasonable accommodations to permit the person to lawfully secure his/her personal property. Otherwise, the arrestee's personal property should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the deputy, a supervisor should be consulted. The property should be photographed and measures should be taken to remove or secure the property. It will be the deputy's responsibility to coordinate the removal and safekeeping of the property.

Deputies should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the Office

Deputies who encounter unattended encampments, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property. If such property appears to involve a trespass, blight to the community or is the subject of a complaint. It will be the responsibility of the assigned deputy to address the matter in a timely fashion.

### **525.4 MENTAL ILLNESSES AND MENTAL IMPAIRMENTS**

Some homeless persons may suffer from a mental illness or a mental impairment. Deputies shall not detain a homeless person under a 72-hour emergency medical hold unless facts and circumstances warrant such a detention.

### **525.5 ECOLOGICAL ISSUES**

Sometimes homeless encampments can affect the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Deputies are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

### **525.6 POLICY**

It is the policy of the Lyon County Sheriff's Office to provide law enforcement services to all members of the community while protecting the rights, dignity and private property of the homeless. Homelessness is not a crime and members of this office will not use homelessness solely as a basis for detention or law enforcement action.

## Criminal Conduct on School Buses

### 526.1 PURPOSE AND SCOPE

Criminal conduct on school buses has been identified by the legislature as a critical component for the safety and security of the community. The primary purpose of this policy is to provide deputies guidance in responding to reports of alleged criminal conduct on school buses. This office, in cooperation with any other law enforcement agency that may have concurrent jurisdiction over the alleged offense, is responsible for responding to all reports of criminal misconduct on school buses in this jurisdiction.

This policy is not intended to interfere with or replace school disciplinary policies that relate to student misconduct on school buses (Minn. Stat. § 169.4581).

### 526.2 COMMUNITY COOPERATION

The Lyon County Sheriff's Office shall work with and consult with school officials, transportation personnel, parents and students to respond to these incidents to protect student safety and deal appropriately with those who violate the law.

### 526.3 PROCEDURE

This office shall respond to all criminal misconduct on school buses within the jurisdiction of this office regardless of the source of the report. Deputies should take reasonable actions to complete the following:

- (a) Provide for the safety of any person involved in the incident or present at the incident.
- (b) Coordinate any appropriate care.
- (c) Investigate reports of crimes committed on school buses using the same procedures as followed in other criminal investigations as appropriate for juveniles and/or adults.
- (d) Issue citations, release pending further investigation, or apprehend and transport individuals committing crimes on school buses to the extent authorized by law.
- (e) Submit reports regarding the incident for review, approval and consideration for prosecution.
- (f) Complete follow-up and additional investigation as reasonably necessary to prepare a case pertaining to criminal conduct on school buses as required for prosecution.
- (g) Provide information to the relevant school regarding the incident as required or authorized by law.

## Injured Domestic Animals

### 527.1 PURPOSE AND SCOPE

It is the purpose of this policy to provide a procedure on how to handle calls involving an injured domestic animal.

### 527.2 INJURED DOMESTIC ANIMALS

Calls for service involving injury to domestic animals should receive prompt response and proper investigation. If any domestic animal is injured, every possible effort should be made to locate the owner of the animal. If the owner is contacted and makes a request of our Department to destroy that animal, then that owner must provide us with a signed authorization and a release form from any liability of the Sheriff or Lyon County.

If the owner cannot be located, then a qualified veterinarian should be contacted to come to the scene and give an opinion as to the disposition of the animal(s).

## Public Recording of Law Enforcement Activity

### 528.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this office. In addition, this policy provides guidelines for situations where the recordings may be evidence.

### 528.2 POLICY

The Lyon County Sheriff's Office recognizes the right of persons to lawfully record members of this office who are performing their official duties. Members of this office will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Deputies should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

### 528.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

- (a) Recordings may be made from any public place or any private property where the individual has the legal right to be present.
- (b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
  - 1. Tampering with a witness or suspect.
  - 2. Inciting others to violate the law.
  - 3. Being so close to the activity as to present a clear safety hazard to the deputies.
  - 4. Being so close to the activity as to interfere with a deputy's effective communication with a suspect or witness.
- (c) The individual may not present an undue safety risk to the deputies, him/herself or others.

### 528.4 DEPUTY RESPONSE

Deputies should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, deputies should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, deputies or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or

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behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, a deputy could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, deputies shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

### **528.5 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the deputy and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of office members, such as how and where to file a complaint.

### **528.6 SEIZING RECORDINGS AS EVIDENCE**

Deputies should not seize recording devices or media unless (42 USC § 2000aa):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
  1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
  1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
  2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain



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the evidence is to transmit a copy of the recording from a device to a office-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Deputy Policy.

## Impaired Driving

### 529.1 PURPOSE AND SCOPE

This policy provides guidance to those office members who play a role in the detection and investigation of driving while impaired (DWI).

### 529.2 POLICY

The Lyon County Sheriff's Office is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of Minnesota's impaired driving laws.

### 529.3 INVESTIGATIONS

Deputies should not enforce DWI laws to the exclusion of their other duties unless specifically assigned to DWI enforcement. All deputies are expected to enforce these laws with due diligence.

The Sergeant will develop and maintain, in consultation with the prosecuting attorney, report forms with appropriate checklists to assist investigating deputies in documenting relevant information and maximizing efficiency. Any DWI investigation will be documented using these forms. Information documented elsewhere on the form does not need to be duplicated in the report narrative. Information that should be documented includes, at a minimum:

- (a) The field sobriety tests (FSTs) administered and the results.
- (b) The deputy's observations that indicate impairment on the part of the individual, and the deputy's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.
- (f) Any prior related convictions in Minnesota or another jurisdiction.

### 529.4 FIELD TESTS

The Office recognizes and utilizes the battery of 3 standardized field sobriety tests (SFSTs) as set forth by the National Highway Traffic Safety Administration (NHTSA). Being the Horizontal Gaze Nystagmus (HGN), the One-Leg Stand and the Walk-Turn. All Office licensed personnel shall be training in the administering to the SFSTs and shall receive ongoing training and refresher training as required. Office personnel may also administer a Modified Rhomberg and Vertical Nystagmus Tests if appropriate to the DWI investigation.

Office personnel may utilize a DPS approved preliminary breath test instrument (PBT) in the course of the DWI investigation. PBTs shall be maintained and stored according to manufacturer

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specifications. PBTs will be regularly checked for accuracy. Records of accuracy checks shall be maintained according to the Office records retention schedule.

### **529.5 CHEMICAL TESTS**

A person implies consent under Minnesota law to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Minn. Stat. § 169A.51, Subd. 1):

- (a) The arresting deputy has probable cause to believe the person was driving, operating or in physical control of a vehicle while impaired as defined by Minn. Stat. § 169A.20.
- (b) The deputy has probable cause to believe that the person is DWI and has been involved in a vehicle accident resulting in property damage, personal injury or death.
- (c) The deputy has probable cause to believe that the person is DWI and the person has refused to take the preliminary screening test provided for by Minn. Stat. § 169A.41.
- (d) The person was administered a preliminary screening test and the results indicated an alcohol concentration of 0.08 or more.
- (e) The deputy has probable cause to believe the person was driving, operating or in physical control of a commercial motor vehicle with the presence of any alcohol in the person's body.

If a person withdraws this implied consent the deputy should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample. A person who is unconscious or who is otherwise in a condition rendering the person incapable of refusal is deemed not to have withdrawn the consent and the test may be given.

#### **529.5.1 BREATH SAMPLES**

The Office shall ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested, and that a record of such service and testing is properly maintained.

Deputies obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to supervisory personnel.

#### **529.5.2 BLOOD SAMPLES**

Only persons authorized by law to draw blood shall collect blood samples (Minn. Stat. § 169A.51, Subd. 7). The blood draw should be witnessed by the assigned deputy. No deputy, even if properly certified, should perform this task.

Deputies should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

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If an arrestee cannot submit to a blood test because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

### **529.5.3 URINE SAMPLES**

If a urine test will be performed, the arrestee should be promptly transported to the appropriate testing site. The deputy shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by a deputy or jail staff member of the same sex as the person giving the sample. The arrestee tested should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample.

The sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

### **529.5.4 STATUTORY NOTIFICATIONS**

At the time that the deputy requests the person to submit to a breath test the deputy must inform the person that (Minn. Stat. § 169A.51, Subd. 2):

- (a) Minnesota law requires that he/she take the test.
- (b) Refusal to take the test is a crime.
- (c) He/she has the right to consult with an attorney unless it would unreasonably delay administration of the test.

At the time that the deputy directs a person to submit to a blood or urine test pursuant to a warrant, the person must be informed that a refusal to submit to a blood or urine test is a crime (Minn. Stat. § 171.177, Subd. 1 and Subd. 2).

### **529.6 REFUSALS**

When an arrestee refuses to provide a chemical sample deputies should:

- (a) Advise the arrestee of the requirement to provide a sample (Minn. Stat. § 169A.51; Minn. Stat. § 171.177, Subd. 1).
- (b) Audio- and/or video-record the admonishment and the response when it is legal and practicable.
- (c) Document the refusal in the appropriate report.

#### **529.6.1 STATUTORY NOTIFICATIONS UPON REFUSAL**

Upon refusal to submit to a chemical test as required by law, deputies shall personally serve the notice of intention to revoke upon the person and invalidate the person's license (Minn. Stat. § 169A.52, Subd. 7).

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### 529.6.2 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who does not consent to a chemical test when any of the following conditions exist (Minn. Stat. § 169A.51, Subd. 3):

- (a) A search warrant has been obtained.
- (b) The deputy can articulate that exigent circumstances exist and the deputy has probable cause to believe that the person has committed DWI, including vehicular homicide or injury (Minn. Stat. § 169A.52, Subd. 1; Minn. Stat. § 171.177, Subd. 13). Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts, such as a lengthy delay in obtaining a blood sample due to a collision investigation or medical treatment of the person.

### 529.6.3 FORCED BLOOD SAMPLE

A forced sample may not be taken except in DWI cases involving vehicular homicide or injury (Minn. Stat. § 171.177, Subd. 13). In those cases, if a person indicates by word or action that he/she will physically resist a blood draw, the deputy should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes, a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another deputy), and attempt to persuade the person to submit to such a sample without physical resistance.
  - 1. This dialogue should be recorded on audio and/or video when reasonably practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure that the forced blood draw is recorded on audio and/or video when reasonably practicable.
- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:
  - 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
  - 2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
  - 3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.

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- (g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, deputies are expected to use sound judgment and perform the duties of a supervisor, as set forth above.

### 529.6.4 WARRANTS FOR CONTROLLED SUBSTANCES OR INCAPACITATION

A blood or urine test may be required pursuant to a warrant if the deputy has probable cause to believe that (Minn. Stat. § 169A.51, Subd. 4):

- (a) The person's impairment is due to a controlled substance, an intoxicating substance, or cannabis or hemp-related product that is not subject to testing by a breath test.
- (b) A controlled substance listed in Schedule I or II or its metabolite (other than a cannabis or hemp-related product or tetrahydrocannabinols), is present in the person's body.
- (c) The person is unconscious or incapacitated to the point that the deputy providing the breath test advisory, administering the breath test, or serving the search warrant has a good faith belief that the person is mentally or physically unable to comprehend the advisory or otherwise voluntarily submit to the chemical tests.

If a person objects to the blood or urine test as directed by the warrant or deputy, the deputy should offer the other type of test if the person is conscious. Action may be taken against a person refusing to submit to a blood or urine test only if an alternate test of blood or urine, as applicable, was offered (Minn. Stat. § 169A.51, Subd. 4; Minn. Stat. § 171.177, Subd. 2).

### 529.6.5 STATUTORY NOTIFICATIONS UPON REFUSAL WITH A SEARCH WARRANT

Upon refusal to submit to a chemical test pursuant to a search warrant, deputies shall personally serve the notice of intention to revoke upon the person and invalidate the person's license in such a way that no identifying information is destroyed and immediately return the license to the person (Minn. Stat. § 171.177, Subd. 8).

## **529.7 ARREST AND INVESTIGATION**

### 529.7.1 RIGHT TO ATTORNEY CONTACTS

A person has a limited right to consult with an attorney prior to submitting to a chemical test. This right is limited to the extent that it cannot unreasonably delay administration of the test (Minn. Stat. § 169A.51, Subd. 2).

### 529.7.2 ARREST AUTHORITY

A deputy may arrest a person without a warrant and without regard to whether the offense was committed in the deputy's presence if there is probable cause to believe the person committed (Minn. Stat. § 169A.40):

- (a) A DWI offense (Minn. Stat. § 169A.20).
- (b) An alcohol- or cannabis-related driving offense involving a school bus or a Head Start bus (Minn. Stat. § 169A.31).
- (c) An underage drinking and driving offense (Minn. Stat. § 169A.33).

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### 529.7.3 DEPUTY RESPONSIBILITIES

If a deputy requests that a person submit to a chemical test and the person refuses such request, the deputy shall report such refusal to the Commissioner of the Department of Public Safety (DPS) and the appropriate prosecuting attorney (Minn. Stat. § 169A.52, Subd. 1; Minn. Stat. § 171.177, Subd. 3).

If a person refuses to submit to a test or in the alternative submits to a test and the results indicate a prohibited alcohol concentration, the deputy shall immediately give notice to the person that his/her driving privilege will be revoked and shall (Minn. Stat. § 169A.52, Subd. 7; Minn. Stat. § 171.177, Subd. 8):

- (a) Issue the person a temporary license effective for only seven days.
  - 1. Deputies are not required to issue a person a temporary license if the person's driving privilege is under withdrawal by DPS or if the person is unlicensed.
- (b) Send the notification of this action to the Commissioner of the DPS along with the certification that there was probable cause to believe the person had been driving, operating or in physical control of a motor vehicle while impaired, and that the person either refused to submit to a test or submitted to a test and the results indicated a prohibited alcohol concentration or drug presence.

Test results of a person that indicate a prohibited alcohol concentration or drug presence shall be forwarded to the Commissioner of the DPS and the appropriate prosecuting attorney (Minn. Stat. § 169A.52, Subd. 2).

### 529.7.4 PRELIMINARY SCREENING TEST

A deputy who has reason to believe the person was driving, operating or in physical control of a motor vehicle while impaired, may require the person to provide a sample of the person's breath for a preliminary screening test using a device approved by the DPS Commissioner (Minn. Stat. § 169A.41, Subd. 1).

The deputy must use the results of the preliminary screening test for the purpose of deciding whether to arrest the person and require further chemical testing pursuant to Minn. Stat. § 169A.51 (Minn. Stat. § 169A.41, Subd. 2).

### 529.7.5 ADDITIONAL TESTING

A deputy shall permit a person required to submit to a chemical test to have a qualified person of his/her own choosing administer a separate chemical test (Minn. Stat. § 169A.51, Subd. 7(b)). The separate chemical test shall:

- (a) Be conducted at the place where the person is in custody.
- (b) Be conducted after the deputy has administered the statutorily mandated test.
- (c) Impose no expense to the state.

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### 529.7.6 ADDITIONAL REQUIREMENTS FOR BREATH SAMPLES

All breath samples requested in accordance with this policy shall be obtained in accordance with Minn. Stat. § 169A.51, Subd. 5.

### 529.8 SHERIFF'S OFFICE RECORDS RESPONSIBILITIES

The Records Division will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

### 529.9 ADMINISTRATIVE HEARINGS

The Records Division will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to the Driver and Vehicle Services Division (DVS) of the DPS.

Any deputy who receives notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

### 529.10 TRAINING

The supervisory personnel should ensure that deputies participating in the enforcement of DWI laws receive regular training. Training should include at minimum current laws on impaired driving, investigative techniques and rules of evidence pertaining to DWI investigations. The supervisory personnel should confer with the prosecuting attorney's office and update training topics as needed.



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## Medical Aid and Response

### 530.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons in need of medical aid and establishes a law enforcement response to such situations.

### 530.2 POLICY

It is the policy of the Lyon County Sheriff's Office that all deputies and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

### 530.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact Dispatch and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide Dispatch with information for relay to EMS personnel in order to enable an appropriate response, including:

- (a) The location where EMS is needed.
- (b) The nature of the incident.
- (c) Any known scene hazards.
- (d) Information on the person in need of EMS, such as:
  1. Signs and symptoms as observed by the member.
  2. Changes in apparent condition.
  3. Number of patients, sex, and age, if known.
  4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
  5. Whether the person is showing signs of extreme agitation or is engaging in violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel whether to transport the person for treatment.

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### **530.4 TRANSPORTING ILL AND INJURED PERSONS**

Except in extraordinary cases where alternatives are not reasonably available, members should not transport persons who are unconscious, who have serious injuries or who may be seriously ill. EMS personnel should be called to handle patient transportation.

Deputies should search any person who is in custody before releasing that person to EMS for transport.

A deputy should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes or when so directed by a supervisor.

Members should not provide emergency escort for medical transport or civilian vehicles.

### **530.5 PERSONS REFUSING EMS CARE**

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, a deputy shall not force that person to receive care or be transported. However, members may assist EMS personnel when EMS personnel determine the person lacks mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the deputy should consider proceeding with a 72-hour hold in accordance with the Civil Commitments Policy.

If a deputy believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The deputy may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person who is in custody still refuses, the deputy will require the person to be transported to the nearest medical facility. In such cases, the deputy should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

### **530.6 MEDICAL ATTENTION RELATED TO USE OF FORCE**

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Conducted Energy Device policies.

### **530.7 AIR AMBULANCE**

Generally, when on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response.

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The Office should develop guidelines for air ambulance landings or enter into local operating agreements for the use of air ambulances, as applicable. In creating those guidelines, the Office should identify:

- Responsibility and authority for designating a landing zone and determining the size of the landing zone.
- Responsibility for securing the area and maintaining that security once the landing zone is identified.
- Consideration of the air ambulance provider's minimum standards for proximity to vertical obstructions and surface composition (e.g., dirt, gravel, pavement, concrete, grass).
- Consideration of the air ambulance provider's minimum standards for horizontal clearance from structures, fences, power poles, antennas or roadways.
- Responsibility for notifying the appropriate highway or transportation agencies if a roadway is selected as a landing zone.
- Procedures for ground personnel to communicate with flight personnel during the operation.

When a member of the local fire department is not present one office member at the scene should be designated as the air ambulance communications contact. Headlights, spotlights and flashlights should not be aimed upward at the air ambulance. Members should direct vehicle and pedestrian traffic away from the landing zone.

Members should follow these cautions when near an air ambulance:

- Never approach the aircraft until signaled by the flight crew.
- Always approach the aircraft from the front.
- Avoid the aircraft's tail rotor area.
- Wear eye protection during landing and take-off.
- Do not carry or hold items, such as IV bags, above the head.
- Ensure that no one smokes near the aircraft.

### **530.8 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE**

#### **530.8.1 AED USER RESPONSIBILITY**

Members who are issued AEDs for use in office vehicles should check the AED at the beginning of the shift to ensure it is properly charged and functioning. Any AED that is not functioning properly will be taken out of service and given to the Sergeant who is responsible for ensuring appropriate maintenance.

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Following use of an AED, the device shall be cleaned and/or decontaminated as required. The electrodes and/or pads will be replaced as recommended by the AED manufacturer.

Any member who uses an AED should contact Dispatch as soon as possible and request response by EMS.

#### **530.8.2 AED REPORTING**

Any member using an AED will complete an incident report detailing its use.

#### **530.8.3 AED TRAINING AND MAINTENANCE**

Supervisory personnel should ensure appropriate training is provided to members authorized to use an AED.

Supervisory personnel are responsible for ensuring AED devices are appropriately maintained and will retain records of all maintenance in accordance with the established records retention schedule.

#### **530.9 SICK OR INJURED ARRESTEE**

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the deputy has reason to believe the arrestee is feigning injury or illness, the deputy should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the deputy should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance. Deputies shall not transport an arrestee to a hospital without a supervisor's approval.

Nothing in this section should delay a deputy from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the deputy's training.

#### **530.10 FIRST AID TRAINING**

Subject to available resources, the Sergeant should ensure deputies receive periodic first aid training appropriate for their position.

# Suspicious Activity Reporting

## 531.1 PURPOSE AND SCOPE

This policy provides guidelines for reporting and investigating suspicious and criminal activity.

### 531.1.1 DEFINITIONS

Definitions related to this policy include:

**Involved party** - An individual who has been observed engaging in suspicious activity, as defined in this policy, when no definitive criminal activity can be identified, thus precluding the person's identification as a suspect.

**Suspicious activity** - Any reported or observed activity that a member reasonably believes may have a nexus to any criminal act or attempted criminal act, or to foreign or domestic terrorism. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions). Examples of suspicious activity may include but are not limited to:

- Suspected pre-operational surveillance or intelligence gathering (e.g., photographing security features, asking questions about sensitive security-related subjects).
- Tests of security measures and response to incidents (e.g., "dry run," creating false alarms, attempts to enter secure areas without authorization).
- Suspicious purchases (e.g., purchasing large quantities of otherwise legal items, such as fertilizer, that could be used to create an explosive or other dangerous device).
- An individual in possession of such things as a hoax explosive or dispersal device, sensitive materials (e.g., passwords, access codes, classified government information), or coded or ciphered literature or correspondence.

**Suspicious Activity Report (SAR)** - An incident report used to document suspicious activity.

## 531.2 POLICY

The Lyon County Sheriff's Office recognizes the need to protect the public from criminal conduct and acts of terrorism and shall lawfully collect, maintain and disseminate information regarding suspicious activities, while safeguarding civil liberties and privacy protections.

## 531.3 REPORTING AND INVESTIGATION

Any office member receiving information regarding suspicious activity should take any necessary immediate and appropriate action, including a request for tactical response or immediate notification of specialized entities, when applicable. Any non-licensed member who receives such information should ensure that it is passed on to a deputy in a timely manner.

If the suspicious activity is not directly related to a reportable crime, the member should prepare a SAR and include information about involved parties and the circumstances of the incident. If, during any investigation, a deputy becomes aware of suspicious activity that is unrelated to the

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current investigation, the information should be documented separately in a SAR and not included in the original incident report. The report number of the original incident should be included in the SAR as a cross reference. A SAR should be processed as any other incident report.

## Crisis Intervention Incidents

### 532.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires a deputy to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

#### 532.1.1 DEFINITIONS

Definitions related to this policy include:

**Person in crisis** - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

### 532.2 POLICY

The Lyon County Sheriff's Office is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Office will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

### 532.3 SIGNS

Members should be alert to any of the following possible signs of mental health issues or crises:

- (a) A known history of mental illness
- (b) Threats of or attempted suicide
- (c) Loss of memory
- (d) Incoherence, disorientation or slow response
- (e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas
- (f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt
- (g) Social withdrawal
- (h) Manic or impulsive behavior, extreme agitation, lack of control
- (i) Lack of fear
- (j) Anxiety, aggression, rigidity, inflexibility or paranoia

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Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

### **532.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS**

The Sheriff should designate an appropriate Sergeant to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources to guide office interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

#### **532.4.1 OBTAINING MENTAL HEALTH INFORMATION**

The Sheriff's Office shall develop access procedures, compatible with state statutes, regarding retention guidelines, data security safeguards, notification procedures, and any other applicable standards for obtained mental health information (Minn. Stat. § 626.8477).

Deputies may seek information from a mental health professional during a crisis situation pursuant to office procedures. When information is requested, deputies should provide an explanation why disclosure of mental health information is necessary to protect the health or safety of the individual in crisis or of another person (Minn. Stat. § 13.46; Minn. Stat. § 144.294).

Information obtained from mental health professionals in crisis incidents should generally be limited to that necessary to safely respond. Deputies obtaining mental health information to address crisis incidents should document the following in the associated reports (Minn. Stat. § 13.46; Minn. Stat. § 144.294):

- (a) The name of the deputy who requested the information
- (b) The name of the health professional who provided the information
- (c) The name of the individual experiencing the crisis

Mental health information obtained in these circumstances should not be used for any purpose beyond addressing the crisis. The subject of the information should be advised of the information obtained (Minn. Stat. § 13.46; Minn. Stat. § 144.294).

### **532.5 FIRST RESPONDERS**

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to deputies; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit a deputy's authority to use reasonable force when interacting with a person in crisis.

Deputies are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

A deputy responding to a call involving a person in crisis should:

- (a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.



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- (b) Request available backup deputies and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.
- (c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
- (d) Attempt to determine if weapons are present or available.
- (e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the deputy.
- (f) Secure the scene and clear the immediate area as necessary.
- (g) Employ tactics to preserve the safety of all participants.
- (h) Determine the nature of any crime.
- (i) Request a supervisor, as warranted.
- (j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.
- (k) If circumstances reasonably permit, consider and employ alternatives to force.

### **532.6 DE-ESCALATION**

Deputies should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding deputies generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.

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- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

### **532.7 INCIDENT ORIENTATION**

When responding to an incident that may involve mental illness or a mental health crisis, the deputy should request that the dispatcher provide critical information as it becomes available. This includes:

- (a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.
- (b) Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous sheriff's response.
- (c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

### **532.8 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond, when available, to the scene of any interaction with a person in crisis. Responding supervisors should:

- (a) Attempt to secure appropriate and sufficient resources.
- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- (c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
- (d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.
- (e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Sheriff.
- (f) Evaluate whether a critical incident stress management debriefing for involved members is warranted.

### **532.9 INCIDENT REPORTING**

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to office reporting procedures or other official mental health or medical proceedings.

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### 532.9.1 DIVERSION

Individuals who are not being arrested should be processed in accordance with the Civil Commitments Policy.

### **532.10 NON-LICENSED INTERACTION WITH PEOPLE IN CRISIS**

Non-licensed members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.
- (c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, a deputy should be promptly summoned to provide assistance.

### **532.11 TRAINING**

In coordination with the mental health community and appropriate stakeholders, the Office will develop and provide comprehensive education and training to all office members to enable them to effectively interact with persons in crisis.

Additionally, the Sergeant will provide deputies, including part-time deputies, with in-service training in crisis intervention and mental illness crisis as required by Minn. Stat. § 626.8469 and Minn. Stat. § 626.8474.

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# First Amendment Assemblies

## 533.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

## 533.2 POLICY

The Lyon County Sheriff's Office respects the rights of people to peaceably assemble. It is the policy of this office not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

## 533.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills, leafleting and loitering. However, deputies shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors deputies may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Deputies should not:

- (a) Engage in assembly or demonstration-related discussion with participants.
- (b) Harass, confront or intimidate participants.
- (c) Seize the cameras, cell phones or materials of participants or observers unless a deputy is placing a person under lawful arrest.

Supervisors should continually observe office members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

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### 533.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS

Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating office performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious or social views of associations, or the activities of any individual, group, association, organization, corporation, business or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

### 533.4 UNPLANNED EVENTS

When responding to an unplanned or spontaneous public gathering, the first responding deputy should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to Dispatch, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

### 533.5 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

#### 533.5.1 INFORMATION GATHERING AND ASSESSMENT

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.

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- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

### 533.5.2 OPERATIONAL PLANS

An operational planning team with responsibility for event planning and management should be established. The planning team should develop an operational plan for the event.

The operational plan will minimally provide for the following:

- (a) Command assignments, chain of command structure, roles, and responsibilities
- (b) Staffing and resource allocation
- (c) Management of criminal investigations
- (d) Designation of uniform of the day and related safety equipment (e.g., helmets, shields)
  1. Uniforms must display the Office name and a unique personal identifier.
  2. A protocol for keeping record of any deputies on scene who are not in compliance with uniform requirements due to exigent circumstances.
- (e) Deployment of specialized resources
- (f) Event communications and interoperability in a multijurisdictional event
- (g) Liaison with demonstration leaders and external agencies
- (h) Liaison with County government and legal staff
- (i) Media relations
- (j) Logistics: food, fuel, replacement equipment, duty hours, relief, and transportation
- (k) Traffic management plans
- (l) First aid and emergency medical service provider availability
- (m) Prisoner transport and detention
- (n) Review of policies regarding public assemblies and use of force in crowd control
- (o) Parameters for declaring an unlawful assembly (as defined by Minn. Stat. § 609.705)
- (p) Arrest protocol, including management of mass arrests
- (q) Protocol for recording information flow and decisions

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- (r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force
- (s) Protocol for handling complaints during the event
- (t) Parameters for the use of body-worn cameras and other portable recording devices

### 533.5.3 MUTUAL AID AND EXTERNAL RESOURCES

The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Outside Agency Assistance Policy).

### 533.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS

If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event.

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, the Incident Commander or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress (at least two routes when possible). A reasonable time to disperse should be allowed following a dispersal order.

Additionally, the dispersal order must include:

- (a) The name and rank of the person and the agency giving the order.
- (b) The reasons for the declaration.
- (c) How long the participants have to comply.

The dispersal announcements should be repeated after commencement of the initial dispersal order so that participants understand that they must leave the area.

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

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has been determined that it is an unlawful assembly, and a new declaration of unlawful assembly has been made.

### 533.6.1 MINNESOTA POST GUIDELINES ON UNLAWFUL ASSEMBLY

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.

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.

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 deputies are threatened with dangerous circumstances.

### **533.7 USE OF FORCE**

Use of force is governed by current office policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices, and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and conducted energy devices should be considered only when the participants' conduct reasonably appears to present the potential to harm deputies, themselves or others, or will result in substantial property loss or damage (see the Control Devices and the Conducted Energy Device policies).

Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this office shall be documented promptly, completely, and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

### **533.8 ARRESTS**

The Lyon County Sheriff's Office should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:



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- (a) Reasonable measures to address the safety of deputies and arrestees.
- (b) Dedicated arrest, booking and report writing teams.
- (c) Timely access to medical care.
- (d) Timely access to legal resources.
- (e) Timely processing of arrestees.
- (f) Full accountability for arrestees and evidence.
- (g) Coordination and cooperation with the prosecuting authority, jail and courts (see the Citation Releases Policy).

### **533.9 MEDIA RELATIONS**

The supervisory personnel should use all available avenues of communication, including press releases, briefings, press conferences and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

### **533.10 DEMOBILIZATION**

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.

### **533.11 TRAINING**

Office members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management. The Office should, when practicable, train with its external and mutual aid partners.

### **533.12 ADDITIONAL INCIDENT COMMANDER RESPONSIBILITIES**

The Incident Commander is responsible for maintaining familiarity with the Minnesota model policy on Public Assembly and First Amendment Activity and incorporating additional protocols as appropriate for the office's preparedness in addressing:

- (a) Approved devices, tactics, and munitions.
- (b) Accessibility to the public assembly or demonstration by media representatives and other observers.
- (c) Additional documentation requirements, if any.

[See attachment: MN Public Assembly - First Amendment Rights Model Policy.pdf](#)

## Civil Disputes

### 534.1 PURPOSE AND SCOPE

This policy provides members of the Lyon County Sheriff's Office with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic Abuse Policy will address specific legal mandates related to domestic violence court orders. References in this policy to “court orders” apply to any order of a court that does not require arrest or enforcement by the terms of the order or by Minnesota law.

### 534.2 POLICY

The Lyon County Sheriff's Office recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, members of this office will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, members will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

### 534.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial.

While not intended to be an exhaustive list, members should give considerations to the following when handling civil disputes:

- (a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.
- (b) Members should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.
- (c) Members shall not provide legal advice, however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.
- (d) Members are reminded that they shall not enter a residence or other non-public location without legal authority including valid consent.
- (e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts longer than 30 minutes are warranted.

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### **534.4 COURT ORDERS**

Disputes involving court orders can be complex. Where no mandate exists for a deputy to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating deputy should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating deputy should document the following:

- (a) The person's knowledge of the court order or whether proof of service exists.
- (b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor. The report should also be forwarded to the court issuing the order with a notice that the report was also forwarded to the prosecutor for review.

#### **534.4.1 STANDBY REQUESTS**

Deputies responding to a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person should be advised that items that are disputed will not be allowed to be removed. The member may advise the person to seek private legal advice as to the distribution of disputed property.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party would remove the property.

If the other party is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Deputies should not order the other party to allow entry or the removal of any items. If there is a restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location, the member will not allow entry into the location or the removal of property from the location.

### **534.5 VEHICLES AND PERSONAL PROPERTY**

Deputies may be faced with disputes regarding possession or ownership of vehicles or other personal property. Deputies may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal property can be complex. Generally, deputies should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented.

### **534.6 REAL PROPERTY**

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.

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## Medical Cannabis

### 535.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this office with guidelines for investigating the possession, transportation, or use of medical cannabis under Minnesota's medical cannabis laws.

#### 535.1.1 DEFINITIONS

Definitions related to this policy include (Minn. Stat. § 152.22):

**Medical cannabis** - Any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins in the form of a liquid, oil, pill, or dried raw cannabis that is properly packaged and labeled with:

- (a) The name and address of the authorized manufacturer.
- (b) The patient's registry identification number, name, date of birth, and address.
- (c) The chemical composition of medical cannabis.
- (d) Recommended dosage.
- (e) Directions for use.
- (f) Batch number.
- (g) Date of manufacture.

**Patient** - A Minnesota resident who has been diagnosed with a qualifying medical condition by a health care practitioner and who has met any other requirements for patients under Minn. Stat. § 152.22 et seq.

**Caregiver** - A person who has been approved by the Minnesota Office of Cannabis Management to assist a patient who is unable to self-administer medication or acquire medical cannabis from a distribution facility, and who is authorized to assist the patient with the use of medical cannabis.

### 535.2 POLICY

It is the policy of the Lyon County Sheriff's Office to prioritize resources to avoid making arrests related to medical cannabis that the arresting deputy reasonably believes would not be prosecuted by state or federal authorities.

Minnesota medical cannabis laws are intended to provide protection from prosecution to those who use or possess medical cannabis for medical purposes. The Lyon County Sheriff's Office will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under Minnesota law and the resources of the Office.

### 535.3 INVESTIGATION

Investigations involving the possession or use of cannabis generally fall into one of the following categories:

- (a) Investigations when no person makes a medicinal claim.

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- (b) Investigations when a person claims to be a patient or caregiver.
- (c) Investigations when the person is otherwise authorized.

### 535.3.1 INVESTIGATIONS WITH NO MEDICAL CLAIM

In any investigation involving the possession, delivery, production, or use of a cannabis product or drug paraphernalia where no person claims that the cannabis is used for medicinal purposes, the deputy should proceed with a criminal investigation if the amount is greater than permitted for personal use under Minn. Stat. § 342.09. A medicinal claim may be raised at any time, so deputies should document any statements and observations that may be relevant to whether the cannabis was possessed or produced for medicinal purposes.

### 535.3.2 INVESTIGATIONS INVOLVING A PATIENT OR CAREGIVER

Arrest shall not be made for the possession of medical cannabis by a patient, a caregiver or the parent or legal guardian of a patient (Minn. Stat. § 152.32).

Possession of medical cannabis properly packaged and labeled by an authorized manufacturer should suffice for verification of a person's status as a patient. The possession of medical cannabis registry verification from the Minnesota Department of Health should also suffice for verification a person's status as a patient or caregiver (Minn. Stat. § 152.22; Minn. Stat. § 152.27).

### 535.3.3 EXCEPTIONS

This policy does not apply to the following offenses. Deputies may take enforcement action if the person (Minn. Stat. § 152.23):

- (a) Possesses or engages in the use of medical cannabis on a school bus or van, on the grounds of any preschool or primary or secondary school, in any correctional facility, or on the grounds of any child care facility or home daycare.
- (b) Vaporizes or smokes medical cannabis on any form of public transportation, where the vapor or smoke would be inhaled by a non-patient minor child, or in any public place or a place of employment.
- (c) Operates any motor vehicle, aircraft, train, or motorboat, or works on transportation property, equipment, or facilities while under the influence of medical cannabis.

### 535.3.4 INVESTIGATIONS INVOLVING OTHER AUTHORIZED INDIVIDUALS

Any person falling into the following category shall not be arrested for the authorized possession of cannabis (Minn. Stat. § 342.515):

- (a) An otherwise authorized individual transporting cannabis plants or products between business facilities pursuant to state law.

## 535.4 FEDERAL LAW ENFORCEMENT

Deputies should provide information regarding a medical cannabis investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the deputy believes those authorities would have a particular interest in the information.

## *Medical Cannabis*

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### **535.5 DEPUTY RESPONSIBILITIES**

The Deputy in charge of evidence shall ensure that medical cannabis, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical cannabis is not destroyed. Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the investigating Deputy shall as soon as practicable return to the person from whom it was seized any medical cannabis, drug paraphernalia or other related property.

The Deputy in charge of evidence may not destroy medical cannabis except upon receipt of a court order.

The Deputy in charge of evidence may release medical cannabis to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Sheriff.

### **535.6 REPORTING**

Deputies aware of a person experiencing a negative medical condition or a death related to a cannabis overdose, including as a result of an unauthorized access to medical cannabis, must contact the Minnesota Department of Health's Office of Medical Cannabis within five business days. If discovered as part of an ongoing investigation, the report must be made within 72 hours of the conclusion of the investigation (Minn. R. 4770.4002; Minn. R. 4770.4004).

Deputies having reasonable suspicion of unauthorized possession of medical cannabis or of violations of cannabis laws by individuals authorized to possess medical cannabis, must report to the Office of Medical Cannabis using the designated online form. Reports related to unauthorized possession must be submitted within 72 hours, unless discovered as part of an ongoing investigation, in which case reporting must be made within 72 hours of the conclusion of the investigation. Reports of violations by persons authorized to possess medical cannabis must be submitted within 15 days (Minn. R. 4770.4010).

## Vehicle Lockout Wavier/Receipt Books

### 536.1 PURPOSE AND SCOPE

This policy provides procedure for vehicle lockouts, and the necessity of receipt books.

### 536.2 VEHICLE LOCKOUTS/RECEIPT BOOKS

Numbered waiver/receipt books have been issued for the purpose of accounting for State Auditor. Each deputy will be responsible for the issued book. Each form will be filled out entirely including the printed name of the person whom the service was provided and payment received. Place the original and copies along with the collected payment under the Sheriff's door, or directly to the Sheriff.

If a request of the car door opening service is made by any person, or other agency requesting assistance, and the service is provided, the \$30.00 fee shall be collected unless there is an exigent or emergency circumstance (i.e. a child or animal is locked within the vehicle ).



## Disabled Vehicles

### 537.1 PURPOSE AND SCOPE

Law enforcement and other public agencies may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

### 537.2 DEPUTY RESPONSIBILITIES

When an on-duty deputy observes a disabled vehicle on the roadway, the deputy should make a reasonable effort to provide assistance. If that deputy is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available deputy to respond for assistance as soon as practicable.

### 537.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by Office personnel will be contingent on the time of day, the location, the availability of Office resources and the vulnerability of the disabled motorist.

#### 537.3.1 MECHANICAL REPAIRS

Office personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

#### 537.3.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this office by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

## Abandoned Vehicle Violations

### 538.1 PURPOSE AND SCOPE

This policy provides procedures for the removal, recording and storage of vehicles abandoned in violation of abandoned vehicle laws, under the authority of Minn. Stat. § 168B.04.

#### 538.1.1 DEFINITION

Pursuant to Minnesota statutes, a vehicle is abandoned if:

- (a) The motor vehicle has remained illegally for more than 48 hours on any government-owned or -controlled property, or for more than four hours on that property when properly posted (Minn. Stat. § 168B.011 Subd. 2 (1)).
- (b) The motor vehicle has been properly tagged by a deputy and abandoned for four hours on any highway (Minn. Stat. § 168B.04, Subd. 2 (b) (1)).
- (c) The motor vehicle has been abandoned and located so as to constitute a collision or traffic hazard (Minn. Stat. § 168B.04 Subd. 2 (b) (1)).
- (d) The motor vehicle is unattended on private residential property, that is a single-family or duplex, without permission of the property caretaker (Minn. Stat. § 168B.04 Subd. 2 (b) (2)).
- (e) The motor vehicle can be immediately removed if on private non-residential property if properly posted or after 24 hours if not posted (Minn. Stat. § 168B.04 Subd. 2 (b) (2)).
- (f) The motor vehicle remains at a service, repair or maintenance establishment of motor vehicles five days after notifying the vehicle owner by certified mail, return receipt requested, of the property owner's intention to have the vehicle removed from the property (Minn. Stat. § 168B.04 Subd. 2 (b) (2)).

### 538.2 MARKING VEHICLES

Vehicles on public roadways suspected of being abandoned in violation of Minnesota abandoned vehicle laws shall be marked and documented on an ICR.

A visible chalk, crayon or paint mark should be placed on the rear window or left rear tire tread at the fender level unless the vehicle is missing tires or other vehicle conditions or weather prevent marking. Any deviation in markings shall be noted on the ICR.

If a marked vehicle has been moved or the markings have been removed during a four or 24-hour investigation period, the vehicle shall be marked again for either the four or 24-hour abandonment violation and an ICR update completed.

#### 538.2.1 VEHICLE STORAGE

Any vehicle in violation shall be stored by the authorized towing service and a vehicle tow report shall be completed by the deputy authorizing the tow and storage of the vehicle.

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## *Abandoned Vehicle Violations*

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The tow report form shall be submitted to the Sheriff's Office Records immediately following the storage of the vehicle. It shall be the responsibility of the Sheriff's Office Records to immediately notify the Minnesota Criminal Justice Information Services (MNJIS). Notification may also be made to the National Law Enforcement Telecommunications System (NLETS).

Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Sheriff's Office Records to immediately notify MNJIS. Notification may also be made to the NLETS.

## Chapter 6 - Investigation Operations

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## Investigation and Prosecution

### 600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

### 600.2 POLICY

It is the policy of the Lyon County Sheriff's Office to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

### 600.3 INITIAL INVESTIGATION

#### 600.3.1 DEPUTY RESPONSIBILITIES

A deputy responsible for an initial investigation shall complete no less than the following:

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
  - 1. An initial statement from any witnesses or complainants.
  - 2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the deputy shall:
  - 1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
  - 2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
  - 3. If assistance is warranted, or if the incident is not routine, notify a Sergeant.
  - 4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
  - 5. Collect any evidence.
  - 6. Take any appropriate law enforcement action.
  - 7. Complete and submit the appropriate reports and documentation.
- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.

#### 600.3.2 NON-LICENSED MEMBER RESPONSIBILITIES

A non-licensed member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of a deputy shall be requested.

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## *Investigation and Prosecution*

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### **600.4 CUSTODIAL INTERROGATION REQUIREMENTS**

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

#### **600.4.1 AUDIO/VIDEO RECORDINGS**

Any custodial interrogation of a person who is suspected of having committed a criminal offense should be electronically recorded (audio/video or both as available) in its entirety, including any information or discussion about the person's rights and any waiver of those rights. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

Consideration should also be given to recording a non-custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed, except in accordance with the evidence policy. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

### **600.5 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES**

Use of social media and any other Internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights and civil liberties. Information gathered via the Internet should only be accessed by members while on-duty and for purposes related to the mission of this office. If a member encounters information relevant to a criminal investigation while off-duty or while using his/her own equipment, the member should note the dates, times and locations of the information and report the discovery to his/her supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using office equipment.

Information obtained via the Internet should not be archived or stored in any manner other than office-established record keeping systems (see the Records Maintenance and Release and Criminal Organizations policies).

#### **600.5.1 ACCESS RESTRICTIONS**

Information that can be accessed from any office computer, without the need of an account, password, email address, alias or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related investigative report.

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## *Investigation and Prosecution*

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Information gathered from any Internet source should be evaluated for its validity, authenticity, accuracy and reliability. Corroborative evidence should be sought and documented in the related investigative report.

Any information collected in furtherance of an investigation through an Internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

### **600.5.2 INTERCEPTING ELECTRONIC COMMUNICATION**

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Deputies should seek legal counsel before any such interception.

### **600.6 ELECTRONIC BENEFIT TRANSFER (EBT) CARDS**

Deputies shall make a report any time they arrest a person who possesses more than one welfare Electronic Benefit Transfer (EBT) card. The investigating deputies shall forward this report to the Minnesota Department of Human Services within 30 days of the arrest. The report shall include all of the following (Minn. Stat. § 626.5533):

- (a) The name, address and driver's license or state identification card number of the suspect
- (b) The number on each EBT card and name, if any
- (c) The date and location of any alleged offense
- (d) Any other information the Minnesota Department of Human Services may require on related state forms

### **600.7 MODIFICATION OF CHARGES FILED**

Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without the authorization of a supervisory personnel. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.

## Death Investigations

### 601.1 PURPOSE AND SCOPE

The investigation of cases involving death include those ranging from natural cause to homicide. Some causes of death may not be readily apparent and some cases differ substantially from what they appeared to be initially. The thoroughness of death investigations cannot be emphasized enough.

Death investigations shall be conducted pursuant to Minn. Stat. § 390.005 through 390.252 if the county has an elected or appointed Coroner (Minn. Stat. § 390.34).

### 601.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Emergency Medical Services shall be called in all suspected death cases unless the death is obvious (e.g., decapitated or decomposed).

Lyon County Sheriff's Office Deputies are authorized to pronounce death as they are Coroner Investigators acting under the authority of the Lyon County Coroner.

The Sheriff and appropriate supervisor personnel shall be notified in all death investigations.

Lyon County Investigator personnel are to be contacted by either the investigating Deputy, or by dispatch personnel. It shall be at the discretion of the Investigator as to the extent of investigation involvement that they provide.

#### 601.2.1 CORONER REQUESTS

The Coroner shall be called in all sudden or unexpected deaths or deaths due to other than natural causes, including, but not limited to (Minn. Stat. § 390.11):

- (a) Unnatural deaths, including violent deaths arising from homicide, suicide or accident.
- (b) Deaths due to a fire or associated with burns or chemical, electrical or radiation injury.
- (c) Unexplained or unexpected perinatal and postpartum maternal deaths.
- (d) Deaths under suspicious, unusual or unexpected circumstances.
- (e) Deaths of persons whose bodies are to be cremated or otherwise disposed of so that the bodies will later be unavailable for examination.
- (f) Deaths of inmates of public institutions and persons in custody of law enforcement officers who have not been hospitalized primarily for organic disease.
- (g) Deaths that occur during, in association with or as the result of diagnostic, therapeutic or anesthetic procedures.
- (h) Deaths due to culpable neglect.
- (i) Stillbirths of 20 weeks or longer gestation unattended by a physician.
- (j) Sudden deaths of persons not affected by recognizable disease.
- (k) Unexpected deaths of persons notwithstanding a history of underlying disease.
- (l) Deaths in which a fracture of a major bone, such as a femur, humerus or tibia, has occurred within the past six months.



## *Death Investigations*

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- (m) Deaths unattended by a physician occurring outside of a licensed health care facility or licensed residential hospice program.
- (n) Deaths of persons not seen by their physician within 120 days of demise.
- (o) Deaths of persons occurring in an emergency department.
- (p) Stillbirths or deaths of newborn infants in which there has been maternal use of or exposure to unprescribed controlled substances, including street drugs, or in which there is a history or evidence of maternal trauma.
- (q) Unexpected deaths of children.
- (r) Solid organ donors.
- (s) Unidentified bodies.
- (t) Skeletonized remains.
- (u) Unexpected deaths occurring within 24 hours of arrival at a health care facility.
- (v) Deaths associated with the decedent's employment.
- (w) Deaths of non-registered hospice patients or patients in non-licensed hospice programs.
- (x) Deaths attributable to acts of terrorism.

### 601.2.2 SEACHING DEAD BODIES

The Coroner or his/her assistants and Lyon County Sheriff's office Deputies acting as Deputy Coroner Investigators are generally the only persons permitted to move, handle or search a dead body (Minn. Stat. § 390.221).

A deputy shall make a reasonable search of an individual who it is reasonable to believe is dead, or near death, for information identifying the individual as an organ donor or as an individual who made a refusal. If a donor document is located, the County Coroner shall be promptly notified (Minn. Stat. § 525A.12).

The Coroner is required to release property or articles to law enforcement that are necessary for conducting an investigation unless reasonable basis exists pursuant to Minn. Stat. § 390.225 Subd. 2 to not release the property or articles (Minn. Stat. § 390.221).

Whenever personal effects are removed from the body a receipt shall be prepared. This receipt shall be attached to the Lyon County Coroner's Report and/or the case file.

### 601.2.3 DEATH NOTIFICATIONS

Should a human death result from a fire, this office shall immediately notify the state fire marshal (Minn. Stat. § 299F.04 Subd. 5 (b)).

When practicable notification to the next-of-kin of the deceased person shall be made, in person, by the deputy assigned to the incident or other department personnel. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be notified and provide the notification.

If a deceased person has been identified as a missing person, this office shall attempt to locate family members and inform them of the death and the location of the deceased missing

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## *Death Investigations*

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person's remains. All efforts to locate and notify family members shall be recorded in appropriate reports and properly retained (Minn. Stat. § 390.25 Subd. 2 (b)).

This office shall immediately notify the state fire marshal when a human death results from a fire, (Minn. Stat. § 299F.04 Subd. 5 (b)).

### 601.2.4 UNIDENTIFIED DEAD BODIES

If the identity of a dead body cannot be established after the Coroner or Coroner Investigator arrives, the Coroner will issue a "John Doe" or "Jane Doe" number for the report.

### 601.2.5 UNIDENTIFIED BODIES DATA ENTRY

As soon as reasonably possible, but no later than 30 working days after the date a death is reported to the Office, any information or items pertaining to identifying features of the unidentified body, dental records, fingerprints, any unusual physical characteristics, description of clothing or personal belongings found on or with the body, that are in the possession of LCSO shall be forwarded to the BCA for eventual entry into systems designed to assist in the identification process, such as the Missing Children and Missing Persons Information Clearinghouse and the National Crime Information Center (NCIC) files (Minn. Stat. § 390.25 Subd. 2 (a)).

### 601.2.6 DEATH INVESTIGATION REPORTING

All incidents involving a death shall be documented on the appropriate form.

### 601.2.7 SUSPECTED HOMICIDE

If the initially assigned deputy suspects that the death involves a homicide or other suspicious circumstances, the deputy shall take steps to protect the scene. The Sheriff, and if appropriate the Sergeant and determine the need for an Investigator to respond to the scene for further immediate investigation. In all cases, the Lyon County Investigators shall be notified of the death, and consulted as to the extent of the investigation.

If the on-scene deputy, through consultation with the Sheriff or supervisor, is unable to determine the manner of death, the investigation shall proceed as though it is a homicide.

The investigator of a homicide or suspicious-circumstances death may, with the approval of his/ her supervisor, request a forensic post mortem examination conducting a physical examination

and complete tests and provide a report with the costs borne by the Office (Minn. Stat. § 390.251).

The County Coroner may also at their discretion upon consultation with the Deputy Coroner Investigators make this determination.

All Post Mortem Examinations will be coordinated through the Lyon County Coroner.

### 601.2.8 EMPLOYMENT RELATED DEATHS AND INJURIES

Any member of this agency who responds to and determines that a death, serious illness or serious injury has occurred as a result of an accident at or in connection with the victim's

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## *Death Investigations*

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employment, should ensure that the nearest office of the Minnesota Department of Labor and Industry is notified with all pertinent information.

### 601.2.9 REPORTS

Written Lyon County Death Investigation/ Coroner Investigation Reports are to be completed in all death investigations. A full Narrative Report shall also be completed. The written reports shall contain all the pertinent and required information to complete the investigation as to the cause and nature of the death. All other vital information shall be contained in the report.

A Coroner investigation conducted in a local jurisdiction shall commence concurrently with the incident investigation of the jurisdiction having authority. The Coroner investigation shall consist only as to the nature and cause of the death.

Custody of the deceased remains will remain with the Lyon County Sheriff's Office Deputy Coroner Investigator, or the Lyon County Coroner until such time as the cause and nature of death has been determined. The remains are then to be released to either the funeral home for funeral arrangements.

Written reports shall be completed prior to the end of scheduled work shift, or as directed by the supervisor.

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## Sexual Assault Investigations

### 602.1 PURPOSE AND SCOPE

The Lyon County Sheriff's Office adopts the Investigations of Sexual Assault model policy established and published by the Minnesota Board of Peace Officer Standards and Training (MN POST) (Minn. Stat. § 626.8442).

See attachment: [Model Sexual Assault Investigation Policy 03-03-21.pdf](#)

### 602.2 COPY OF SUMMARY

The Investigations supervisor shall ensure that the victim of a sexual assault who reports an incident to this office is provided with a copy of the written summary of the allegation. If the incident occurred outside the jurisdiction of the Lyon County Sheriff's Office, a copy of the written summary shall also be provided to the law enforcement agency where the incident occurred. If the Lyon County Sheriff's Office learns that both the victim and the accused are members of the Minnesota National Guard, the Office shall provide a copy of the summary to the Bureau of Criminal Apprehension (Minn. Stat. § 609.3459).

## Missing Persons

### 603.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

#### 603.1.1 DEFINITIONS

Definitions related to this policy include:

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

- (a) The person is missing because of a confirmed abduction or under circumstances that indicate the person's disappearance was not voluntary.
- (b) The person is missing under known dangerous circumstances.
- (c) The person is missing for more than 30 days.
- (d) The person is under the age of 21 and at least one other factor is applicable.
- (e) There is evidence that the person is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person's health if the person does not receive the needed care or medication.
- (f) The person does not have a pattern of running away or disappearing.
- (g) The person is mentally impaired.
- (h) There is evidence that a non-custodial parent may have abducted the person.
- (i) The person has been the subject of past threats or acts of violence.
- (j) There is evidence that the person is lost in the wilderness, backcountry, or outdoors where survival is precarious and immediate and effective investigation and search-and-rescue efforts are critical.
- (k) Any other factor the Office deems to indicate the person may be at risk of physical injury or death, including a determination by another law enforcement agency that the person is missing and endangered.

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

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

## Missing Persons

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### 603.2 POLICY

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

### 603.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS

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

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

### 603.4 ACCEPTANCE OF REPORTS

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

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

### 603.5 INITIAL INVESTIGATION

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

- (a) Respond to a dispatched call as soon as practicable. Obtain a detailed description of the missing person, as well as a description of any related vehicle and/or abductor.
- (b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be endangered (Minn. Stat. § 299C.53, Subd. 1(b)). Interviews should be conducted separately, if practicable.
- (c) Consult with the Bureau of Criminal Apprehension (BCA) if the person is determined to be an endangered missing person (Minn. Stat. § 299C.53, Subd. 1(b)).
- (d) Canvass the last known area where the missing person was seen, if known. A search of the location where the incident took place, if known, should also be conducted and a search warrant obtained if necessary.

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### Missing Persons

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- (e) Determine when, where and by whom the missing person was last seen. Interview the person who last had contact with the missing person.
- (f) Notify a supervisor immediately if there is evidence that a missing person is either endangered or may qualify for a public alert, or both (see the Public Alerts Policy).
- (g) Broadcast an "Attempt to Locate" (ATL) or similar alert if the person is under 18 years of age or there is evidence that the missing person is endangered. The alert should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 18 years of age or may be endangered.
- (h) Relay known details to all on-duty personnel as well as other local or surrounding law enforcement agencies using local and state databases.
- (i) Ensure that entries are made into the appropriate missing person networks:
  - 1. Immediately, when the missing person is endangered (Minn. Stat. § 299C.53, Subd. 1(b)).
  - 2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report (34 USC § 41308).
- (j) Complete the appropriate report forms accurately and completely and initiate a search as applicable according to the facts.
- (k) Collect and/or review:
  - 1. A photograph and fingerprint card of the missing person, if available (Minn. Stat. § 299C.54, Subd. 2).
  - 2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).
  - 3. Any documents that may assist in the investigation, such as court orders regarding custody.
  - 4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).
- (l) When circumstances permit and if appropriate, attempt to determine the missing person's location through their telecommunications carrier.
- (m) Contact the appropriate agency if the report relates to a missing person report previously made to another agency and that agency is actively investigating the report. When this is not practicable, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an endangered missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.
- (n) Implement multi-jurisdictional coordination/mutual aid plan as appropriate such as when:
  - 1. The primary agency has limited resources.
  - 2. The investigation crosses jurisdictional lines.
  - 3. Jurisdictions have pre-established task forces or investigative teams.

## Missing Persons

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### 603.5.1 CRIME SCENE INVESTIGATION AND MANAGEMENT

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

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

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



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designee, and should provide contact information and the family information packet (if available) to the family/reporting party or their designee.

- (l) Providing general information to the family/reporting party or their designee about the handling of the missing person case or about any intended efforts, only to the extent that disclosure would not adversely affect the office's ability to locate or protect the missing person or to apprehend or criminally prosecute any person in connection to the case.

### 603.6 REPORT PROCEDURES AND ROUTING

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

#### 603.6.1 SUPERVISOR RESPONSIBILITIES

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

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

#### 603.6.2 SHERIFF'S OFFICE RECORDS RESPONSIBILITIES

The responsibilities of the Sheriff's Office Records receiving member shall include, but are not limited to:

- (a) As soon as reasonable under the circumstances, notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's residence in cases where the missing person is a resident of another jurisdiction.
- (b) Notifying and forwarding a copy of the report to the agency of jurisdiction where the missing person was last seen.
- (c) Notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's intended or possible destination, if known.
- (d) Forwarding a copy of the report to the Investigations.
- (e) Coordinating with the NCIC Terminal Contractor for Minnesota to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

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### 603.7 INVESTIGATIONS FOLLOW-UP

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

- (a) Should ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.
  1. The notice shall be in writing and should also include a photograph.
  2. The investigator should meet with school officials as appropriate to stress the importance of including the notice in the child's student file, along with the investigator's contact information if the school receives a call requesting the transfer of the missing child's files to another school.
- (b) Should recontact the reporting party and/or other witnesses within 30 days of the initial report and within 30 days thereafter to keep them informed, as appropriate, and to determine if any additional information has become available.
- (c) Shall review the case file to determine whether any additional information received on the missing person indicates that the person is endangered, and shall update applicable state or federal databases accordingly (Minn. Stat. § 299C.535(b); Minn. Stat. § 299C.535(c)).
- (d) Shall attempt to obtain the following, if not previously obtained, if the person remains missing after 30 days (Minn. Stat. § 299C.535(a)):
  1. Biological samples from family members and, if possible, from the missing person
  2. Dental information and X-rays
  3. Additional photographs and video that may aid the investigation or identification
  4. Fingerprints
  5. Any other specific identifying information
- (e) Should consider contacting other agencies involved in the case to determine if any additional information is available.
- (f) Shall verify and update the Minnesota Justice Information Services (MNJIS), the Minnesota Missing and Unidentified Persons Clearinghouse, NCIC and any other applicable missing person networks within 30 days of the original entry into the networks and every 30 days thereafter until the missing person is located (34 USC § 41308).
- (g) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.
- (h) Should consider taking certain actions if a person is missing after a prolonged period, generally exceeding 45 days. Those actions include:
  1. Developing a profile of the possible abductor.
  2. Using a truth verification device for parents, spouse, and other key individuals.

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

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

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

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

- (a) Notification is made to BCA.
- (b) A missing child's school is notified.

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

### 603.8.1 PERSONS FOUND ALIVE

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

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

### 603.8.2 UNIDENTIFIED PERSONS

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

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

### 603.8.3 DECEASED PERSONS

If a deceased person has been identified as a missing person, the Investigations shall attempt to locate family members and inform them of the death and the location of the deceased missing person's remains. All efforts to locate and notify family members shall be recorded in appropriate reports and properly retained (Minn. Stat. § 390.25, Subd. 2).

Additional investigation responsibilities include the following:

- (a) Secure the crime scene if this office has jurisdiction.

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

### **603.9 CASE CLOSURE**

A supervisor may authorize the closure of a missing person case after considering the following:

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

### **603.10 TRAINING**

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

- (a) The initial investigation:
  1. Assessments and interviews
  2. Use of current resources, such as Mobile Audio Video (MAV)
  3. Confirming missing status and custody status of minors
  4. Evaluating the need for a heightened response
  5. Identifying the zone of safety based on chronological age and developmental stage

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- (b) Briefing of office members at the scene.
- (c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).
- (d) Verifying the accuracy of all descriptive information.
- (e) Initiating a neighborhood investigation.
- (f) Investigating any relevant recent family dynamics.
- (g) Addressing conflicting information.
- (h) Key investigative and coordination steps.
- (i) Managing a missing person case.
- (j) Additional resources and specialized services.
- (k) Update procedures for case information and descriptions.
- (l) Preserving scenes.
- (m) Internet and technology issues (e.g., Internet use, cell phone use).
- (n) Media relations.

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### 604.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Lyon County Sheriff's Office members are required to notify the county social services agency of suspected child abuse.

#### 604.1.1 DEFINITIONS

Definitions related to this policy include:

**Child** - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

**Child abuse (also known as maltreatment of minors)** - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency (Minn. Stat. § 260E.03; Minn. Stat. § 260E.06).

### 604.2 POLICY

The Lyon County Sheriff's Office will investigate all reported incidents of alleged criminal child abuse and ensure the county social services agency is notified as required by law.

### 604.3 MANDATORY NOTIFICATION

Members of the Lyon County Sheriff's Office shall notify the county social services agency when they have reason to believe any of the following may have occurred or when someone reports any of the following (Minn. Stat. § 260E.06):

- (a) A child is being neglected or has been neglected within the preceding three years.
- (b) A child is being physically abused or has been physically abused within the preceding three years by a person responsible for the child's care.
- (c) A child is being sexually abused, threatened with sexual abuse, or has been sexually abused within the preceding three years by a person responsible for the child's care, by a person who has a significant relationship to the child, or by a person in a position of authority.
- (d) A woman is pregnant and has used a controlled substance for a non-medical purpose during the pregnancy, including but not limited to tetrahydrocannabinol (marijuana), or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive (Minn. Stat. § 260E.03, subd. 15; Minn. Stat. § 260E.31).

Notification is mandatory for any acts of neglect, physical abuse, and sexual abuse that constitute a crime, whether or not the suspect had any relationship to or responsibility for the child (Minn. Stat. § 260E.12).

For purposes of notification, physical abuse includes injuries, mental injuries, or injuries that cannot be reasonably explained (e.g., punching, kicking, burning). Sexual abuse includes criminal

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

### 604.3.1 NOTIFICATION PROCEDURE

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

- (a) The member tasked with the investigation shall call the county social services agency and report the alleged abuse as soon as possible but always within 24 hours. The time of the call and the name of the person should be documented.
- (b) Notification, when possible, should include:
  - 1. The child's current location and whether the child is in immediate danger.
  - 2. A description of when and where the incident occurred and what happened to the child.
  - 3. A description of the injuries or present condition of the child.
  - 4. The names and addresses of the child, parents, or caregivers.
  - 5. Whether there were any witnesses to the incident and their names.
  - 6. Any additional information about the child, family, or caregivers that may be helpful.
  - 7. Whether the incident occurred in a licensed facility or a school and what actions the facility employees may have taken.
  - 8. Whether there are immediate family, relative, or community resources that would offer protection or support to the child.
- (c) Forms that may be required by the county social services agency or other written notification shall be completed and faxed or delivered to the county social services agency as soon as possible but always within 72 hours, exclusive of weekends and holidays.
- (d) Approved investigation reports should be forwarded to the county social services agency as soon as practical.
- (e) When the child abuse occurred at a facility or by a person from a facility that requires a state license or a profession that requires a state license (e.g., foster homes, group homes, day care, educator), notification shall also be made to the agency responsible for licensing the facility or person (Minn. Stat. § 260E.11).

### 604.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available for child abuse investigations. These investigators should:

- (a) Conduct interviews in child-appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to child abuse investigations.
- (c) Present all cases of alleged child abuse to the prosecutor for review.



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- (d) Coordinate with other enforcement agencies, social service agencies, and school administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians, and support for the child and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable.

### **604.5 INVESTIGATIONS AND REPORTING**

In all reported or suspected cases of child abuse, a report will be written. Deputies shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating deputy in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if deputies interviewed the child victim without the presence of a parent or guardian.
- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

### **604.6 PROTECTIVE CUSTODY**

Before taking any child into protective custody, the deputy should make reasonable attempts to contact the county social services agency. Generally, removal of a child from his/her family,

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guardian or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

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

Whenever practicable, the deputy should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, deputies should contact a supervisor promptly after taking a child into protective custody.

Children may only be removed from a parent or guardian in the following situations (Minn. Stat. § 260C.175):

- (a) When a court has issued an order for removal.
- (b) When a child is found in surroundings or conditions that pose an imminent threat to the child's health or welfare or that a peace officer reasonably believes pose an imminent threat to the child's health or welfare.
- (c) If an Indian child is a resident of a reservation or is domiciled on a reservation but temporarily located off the reservation, taking the child into custody under this clause shall be consistent with the Indian Child Welfare Act (25 USC § 1922).

### 604.6.1 NOTICE TO PARENT OR CUSTODIAN AND CHILD

Whenever a deputy takes a child into protective custody, the deputy shall notify the parent or custodian and the child (age 10 years or older) that they may request that the child be placed with a relative instead of in a shelter care facility. The deputy also shall give the parent or custodian a list, published by the Minnesota Department of Human Services, of names, addresses, and telephone numbers of social services agencies that offer child welfare services. When placement with a relative is requested, the deputy will coordinate with the responsible social services agency to ensure the child's safety and well-being in compliance with Minn. Stat. § 260C.181 (Minn. Stat. § 260C.175).

If the parent or custodian was not present when the child was removed from the residence, the list shall be left with an adult who is on the premises or left in a conspicuous place on the premises if no adult is present. If the deputy has reason to believe the parent or custodian is not able to read and understand English, the deputy must provide a list that is written in the language of the parent or custodian (Minn. Stat. § 260C.175; Minn. Stat. § 260C.181).

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### 604.6.2 SAFE PLACE FOR NEWBORNS

A person may leave an unharmed newborn less than seven days old with the staff of a hospital, urgent care facility or ambulance service without being subject to prosecution (Minn. Stat. § 609.3785). The responsible social service agency is charged with addressing these matters but may contact law enforcement if child abuse is suspected (Minn. Stat. § 145.902; Minn. Stat. § 609.3785).

## 604.7 INTERVIEWS

### 604.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, deputies should record the preliminary interview with suspected child abuse victims. Deputies should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating deputies should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

### 604.7.2 DETAINING ABUSE VICTIMS FOR INTERVIEW

A deputy should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

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

### 604.7.3 NOTIFICATION TO PARENTS

Generally, deputies should cooperate with parents and guardians and seek consent prior to conducting interviews of children. However, when reasonably necessary, state law grants deputies the authority to interview a child who is the alleged victim of abuse or neglect, and any other children who currently reside or have resided with the alleged victim, without parental consent (Minn. Stat. § 260E.22, Subd. 1).

The interview may take place at school or at any facility or other place where the alleged victim or other children might be found, or the child may be transported to, and the interview conducted at, a place that is appropriate for the interview and has been designated by the local welfare agency or law enforcement agency. When it is possible and substantial child endangerment or sexual

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

The deputy shall notify the parent, legal custodian, or guardian that the interview occurred as soon as reasonably practicable after the interview, unless the juvenile court has determined that reasonable cause exists to withhold the information (Minn. Stat. § 260E.22).

### **604.7.4 INTERVIEWS AT SCHOOL**

If deputies assigned to investigate a report of maltreatment determine that an interview should take place on school property, written notification of the intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property (Minn. Stat. § 260E.22, Subd. 7).

The investigating deputy shall determine who may attend the interview, although school officials may set reasonable conditions as to the time, place, and manner of the interview (Minn. Stat. § 260E.22, Subd. 7).

### **604.7.5 DOCUMENTING AND RECORDING INTERVIEWS**

Any statement made by an alleged child abuse victim during the course of a criminal investigation shall be documented. The documentation of the interview must contain, at a minimum (Minn. Stat. § 260E.23):

- (a) The date, time, place, and duration of the interview.
- (b) The identity of the persons present at the interview.
- (c) A summary of the information obtained during the interview if it was not audio recorded.

Members should follow the written guidelines of the county attorney's office regarding recording interviews of a child abuse victim.

### **604.8 MEDICAL EXAMINATIONS**

If the child has been the victim of abuse that requires a medical examination, the investigating deputy should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The deputy should also arrange for the child's transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, deputies should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for deputies to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination.

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### **604.9 DRUG-ENDANGERED CHILDREN**

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

#### **604.9.1 DEPUTY INVESTIGATOR RESPONSIBILITIES**

The Deputy Investigator should:

- (a) Work with professionals from the appropriate agencies, including the county social services agency, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when a deputy notifies the Deputy Investigator that a deputy has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.
- (c) Develop a report format or checklist for use when deputies respond to drug labs or other narcotics crime scenes. The checklist will help deputies document the environmental, medical, social and other conditions that may affect the child.

#### **604.9.2 DEPUTY RESPONSIBILITIES**

Deputies responding to a drug lab or other narcotics crime scene where a child is present or where there is evidence that a child lives should:

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

#### **604.9.3 SCHOOL NOTIFICATION**

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

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

Minnesota requires or permits the following:

#### **604.10.1 RELEASE OF REPORTS**

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Minn. Stat. § 260E.35).

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### 604.10.2 CHILD MORTALITY REVIEW PANELS

Child mortality review panels are entitled to access all investigative information of law enforcement agencies regarding the death of a child. This office shall cooperate fully with any such team and investigation (Minn. Stat. § 256.01, Subd. 12).

### 604.10.3 COORDINATION WITH SOCIAL SERVICES

In every case of child abuse that would require notification to a local county social services agency, the investigating deputy shall coordinate the planning and execution of the investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. The investigating deputy shall prepare a report separate from the social services agency (Minn. Stat. § 260E.12; Minn. Stat. § 260E.14, Subd. 5).

Members may disclose the status of an individual as a predatory offender to a child protection worker who is conducting an investigation or a family assessment under Chapter 260E (Minn. Stat. § 243.166; Minn. Stat. § 260E.03).

### 604.10.4 NOTIFICATION PROCESS

The Patrol Supervisor is responsible for ensuring the mandatory notifications to the county social service agency are carried out. This should be achieved, in part, by establishing and reviewing related procedures and through ongoing training (Minn. Stat. § 260E.01 et seq.).

### 604.10.5 COURT-ORDERED FIREARM SURRENDERS

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

Firearms will normally be surrendered at the Lyon County Sheriff's Office; however, when encountering someone in the field who wishes to surrender a firearm, deputies should make reasonable efforts to accommodate the request.

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

## **604.11 TRAINING**

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

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

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## Adult Abuse

### 605.1 PURPOSE AND SCOPE

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

#### 605.1.1 DEFINITIONS

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

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

### 605.2 POLICY

The Lyon County Sheriff's Office will investigate all reported incidents of alleged adult abuse and ensure proper reporting and notification as required by law.

### 605.3 MANDATORY NOTIFICATION

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

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

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

#### 605.3.1 NOTIFICATION PROCEDURE

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

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



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

If notification of maltreatment is first made to the Lyon County Sheriff's Office, the member receiving the notification shall complete and forward the intake form to the entity responsible for receiving such reports.

### **605.4 QUALIFIED INVESTIGATORS**

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

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

### **605.5 INVESTIGATIONS AND REPORTING**

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

Investigations and reports related to suspected cases of adult abuse should address, as applicable:

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

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

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

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

### **605.6 PROTECTIVE CUSTODY**

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

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

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

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

### **605.7 INTERVIEWS**

#### **605.7.1 PRELIMINARY INTERVIEWS**

Absent extenuating circumstances or impracticality, deputies should audio record the preliminary interview with a suspected adult abuse victim. Deputies should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an investigation. When

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practicable, investigating deputies should defer interviews until a person who is specially trained in such interviews is available.

### **605.7.2 DETAINING VICTIMS FOR INTERVIEWS**

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

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

### **605.8 MEDICAL EXAMINATIONS**

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

In cases where the alleged offender is a family member, guardian, agency or entity having legal custody and is refusing to give consent for the medical examination, deputies should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for deputies to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

### **605.9 DRUG-ENDANGERED VICTIMS**

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

#### **605.9.1 DEPUTY INVESTIGATOR RESPONSIBILITIES**

The Deputy Investigator should:

- (a) Work with professionals from the appropriate agencies, including the applicable adult protective services agency, other law enforcement agencies, medical service providers and local prosecutors, to develop community-specific procedures for responding to situations where there are adult abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when a deputy notifies the Deputy Investigator that he/she has responded to a drug lab or other narcotics crime scene

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where an adult abuse victim is present or where evidence indicates that an adult abuse victim lives.

- (c) Develop a report format or checklist for use when deputies respond to drug labs or other narcotics crime scenes. The checklist will help deputies document the environmental, medical, social and other conditions that may affect the adult.

### 605.9.2 DEPUTY RESPONSIBILITIES

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

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

### 605.10 STATE MANDATES AND OTHER RELEVANT LAWS

Minnesota requires or permits the following:

#### 605.10.1 CRIMINAL RECORDS RESPONSIBILITIES

CRIMINAL RECORDS is responsible for:

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

#### 605.10.2 RELEASE OF REPORTS

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

### 605.11 TRAINING

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

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

# DOMESTIC ABUSE RESPONSE AND ARREST POLICY

## 606.1 PURPOSE AND INTENT

Officers will utilize this policy in response to calls when there may be domestic abuse. This policy prescribes courses of action 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.

## 606.2 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.

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

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

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

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

## 606.3 DISPATCHING CALLS

- (a) **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.
- (b) **Information to be Obtained:** The dispatcher receiving a domestic call should attempt to elicit from the caller and should communicate to the responding officers as much of the following information as possible:
  - the nature of the incident,

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- 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 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 officers.

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

### 606.4 RESPONDING TO CALLS

1. **Driving to the Scene:** The 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**

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- **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.

### 606.5 ARREST DECISIONS

1. **Making Arrests:** After securing the scene and providing any first aid, the 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 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,

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- 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.

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[1] 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."

### 606.6 AUTHORITY AND TYPES OF ARRESTS

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. An officer may arrest a person anywhere without a warrant, including at the person's residence, if the officer has probable cause to believe that the person has, within the preceding 72



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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 officer (Minn. Stat. 629.341).

An 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).

(b) **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) 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.

- (c) **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) A person who stalks another by committing any of the following acts is guilty of a gross misdemeanor:

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- (a) 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;
- (b) follows, monitors, or pursues another, whether in person or through any available technological or other means;
- (c) 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;
- (d) repeatedly makes telephone calls, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;
- (e) makes or causes the telephone of another to repeatedly or continuously ring;
- (f) 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
- (g) 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) A person who commits any offense described in 3.a) (see above) against a victim under the age of 18, if the actor is more than 36 months older than the victim, and the act is committed with sexual or aggressive intent, is guilty of a felony.

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

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

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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 officers shall consider whether other felonies have been committed including but not limited to, burglary, felony assault, terroristic threats, kidnapping, false imprisonment, and witness tampering.

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

- (f) **Violation of Court Orders:** The officer shall verify whether any of the following orders exist before or during an arrest. The 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) A peace officer shall arrest and take into custody without a warrant a person who the officer has probable cause to believe has violated any condition of an OFP granted pursuant to Minn. Stat. 518B.01, subs. 6, 7, and 9. Such an arrest shall be made even if the violation of the order did not take place in the presence of the officer, if the officer can verify the existence of the order.

**NOTE:** 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.

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OFFPs 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) A peace officer shall arrest and take into custody a person who the officer has probable cause to believe has violated a harassment restraining order pursuant to Minn. Stat. 609.748, subs. 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) **Minn. Stat. 629.75** An officer shall arrest without a warrant and take into custody a person whom the 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 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.

- (g) **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.

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### 606.7 ASSISTANCE, STAYING AT THE SCENE, CRIME VICTIM RIGHTS AND SERVICES

- (a) **Staying at the Scene:** If no arrest is made 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 officer should make contact for immediate intervention. **NOTE:** Minn. Stat.629.342 provides that when a officer does not make an arrest, the 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.
- (b) **Assistance to Non-English Speaking Victims or Victims with Communication Disabilities:** The 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.
- (c) **Notice of Crime Victims Rights:** The 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.
- (d) **Services:** The officer should contact the local domestic abuse program (WRAP) 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.).

### 606.8 CHILDREN

- (a) **Child Victims:** If a child is present at the scene of a domestic call or is the victim of domestic abuse, the officer should determine whether the child has been subjected to physical abuse, sexual abuse, or neglect, and comply with the 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.

### 606.9 REPORTS AND FORMS

- (a) **Written Report:** 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:

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- detailed statements from the victim, suspect and witnesses;
- description of injuries;
- information about past abuse;
- description of the scene;
- predominant aggressor;
- existence of language barriers;
- presence of elderly victims or those with disabilities; and
- documentation of evidence.

### 606.10 FURTHER INVESTIGATION

- (a) 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 officer should advise the prosecutors of any enhanced criminal sanctions which may be available.
- (b) Notwithstanding the fact that the officer has decided not to arrest one of the participants in the domestic call, the 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.

### 606.11 ENHANCEMENT 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)

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

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## *DOMESTIC ABUSE RESPONSE AND ARREST POLICY*

	Any Victim	w/in 3 years of conviction	QDVRO	Gross Misdemeanor
		w/in 3 years of 1 <sup>st</sup> of 2 or more convictions	QDVRO	Felony
Domestic Assault	Family/Household Member  (as defined in Minn. Stat. 518B.01, subd. 2.)	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of 1 <sup>st</sup> of 2 or more convictions for Domestic Assault or Assault 5	QDVRO	Felony
Malicious Punishment	Any Victim	w/in 5 years of discharge	Assault 1-5, Domestic Assault, Malicious Punishment, Criminal Sexual Conduct 1-4, or Terroristic Threats	Felony
Violation of Order for Protection or Harassment Restraining Order	Any Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of 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

## Hate or Prejudice Crimes

### 607.1 PURPOSE AND SCOPE

The Lyon County Sheriff's Office recognizes and places a high priority on the rights of all individuals guaranteed under the constitution and the laws of this state. When such rights are infringed upon by violence, threats or other harassment, this office will utilize all available resources to see that justice is served under the law. This policy has been developed to meet or exceed the provisions of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, and provides members of this office with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

#### 607.1.1 FEDERAL JURISDICTION

The federal government also has the power to investigate and prosecute bias-motivated violence by providing the U.S. Department of Justice with jurisdiction over crimes of violence where the perpetrator has selected the victim because of the person's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or disability (18 USC § 245).

### 607.2 DEFINITIONS

**Hate or Prejudice Crime** - Conduct that would constitute a crime and was committed because of the victim's or another's actual or perceived race, color, religion, national origin, ethnicity, gender, sexual orientation, gender identity or expression, or disability (see generally Minn. Stat. § 611A.79, Subd. 1).

### 607.3 PREVENTING AND PREPARING FOR LIKELY HATE OR PREJUDICE CRIMES

While it is recognized that not all crime can be prevented, this office is committed to taking a proactive approach to preventing and preparing for likely hate or prejudice crimes by among other things:

- (a) Deputies should make an affirmative effort to establish contact with persons and groups within the community who are likely targets of hate crimes to form and cooperate with prevention and response networks.
- (b) Providing victim assistance and follow-up as outlined below, including community follow-up.
- (c) Educating community and civic groups relating to hate crime laws.

### 607.4 PROCEDURE FOR INVESTIGATING HATE OR PREJUDICE CRIMES

Whenever any member of this office receives a report of a suspected hate or prejudice crime or other activity that reasonably appears to involve a potential hate or prejudice crime, the following should occur:

- (a) Deputies will be promptly assigned to contact the victim, witness or reporting party to investigate the matter further as circumstances may dictate.



## *Hate or Prejudice Crimes*

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- (b) A supervisor should be notified of the circumstances as soon as practicable.
- (c) Once “in progress” aspects of any such situation have been stabilized (e.g., treatment of victims or apprehension of present suspects), the assigned deputies will take all reasonable steps to preserve available evidence that may tend to establish that a hate or prejudice crime was involved.
- (d) The assigned deputies will interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate or prejudice crime.
- (e) Depending on the situation, the assigned deputies or supervisor may request additional assistance from investigators or other resources to further the investigation.
- (f) The assigned deputies will include all available evidence indicating the likelihood of a hate or prejudice crime in the relevant reports. All related reports will be clearly marked as “Hate or Prejudice Crimes” and, absent prior approval of a supervisor, will be completed and submitted by the assigned deputies before the end of the shift.
- (g) The assigned deputies will provide the victims of any suspected hate or prejudice crime with the brochure on hate and prejudice crimes authorized by the Office. Such brochures will also be available to members of the public upon request. The assigned deputies should also make reasonable efforts to assist the victims by providing available information on local assistance programs and organizations as required by the Victim Assistance Policy.
- (h) The assigned deputies and supervisor should take reasonable steps to ensure that any such situation does not escalate further and provide information to the victim regarding legal aid, e.g., a possible Temporary Restraining Order through the courts, prosecuting attorney or County Attorney.

### **607.5 INVESTIGATIONS RESPONSIBILITIES**

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

- (a) Coordinating further investigation with the prosecuting attorney and other appropriate law enforcement agencies, as appropriate.
- (b) Maintaining contact with the victims and other involved individuals as needed.
- (c) Maintaining statistical data and tracking of suspected hate or prejudice crimes as indicated or required by state law.

#### **607.5.1 STATE HATE CRIME REPORTING**

This office shall report hate or prejudice crime offenses in the form and manner and at regular intervals as prescribed by rules adopted by the Department of Public Safety. (Minn. Stat. § 626.5531, Subd. 2).

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## *Hate or Prejudice Crimes*

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

- (a) The date of the offense.
- (b) The location of the offense.
- (c) Whether the target of the incident was a person, private property or public property.
- (d) The crime committed.
- (e) The type of bias and information about the offender and the victim that is relevant to that bias.
- (f) Any organized group involved in the incident.
- (g) The disposition of the case.
- (h) Whether the determination that the offense was motivated by bias was based on the deputy's reasonable belief or on the victim's allegation.
- (i) Any additional information the superintendent deems necessary for the acquisition of accurate and relevant data.

### **607.5.2 FEDERAL HATE CRIME REPORTING**

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

### **607.6 TRAINING**

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

# Confidential Informants Policy

## 608.1 L. POLICY

It is the policy of the Lyon County sheriff's Office to establish procedures and protocols that take necessary precautions concerning the recruitment, control and use of confidential informants.

## 608.2 LL. DEFINITIONS

- A. **Confidential Informant (CI):** A person (AKA a Cooperating Individual) 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.

## Confidential Informants Policy

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### 608.3 LLL. 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:

- (a) An officer requesting use of an individual as a CI must complete a *CI Initial Suitability and Personal Information Report Form*. The report must be submitted to the appropriate Sergeant, or as determined Sheriff, 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
- (b) Prior to an individual's use as a CI, a Sergeant or other designated authority must review the *CI Suitability and Personal Information Report* and determine if the individual is authorized to serve as a CI.
- (c) 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

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- (c) the prospective or current CI may provide confidential information while receiving treatment, participating in a treatment-based drug court program or treatment court.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) Each CI's suitability must be reviewed every 6 months, at a minimum, during which time the CI's overseeing agent must submit a *CI Continued Suitability* form addressing the foregoing issues in 613.3 III.A.1.a–p, and 613.3 III.A.3-6, where applicable. An initial suitability determination must be conducted on a reactivated CI regardless of the length of inactivity.
- (h) 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.
- (i) Sergeants 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.
- (j) CI contracts must be terminated, and the CI file placed in inactive status when the CI has not been utilized for 6 months or more.

#### B. Exigent Confidential Informants

1. Certain circumstance arise when an individual who has been arrested is willing to immediately cooperate and perform investigative activities under the direction of an overseeing agent. In these circumstances, the initial suitability determination can be deferred and an individual may be utilized as a CI for a period not to exceed 12 hours from the time of arrest if:
  - (a) The individual is not excluded from utilization as a CI under 613.3 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 Sergeant or other supervisory personnel 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 Sheriff or their designee and the County Attorney should be consulted prior to the use of these individuals as CIs. These individuals include the following:

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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,
  - (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.

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- (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) Deputy/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.

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- (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 Sheriff shall 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 designation 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



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- (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. CI files shall be secured with proper CLASSIFICATION to protect the contents of the files.
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 Sheriff 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 *CI Deactivation Memo Form* that includes, at minimum, the following:
  - (a) The name of the agency.
  - (b) The name of the CI.
  - (c) The control number of the CI, where applicable.
  - (d) The date of deactivation.
  - (e) The reason for deactivation.
  - (f) A notification that contractual agreements regarding monetary re-numeration, criminal justice assistance, or other considerations, specified or not, are terminated.

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- (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:

- (a) All monetary compensation paid to CIs must be commensurate with the value of the information or assistance provided to the agency.
- (b) All CI payments must be approved in advance by the officer in charge of confidential funds.
- (c) 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.
- (d) Two officers must be present when making payments or providing funds to CIs.
- (e) 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.
- (f) 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 613.3 III.F.1. of this policy.
- (g) Written records of receipts are retained, or justification for the exception is documented when a written receipt is not available.

#### **608.4 FORMS**

[See attachment: CI Suitability and Personal History.pdf](#)

[See attachment: CI Deactivation Memo.pdf](#)

[See attachment: CI Agreement.pdf](#)

[See attachment: CI CONTINUED Suitability.pdf](#)

[See attachment: Cooperation Agreement \(charges pending\).pdf](#)

# Eyewitness Identification

## 609.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this office employ eyewitness identification techniques (Minn. Stat. § 626.8433).

### 609.1.1 DEFINITIONS

Definitions related to the policy include:

**Show-up:** The presentation of a suspect to an eyewitness within a short time frame following the commission of a crime to either confirm or eliminate him or her as a possible perpetrator. Show-ups, sometimes referred to as field identifications, are conducted in a contemporaneous time frame and proximity to the crime.

**Line-up:** The process of presenting live individuals to an eyewitness for the purpose of identifying or eliminating suspects.

**Photo Array:** A means of presenting photographs to an eyewitness for the purpose of identifying or eliminating suspects.

**Administrator:** The law enforcement official conducting the identification procedure.

**Blinded Presentation:** The administrator may know the identity of the suspect, but does not know which photo array member is being viewed by the eyewitness at any given time.

**Confidence Statement:** A statement in the witness's own words taken immediately after an identification is made stating his or her level of certainty in the identification.

**Filler:** A live person, or a photograph of a person, included in an identification procedure who is not considered a suspect.

**Sequential:** Presentation of a series of photographs or individuals to a witness one at a time.

**Simultaneous:** Presentation of a series of photographs or individuals to a witness all at once .

## 609.2 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.

### 609.2.1 POST MODEL POLICY

It is the policy of the Lyon County Sheriff's Office to follow the requirements of the Eyewitness Identification Procedures model policy, established and published by the Minnesota Board of Peace Officer Standards and Training (POST) (Minn. Stat. § 626.8433).

[See attachment: Eyewitness Identification Procedures model policy.pdf](#)

## *Eyewitness Identification*

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### **609.3 PROCEDURE**

#### **609.3.1 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 reasonable 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.

#### **609.3.2 LINE-UP AND PHOTO ARRAY PROCEDURES**

Basic Procedures for Conducting a Line-up or Photo Array

- a. Line-ups will not typically be utilized for investigations, unless conducting a photo array is not possible.
- b. Whenever possible, a blind presentation shall be utilized. In cases where a blind presentation is not feasible for a photo array, a blinded presentation should be used. Live line-ups must be conducted using a blind presentation.
- c. The line-up or photo array should consist of a minimum of six individuals or photographs. Use a minimum of five fillers and only one suspect.

## *Eyewitness Identification*

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- 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 result.**
- 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.

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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.

#### 609.3.3 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.

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### 609.3.4 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.

## Identity Theft

### 610.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

### 610.2 REPORTING

- (a) A report shall be taken any time a person living within the jurisdiction of the Lyon County Sheriff's Office reports that he/she has been a victim of identity theft (Minn. Stat. § 609.527, Subd. 5). This includes:
  - 1. Taking a report even if the location of the crime is outside the jurisdiction of this office or has not been determined.
  - 2. Providing the victim with office information, as set forth in the Victim and Witness Assistance Policy. Deputies should encourage the individual to review the material, and assist with any questions.
- (b) A report should also be taken if a person living outside the office jurisdiction reports an identity theft that may have been committed or facilitated within this jurisdiction (e.g., use of a post office box in Lyon to facilitate the crime).
- (c) Deputies should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application).
- (d) Deputies should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and the Department of Public Safety's Driver and Vehicle Services Division) with all known report numbers.
- (e) Following supervisory review and Office processing, the initial report should be forwarded to the appropriate investigator for follow-up investigation, coordination with other agencies and prosecution as circumstances dictate.

### 610.3 PREVENTATIVE MEASURES

The victim should be advised to place a security freeze on his/her consumer report as allowed by law (Minn. Stat. § 13C.016 Subd. 2). A victim may also access the Minnesota Attorney General's office for additional detailed information.

### 610.4 VICTIM DATA

The victim may be provided the Consent to Create an FBI Identity Theft File Form and a Notice About Providing Your Social Security Number. These completed forms should be submitted to the Sheriff's Office Records for appropriate filing and entry into the NCIC Identity Theft File. Forms and details are available on the Bureau of Criminal Apprehension identity theft website.



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## *Identity Theft*

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### **610.5 INFORMATION**

The victim should also be encouraged to contact the Federal Trade Commission (FTC), which is responsible for receiving and processing complaints under the Identity Theft and Assumption Deterrence Act. The victim can contact the FTC online or by telephone. Additional information may be found at the U.S. Department of Justice (USDOJ) website.

# Scrap Metal Theft Investigation

## 611.1 PURPOSE AND SCOPE

This policy provides guidance regarding scrap metal theft investigations.

### 611.1.1 DEFINITIONS

Definitions related to this policy include:

**Scrap vehicle operator or operator** - A person described in Minn. Stat. § 168A.1501 who engages in a transaction involving the purchase or acquisition of a scrap vehicle.

**Scrap metal dealer or dealer** - A person engaged in the business of buying or selling scrap metal, or both, including a scrap metal processor, as defined in Minn. Stat. § 325E.21.

## 611.2 POLICY

The Lyon County Sheriff's Office recognizes the difficulty in preventing scrap metal theft and may investigate, place holds on or confiscate items as provided in this policy.

## 611.3 INSPECTIONS AND AUDITS

A deputy engaged in scrap metal theft investigations may (Minn. Stat. § 168A.1501; Minn. Stat. § 325E.21):

- (a) Conduct inspections and audits of any purchase and acquisition records maintained by scrap vehicle operators or scrap metal dealers.
- (b) Inspect scrap vehicle or scrap metal received by an operator or dealer at any reasonable time.
- (c) Inspect any video or still camera and any recordings or images required to be maintained by an operator or dealer.

Any refusal to allow such inspections or audits should be referred to the County attorney for criminal prosecution.

## 611.4 INVESTIGATIVE HOLDS

A deputy who has probable cause to believe that a scrap vehicle or motor vehicle parts in the possession of a scrap vehicle operator, or that scrap metal in the possession of a scrap metal dealer, is stolen or is evidence of a crime may verbally order the operator or dealer not to process, sell, remove or allow the removal of the item for 30 days (Minn. Stat. § 168A.1501; Minn. Stat. § 325E.21).

The deputy issuing the order is responsible for ensuring that the order to hold the item is confirmed in writing within 72 hours. If the item is identified as evidence in an active criminal case, the deputy may extend the hold in writing. This extension must occur within 30 days of the original order and may remain in effect for as long as the investigation or prosecution is active.

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## *Scrap Metal Theft Investigation*

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### **611.5 SEIZING ITEMS**

The investigating deputy should confer with the prosecuting attorney to determine whether the item should be confiscated. If the item is evidence or otherwise needed for an investigation or prosecution, the deputy may issue a written notice to confiscate any time during the investigative hold. The deputy shall take custody of the item within 15 days of the notice to confiscate (Minn. Stat. § 168A.1501; Minn. Stat. § 325E.21).

When an item is confiscated, the deputy shall:

- (a) Provide the operator or dealer a property receipt that includes at least the following:
  1. The name and telephone number of the Office.
  2. The name and telephone number of the deputy.
  3. The case number related to the confiscation.
- (b) Deliver the item to the Deputy.

When a confiscated item is no longer needed for an investigation or prosecution, it may be returned to a registered owner only after giving the operator or dealer from whom the item was seized written notice of intent to do so. The written notice should include notice of the right of the operator or dealer to make a written request for return of the item and that if the Office does not return the item within 48 hours of the request, excluding Saturday, Sunday or legal holidays, the operator or dealer may file a petition for the return of the item in the district court in the district in which the property was seized (Minn. Stat. § 626.04).

### **611.6 TERMINATION OF HOLD OR NOTICE TO CONFISCATE**

At the conclusion of any investigation and prosecution, the deputy who issued the investigative hold or a notice to confiscate property not yet confiscated shall notify the operator or dealer in writing that the hold or notice is no longer in effect (Minn. Stat. § 168A.1501; Minn. Stat. § 325E.21).

## **Chapter 7 - Support Services, Programs, Assignments and Procedural Guidelines**

# Dispatch

## 700.1 PURPOSE AND SCOPE

This policy establishes guidelines for the basic functions of Dispatch. It addresses the immediate information needs of the Office in the course of its normal daily activities and during emergencies.

## 700.2 POLICY

It is the policy of the Lyon County Sheriff's Office to provide 24-hour telephone service to the public for information and for routine or emergency assistance. The Office provides two-way radio capability for continuous communication between Dispatch and office members in the field.

## 700.3 COUNTY-OPERATED DISPATCHING OPERATIONS

County-established communications operations established for public safety purposes shall be under the direction of the county sheriff (Minn. Stat. § 373.041 Subd. 1). The county sheriff shall broadcast all law enforcement dispatches and reports which have a reasonable relation to or connection with (Minn. Stat. § 373.041 Subd. 4):

- The apprehension of criminals.
- The prevention of crime.
- The maintenance of peace and order throughout the area serviced by the broadcasting station or stations.

## 700.4 RESPONSIBILITIES

### 700.4.1 SERGEANT

The Sheriff shall appoint and delegate certain responsibilities to a Sergeant.

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

- (a) Overseeing the efficient and effective operation of Dispatch in coordination with other supervisor personnel and other public safety departments utilizing the ARMER radio system. .
- (b) Scheduling and maintaining [dispatcher] time records.
- (c) Supervising, training and evaluating [dispatcher]s.
- (d) Ensuring the radio and telephone recording system is operational.
  1. Recordings shall be maintained in accordance with the established records retention schedule and as required by law.
- (e) Maintaining Dispatch database systems.
- (f) Ensuring [dispatcher] compliance with established policies and procedures.
- (g) Handling internal and external inquiries regarding services provided and accepting personnel complaints in accordance with the Personnel Complaints Policy.

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- (h) Maintaining a current contact list of County personnel to be notified in the event of a utility service emergency.

### 700.4.2 [DISPATCHER]S

[Dispatcher]s report to the Sergeant. The responsibilities of the [dispatcher] include, but are not limited to:

- (a) Receiving and handling all incoming and transmitted communications, including:
  1. Emergency 9-1-1 lines.
  2. Business telephone lines.
  3. Telecommunications Device for the Deaf (TDD)/Text Telephone (TTY) equipment.
  4. Radio communications with office members in the field and support resources (e.g., fire department, emergency medical services (EMS), allied agency law enforcement units).
  5. Other electronic sources of information (e.g., text messages, digital photographs, video).
- (b) Documenting the field activities of office members and support resources (e.g., fire department, EMS, allied agency law enforcement units).
- (c) Inquiry and entry of information through Dispatch, office and other law enforcement database systems (e.g., the Minnesota Division of Driver and Vehicle Services (DVS), the Minnesota Bureau of Criminal Apprehension (BCA) and the Minnesota Comprehensive Incident-Based Reporting System (CIBRS)).
- (d) Monitoring office video surveillance systems.
- (e) Maintaining the current status of members in the field, their locations and the nature of calls for service.
- (f) Notifying the Sergeant or field supervisor of emergency activity, including, but not limited to:
  1. Vehicle pursuits.
  2. Foot pursuits.
  3. Assignment of emergency response.

### 700.5 CALL HANDLING

This office provides members of the public with access to the 9-1-1 system for a single emergency telephone number.

When a call for services is received, the [dispatcher] will reasonably and quickly attempt to determine whether the call is an emergency or non-emergency, and shall quickly ascertain the call type, location and priority by asking four key questions:

- Where?

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- What?
- When?
- Who?

If the [dispatcher] determines that the caller has a hearing and/or speech impairment or disability, he/she shall immediately initiate a connection with the individual via available TDD/TTY equipment or Telephone Relay Service (TRS), as mandated by the Americans with Disabilities Act (ADA).

If the [dispatcher] determines that the caller is a limited English proficiency (LEP) individual, the [dispatcher] should quickly determine whether sufficient information can be obtained to initiate an appropriate response. If language assistance is still needed, the language is known and a language-appropriate authorized interpreter is available in Dispatch, the [dispatcher] should immediately connect the LEP caller to the authorized interpreter.

If no authorized interpreter is available or the [dispatcher] is unable to identify the caller's language, the [dispatcher] will contact the contracted telephonic interpretation service and establish a three-party call connecting the [dispatcher], the LEP individual and the interpreter.

[Dispatcher]s should be courteous, patient and respectful when dealing with the public.

### **700.5.1 EMERGENCY CALLS**

A call is considered an emergency when there is an immediate or potential threat to life or serious property damage, and the timely arrival of public safety assistance is of the utmost importance. A person reporting an emergency should not be placed on hold until the [dispatcher] has obtained all necessary information to ensure the safety of the responding office members and affected individuals.

Emergency calls should be dispatched immediately. Appropriate supervisory personnel shall be notified of pending emergency calls for service when office members are unavailable for dispatch.

### **700.5.2 NON-EMERGENCY CALLS**

A call is considered a non-emergency call when there is no immediate or potential threat to life or property. A person reporting a non-emergency may be placed on hold, if necessary, to allow the [dispatcher] to handle a higher priority or emergency call.

The reporting person should be advised if there will be a delay in the [dispatcher] returning to the telephone line or when there will be a delay in the response for service.

## **700.6 RADIO COMMUNICATIONS**

The ARMER radio system is for official use only, to be used by [dispatcher]s to communicate with office members in the field. All transmissions shall be professional and made in a calm, businesslike manner, using proper language and correct procedures. Such transmissions shall include, but are not limited to:

- (a) Members acknowledging the [dispatcher] with their radio identification call signs and current location.

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- (b) [Dispatcher]s acknowledging and responding promptly to all radio transmissions.
- (c) Members keeping the [dispatcher] advised of their status and location.
- (d) Member and [dispatcher] acknowledgements shall be concise and without further comment unless additional information is needed.

The Sergeant shall be notified of radio procedure violations or other causes for complaint. All complaints and violations will be investigated and reported to the complainant's supervisor and processed through the chain of command.

### 700.6.1 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE

Lyon County Sheriff's Office radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and requirements.

### 700.6.2 RADIO IDENTIFICATION

Radio call signs are assigned to office members based on factors such as duty assignment, uniformed patrol assignment and/or member identification number. [Dispatcher]s shall identify themselves on the radio with the appropriate station name or number, and identify the office member by his/her call sign. Members should use their call signs when initiating communication with the [dispatcher]. The use of the call sign allows for a brief pause so that the [dispatcher] can acknowledge the appropriate office member. Members initiating communication with other law enforcement or support agencies shall use their entire radio call sign, which includes the office station name or number.

### 700.7 DOCUMENTATION

It shall be the responsibility of Dispatch to document all relevant information on calls for service or self-initiated activity. [Dispatcher]s shall attempt to elicit, document and relay as much information as possible to enhance the safety of the member and assist in anticipating conditions that may be encountered at the scene. Desirable information would include, at a minimum:

- Incident control number.
- Date and time of request.
- Name and address of the reporting person, if possible.
- Type of incident reported.
- Involvement of weapons, drugs and/or alcohol.
- Location of incident reported.
- Identification of members assigned as primary and backup.
- Time of dispatch.
- Time of the responding member's arrival.
- Time of member's return to service.
- Disposition or status of reported incident.



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### **700.8 CONFIDENTIALITY**

Information that becomes available through Dispatch may be confidential or sensitive in nature. All members of Dispatch shall treat information that becomes known to them as confidential and release that information in accordance with the Protected Information Policy.

Automated data, such as DVS records, warrants, criminal history information, records of internal sheriff's files or medical information, shall only be made available to authorized law enforcement personnel. Prior to transmitting confidential information via the radio, an admonishment shall be made that confidential information is about to be broadcast.

### **700.9 CPR TRAINING**

Members authorized to answer calls for service shall be trained in providing CPR by telephone or transferring calls to the appropriate member or agency (Minn. Stat. § 403.03, Subd. 2).

## Property/Evidence

### 701.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove and/or destroy property. Property belonging to persons in custody should be handled pursuant to policies guiding Juvenile Temporary Custody, Temporary Holding Facility, Jail Operations, and the operations procedures for each facility or operation.

### 701.2 DEFINITIONS

**Property** - Includes all items of evidence, items taken for safekeeping and found property.

**Evidence** - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

**Safekeeping** - Includes the following types of property:

- Property obtained by the Office for safekeeping, such as a firearm.
- Personal property of an arrestee not taken as evidence.
- Property taken for safekeeping under authority of a law.

**Found Property** - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

### 701.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in their possession until it is properly tagged and placed in the designated property locker or storage room, along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Any property seized by a deputy with or without a warrant shall be safely kept for as long as necessary for the purpose of being produced as evidence (Minn. Stat. § 626.04 (a)). Seized property held as evidence shall be returned to its rightful owner unless subject to lawful detention or ordered destroyed or otherwise disposed of by the court (Minn. Stat. § 626.04 (b) and Minn. Stat. § 629.361).

A deputy arresting a person for committing or aiding in committing a robbery, carjacking, or theft offense shall use reasonable diligence to secure the property that was alleged to have been stolen and shall be answerable for it while it remains in the deputy's custody (Minn. Stat. § 629.361).

Where ownership can be established as to found property that has no apparent evidentiary value, such property may be released to the owner without the need for booking. The property documentation must be completed to document the release of property not booked. The owner shall sign the documentation acknowledging receipt of the items.

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### 701.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty. Employees booking property shall observe the following guidelines:

- (a) Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name and other identifying information or markings.
- (b) The employee shall mark each item of evidence with initials and date.
- (c) Items too small to mark, or that will be damaged or degraded or devalued by marking, should be individually packaged, labeled and the package marked with initials and date.
- (d) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (e) Place the case number in the upper right hand corner or in the appropriate field of the evidence/property tag.
- (f) The original property documentation shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if it is stored somewhere other than a property locker.
- (g) When the property is too large to be placed in a temporary property locker, the item may be temporarily stored in any office supply room or other location that can be secured from unauthorized entry. The location shall be secured to prevent entry and a completed property form placed into a numbered property locker indicating the location of the property.

### 701.3.2 CONTROLLED SUBSTANCES

All controlled substances shall be packaged separately.

Drug paraphernalia shall also be booked separately.

The deputy seizing the narcotics and dangerous drugs shall place them in a secured evidence locker.

All suspected drug/narcotic items and related paraphernalia classified as evidentiary that are accompanying a drug related case are to be forwarded to the MN BCA Forensic Lab for analysis for identification as soon as practical after collection of the suspect drug items have been made. Documentation of chain of custody shall accompany items sent to the MN BCA Lab, and be included with case file. Cases involving suspected marijuana will not be forwarded for examination by the MN BCA unless a certain trial date has been scheduled on the court calendar. Information regarding scheduled court date(s) will be forwarded to the MN BCA Lab. In all circumstances the deputy responsible for the handling and control of the questioned evidence will make the MN BCA Forensic Lab aware of any pending court dates and the disposition of any matters surrounding the evidence to be examined to ensure completion of examination in a timely manner. Information/

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reports surrounding the collection and disposition of any pre-described examination and analysis shall also be forwarded to the Lyon County Attorney's Office, or appropriate prosecuting attorney upon receipt.

### 701.3.3 EXPLOSIVES

Deputies who encounter a suspected explosive device shall promptly notify the immediate supervisor or the Sergeant. The Bomb Squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the sheriff's facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials.

### 701.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) Bodily fluids such as blood or semen stains shall be air-dried prior to booking.
- (b) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property may be released directly to the Deputy Sheriff, or placed in the bicycle storage area until a Deputy Sheriff can log the property.
- (c) All cash shall be counted in the presence of another deputy and the envelope initialed by both deputies. A supervisor shall be contacted for cash in excess of \$1,000. The supervisor shall also witness the count, and will initial and date the property documentation and specify any additional security procedures to be used.
- (d) All evidence collected by personnel processing a crime scene requiring specific storage requirements pursuant to laboratory procedures should clearly indicate storage requirements on the property documentation.

County property, unless connected to a known criminal case, should be released directly to the appropriate County department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

### 701.3.5 COURT-ORDERED FIREARM SURRENDERS

- (a) Although not required, this office generally will accept firearms surrendered by an abusing party or defendant pursuant to a court order. A decision to refuse a surrendered firearm should be approved by a supervisor (Minn. Stat. § 260C.201,

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Subd. 3; Minn. Stat. § 518B.01, Subd. 6; Minn. Stat. § 609.2242, Subd. 3; Minn. Stat. § 609.749, Subd. 8).

- (b) Members accepting surrendered firearms should complete a standardized Firearms Proof of Transfer form, if available. If a standard form is not available, use an Evidence/Property form and include the following information:
  - 1. Whether the firearm is being transferred temporarily or permanently
  - 2. The abusing party or defendant's name
  - 3. The date and time of the transfer
  - 4. Complete description of all firearms surrendered (e.g., make, model, serial number, color, identifying marks)
- (c) In certain circumstances, a court may issue an order for the immediate transfer of firearms of an abusing party or defendant.
  - 1. LCSO may serve the court order either by assignment or when an deputy comes into contact with an abusing party or defendant for which a court order has been issued but has not been served, or for which they are in violation. In such cases, if there are firearms that may be lawfully seized, they should be seized and submitted to the Deputy pursuant to standard protocol.
  - 2. If the abusing party or defendant is not cooperative, seek guidance from legal counsel to ensure that firearms are seized lawfully.
  - 3. Permits possessed by the abusing party or defendant should be returned to the Sheriff where the person resides.
- (d) The Deputy shall develop and maintain a process to store, transfer or release firearms ordered surrendered by a court. The procedures shall:
  - 1. Provide for adequate storage and protection so as to preserve the condition of the firearms.
  - 2. Require a valid court order or written notice from the abusing party or defendant to be presented before any transfer of the firearms.
  - 3. Ensure that recipients of transferred firearms are not legally prohibited from possession of firearms under state or federal law.
  - 4. Ensure that proper affidavits or proof of transfer are obtained from any designated firearms dealer or third party.
  - 5. Ensure that prior to disposition of unclaimed firearms, abusing parties or defendants are notified via certified mail.

### 701.4 PACKAGING OF PROPERTY

Packaging will conform to the Property Packaging Procedures. Certain items require special consideration and shall be booked separately as follows:

- (a) Controlled substances
- (b) Firearms (ensure they are unloaded and booked separately from ammunition)

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- (c) Property with more than one known owner
- (d) Drug paraphernalia
- (e) Fireworks
- (f) Contraband

### 701.4.1 PACKAGING CONTAINER

Employees shall package all property, except controlled substances in a suitable container available for its size. Knife boxes should be used to package knives, handgun boxes should be used for handguns and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

### 701.4.2 PACKAGING CONTROLLED SUBSTANCES

The deputy seizing controlled substances shall retain such property in his/her possession until it is properly weighed, packaged, tagged. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected controlled substances. If conducted, the results of this test shall be included in the deputy's report.

Controlled substances shall be packaged in an envelope or evidence bag of appropriate size, available in the Supply Room. The deputy shall initial the sealed envelope. Controlled substances shall not be packaged with other property.

The deputy shall weigh the suspected narcotics or dangerous drugs in the container in which it was seized. A full description of the item, along with packaging and total weight of the item as seized, will be placed in the case report and on the property description. After packaging and sealing as required, the entire package will be weighed and the Gross Package Weight (GPW) will be written on the outside of the package, initialed and dated by the packaging deputy.

A completed property tag shall be attached to the outside of the container.

## **701.5 PROPERTY CONTROL**

Each time the Deputy Sheriff receives property or releases property to another person, he/she shall enter this information on the Property Receipt if completed or Evidence Packaging.

### 701.5.1 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence.

The Deputy Sheriff shall obtain the signature of the person to whom property was released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the Property documentation, indicating date, time and the person who returned the property.

### 701.5.2 AUTHORITY TO RELEASE PROPERTY

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Only appropriate authorized members of the Office shall authorize the disposition or release of all evidence and property coming into the care and custody of the Office.

Property held as evidence for a pending criminal investigation or proceeding shall be retained for a period of time no less than that required pursuant to Minn. Stat. § 628.26.

For property in custody of the Office for investigatory or prosecutorial purposes and owned by a victim or witness, a Deputy Sheriff shall, upon the request of the owner:

- (a) Provide a list describing the property unless such release would seriously impede an investigation.
- (b) Return the property expeditiously unless the property is required as evidence.

Upon the direction of a prosecuting attorney, property held as evidence of a crime may be photographed and released to the owner of the property in accordance with the requirements of Minn. Stat. § 609.523.

### 701.5.3 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction, which may be conducted as an Internet-based auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed. Unless the auction is Internet based, property with an estimated value of \$500 or more will be advertised in the local print media before it is destroyed or auctioned. The final disposition of all such property shall be fully documented in related reports.

A Deputy Sheriff shall release the property upon proper identification being presented by the owner. The owner shall also pay any costs incurred by the agency, including costs for advertising or storage. A signature of the person receiving the property shall be recorded. If some items of property have not been released, the Property Form will remain with the case file.

Upon release or other form of disposal, the proper entry shall be recorded in all property disposal documentation.

### 701.5.4 STOLEN OR EMBEZZLED PROPERTY

Stolen or embezzled property or property believed to be stolen or embezzled that is in the custody of this office may be restored to the owner (Minn. Stat. § 609.523 Subd. 3). Such property may be released from law enforcement custody when the following are satisfied:

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- (a) Photographs of the property are filed and retained by the Deputy.
- (b) Satisfactory proof of ownership of the property is shown by the owner.
- (c) A declaration of ownership is signed under penalty of perjury.
- (d) A receipt for the property is obtained from the owner upon delivery.

### **701.5.5 DISPUTED CLAIMS TO PROPERTY**

Occasionally more than one party may claim an interest in property being held by the office, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a court order or other proof of the undisputed right to the involved property.

All parties should be advised that their claims are civil. In extreme situations, legal counsel for the Office may be asked to file an interpleader in court to resolve the disputed claim.

### **701.5.6 RELEASE AND DISPOSAL OF FIREARMS**

A firearm may not be released until it has been verified that the person receiving the weapon is not prohibited from receiving or possessing the weapon by 18 USC § 922.

The Office shall make best efforts for a period of 90 days after the seizure of an abandoned or stolen firearm to protect the firearm from harm and return it to the lawful owner (Minn. Stat. § 609.5315 Subd. 7). At the expiration of such period, the firearm or other deadly weapon may be processed for disposal consistent with this policy.

## **701.6 DISPOSITION OF PROPERTY**

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Deputy Sheriff shall request a disposition or status on all property that has been held in excess of 120 days and for which no disposition has been received from a supervisor or investigator.

### **701.6.1 EXCEPTIONAL DISPOSITIONS**

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances.
- Animals, birds and equipment related to their care and containment that have been ordered forfeited by the court.
- Counterfeiting equipment.
- Gaming devices.
- Obscene matter ordered to be destroyed by the court.
- Altered vehicles or component parts.



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- Controlled substances.
- Unclaimed, stolen or embezzled property.
- Destructive devices.

Money found in gambling devices by any peace officer, other than a municipal police officer, shall be paid into the county treasury. Money found in gambling devices by a municipal police officer shall be paid into the treasury of the municipality (Minn. Stat. § 626.04 (b)).

### 701.6.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the money is presumed abandoned property and is reportable as specified in this policy (Minn. Stat. § 345.38 and Minn. Stat. § 345.75).

### 701.6.3 SHERIFF SEIZURES AND SALES

A deputy may seize and retain any personal property abandoned upon any public way, sidewalk or other public place, or any property entered as evidence in a judicial proceeding following its release by the court (Minn. Stat. § 345.15). After holding the property for a period of at least 90 days, it may be sold at a public auction. The net proceeds of the sale shall be transferred to the general revenue fund of the county, minus the cost of handling, storage or sale.

### 701.6.4 RETENTION OF BIOLOGICAL EVIDENCE

The evidence room manager shall ensure that no biological evidence held by the Office is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor
- (d) Any sexual assault victim
- (e) The Investigator

Biological evidence shall be retained for a minimum period established by law, or the expiration of any sentence imposed related to the evidence (Minn. Stat. § 590.10), whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Office within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Sheriff and the head of the applicable prosecutor's office.

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Bulk evidence may be destroyed prior to these minimum retention periods only pursuant to a court order or if such destruction is consistent with Minn. Stat. § 590.10 and the above notices have been made.

### **701.7 REPORT OF ABANDONED PROPERTY (MONEY)**

The Evidence Room Manager shall complete an annual report of presumed abandoned property as described in law to the Commissioner of Commerce. The report is to cover the 12-month period ending June 30 each year and is to be filed before November 1 each year (Minn. Stat. § 345.41).

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## Sheriff's Office Criminal Records

### 702.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the Lyon County Sheriff's Office Criminal Records

### 702.2 FILE ACCESS AND SECURITY

The security of files in the Sheriff's Office Records must be a high priority and shall be maintained as mandated by state or federal law. All case reports including but not limited to initial, supplemental, follow-up, evidence, and any other reports related to a sheriff's office case, criminal history records, and publicly accessible logs, shall be maintained in a secure area within the Sheriff's Office Records, accessible only by authorized members of the Sheriff's Office Records.

#### 702.2.1 REQUESTING ORIGINAL REPORTS

Generally, original reports shall not be removed from the Sheriff's Office Records. Should an original report be needed for any reason, the requesting employee shall first obtain authorization from the Sheriff. All original reports removed from the Sheriff's Office Records shall be recorded.

### 702.3 RECORDS MANAGER TRAINING

The Records personnel shall receive training in records management, including proper maintenance, retention and disposal of records and the proper release of records under the Minnesota Government Data Practices Act (MGDPA).

### 702.4 POLICY

It is the policy of the Lyon County Sheriff's Office to maintain office records securely, professionally, and efficiently.

### 702.5 RESPONSIBILITIES

#### 702.5.1 RECORDS SUPERVISOR

The Sheriff shall appoint and delegate certain responsibilities to a Records Supervisor.

The responsibilities of the Records Supervisor include, but are not limited to:

- (a) Overseeing the efficient and effective operation of the Sheriff's Office Records.
- (b) Scheduling and maintaining Sheriff's Office Records time records.
- (c) Supervising, training, and evaluating Sheriff's Office Records staff.
- (d) Maintaining and updating a Sheriff's Office Records procedure manual.
- (e) Ensuring compliance with established policies and procedures.
- (f) Supervising the access, use, and release of protected information (see the Protected Information Policy).

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- (g) Establishing security and access protocols for case reports designated as sensitive, where additional restrictions to access have been implemented. Sensitive reports may include but are not limited to:
  - 1. Homicides
  - 2. Cases involving office members or public officials
  - 3. Any case where restricted access is prudent

### 702.5.2 CRIMINAL RECORDS

The responsibilities of the Sheriff's Office Records include but are not limited to:

- (a) Maintaining a records management system for case reports.
  - 1. The records management system should include a process for numbering, identifying, tracking, and retrieving case reports.
- (b) Entering case report information into the records management system.
  - 1. Modification of case reports shall only be made when authorized by a supervisor.
- (c) Providing members of the Office with access to case reports when needed for investigation or court proceedings.
- (d) Maintaining compliance with federal, state, and local regulations regarding reporting requirements of crime statistics.
- (e) Maintaining compliance with federal, state, and local regulations regarding criminal history reports and auditing.
- (f) Identifying missing case reports and notifying the responsible member's supervisor.
- (g) Establishing a process for collecting and submitting data to appropriate federal data collection authorities (e.g., FBI National Use-of-Force Data Collection, U.S. Department of Justice's National Law Enforcement Accountability Database), as applicable, for the following types of occurrences:
  - 1. Deputy suicides
  - 2. Deputy misconduct
  - 3. Uses of force
  - 4. Deputy deaths or assaults
  - 5. Crime incidents
  - 6. Deaths in custody
- (h) Transmitting data annually to the superintendent of the Bureau of Criminal Apprehension on the number of mobile tracking device search warrants obtained by the Office as provided in Minn. Stat. § 626A.35.
- (i) Transmitting carjacking information annually to the Commissioner of Public Safety as provided in Minn. Stat. § 626.5535.

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## *Sheriff's Office Criminal Records*

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### **702.6 CONFIDENTIALITY**

Sheriff's Office Records staff has access to information that may be confidential or sensitive in nature. Sheriff's Office Records staff shall not access, view, or distribute, or allow anyone else to access, view, or distribute any record, file, or report, whether in hard copy or electronic file format, or any other confidential, protected, or sensitive information except in accordance with the Records Maintenance and Release and Protected Information policies and the Sheriff's Office Records procedure manual.

# Records Maintenance and Release

## 703.1 SECTION TITLE

### 703.2 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of office records. Protected information is separately covered in the Protected Information Policy.

#### 703.2.1 DEFINITIONS

Definitions related to this policy include:

**Confidential Data on Individuals** - Data classified as confidential by state or federal law and that identifies individuals and cannot be disclosed to the public or even to the individual who is the subject of the data (Minn. Stat. § 13.02, Subd. 3).

**Corrections and Detention Data** - Data on individuals created, collected, used or maintained because of their lawful confinement or detainment in state reformatories, prisons and correctional facilities, municipal or county jails, lockups, work houses, work farms and all other correctional and detention facilities (Minn. Stat. § 13.85, Subd. 1).

**Data on Individuals** - All government data in which any individual is or can be identified as the subject of that data, unless the appearance of the name or other identifying data can be clearly demonstrated to be only incidental to the data and the data are not accessed by the name or other identifying data of any individual (Minn. Stat. § 13.02, Subd. 5).

**Government Data** - Data collected, created, received, maintained or disseminated by this office regardless of its physical form, storage media or conditions of use (Minn. Stat. § 13.02, Subd. 7).

**Private Data** - Data classified as private by state or federal law and that identifies individuals that are only available to the individual who is the subject of the data or with the individual's consent (Minn. Stat. § 13.02, Subd. 12).

### 703.3 DATA PRACTICES CONTACTS

The Lyon County Sheriff shall act as the Responsible Authority for data collected and held by the Lyon County Sheriff's Office

### 703.4 COPY COSTS-DATA SUBJECTS AND MEMBERS OF PUBLIC

The Lyon County Sheriff's Office charges for copies of government data. These charges are authorized under Minnesota Statutes, section 13.04, subdivision 3. You must pay for the copies and delivery method of the requested before we can provide them to you.

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Copy charges are set annually by the Lyon County Board of Commissioners and can be found on the Lyon County Sheriff's Office Fee Schedule.

### **703.5 STANDARDS FOR VERIFYING IDENTITY**

The following constitute proof of identity.

- (a) An **adult individual** must provide a valid photo ID, such as:
  - 1. A state issued driver's license
  - 2. A military ID
  - 3. A passport
  - 4. A Minnesota ID
  - 5. A Minnesota tribal ID
  
- (b) A **minor individual** must provide a valid photo ID, such as:
  - 1. A state issued driver's license
  - 2. A military ID
  - 3. A passport
  - 4. A Minnesota ID
  - 5. A Minnesota tribal ID
  - 6. A Minnesota school ID
  
- (c) The **parent of guardian of a minor** must provide a valid photo ID *and either*
  - 1. A certified copy of the minor's birth certificate *or*
  - 2. A certified copy of documents that establish the parent or guardian's relationship to the child, such as:
    - (a) A court order relating to divorce, separation, custody, foster care
    - (b) A foster care contract
    - (c) An affidavit of parentage
  
- (d) The **legal guardian for an individual** must provide a valid photo ID *and* a certified copy of the appropriate documentation of formal or informal appointment as guardian, such as:
  - (a) Court order(s)
  - (b) Valid power of attorney

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Note: Individuals who do not exercise their data practices rights in person must provide *either* notarized or certified copies of the documents that are required of an affidavit of ID.

### **703.6 INVENTORY OF PRIVATE AND CONFIDENTIAL (NON-PUBLIC) DATA**

See attachment: [Lyon Co. SO-MN Data Practices Act Spreadsheet PAGE 1.jpg](#)

See attachment: [Lyon Co. SO-MN Data Practices Act Spreadsheet PAGE 2.jpg](#)

### **703.7 RECORD RETENTION, AND DESTRUCTION**

The Lyon County Sheriff's Office has adopted the Minnesota Historical Society's MN County General Records Retention Schedule :

- (a) Records Common to All Departments
- (b) Medical Examiner Records
- (c) Sheriff/Law Enforcement Records

SEE Attachment NOTIFICATION OF ADOPTION OF COUNTY RETENTION SCHEDULE See [attachment: Adoption of County Schedule.pdf](#)

SEE Attachment of Retention Schedules See [attachment: Retention Schedules.pdf](#)

The Responsible Authority shall see that annually, or as data and records meeting the destruction schedule meet the retention schedule criteria they will be evaluated for disposal and destruction.

Records determined to meet the retention schedule and that are determined to have no value in retention are to be disposed of, deleted and fully destroyed of in a manner suitable for its medium. Hardcopy/paper records shall be shredded by mechanical means. Digital records are to be deleted and wiped in a manner consistent with destruction of the record so that no data or information is recoverable (Minn. Stat. § 13.05 Subd 5 (b)).

### **703.8 POLICY**

The Lyon County Sheriff's Office is committed to providing public access to records and data in a manner that is consistent with the Minnesota Government Data Practices Act (MGDPA) and Official Records Act (Minn. Stat. § 13.03; Minn. Stat. § 15.17).

### **703.9 CUSTODIAN OF RECORDS RESPONSIBILITIES**

The Sheriff shall designate a Custodian of Records. The responsibilities of the Custodian of Records include, but are not limited to:

- (a) Managing the records management system for the Office, including the retention, archiving, release, and destruction of office data (Minn. Stat. § 15.17; Minn. Stat. § 138.17, Subd. 7).
- (b) Maintaining and updating the office records retention schedule, including:



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1. Identifying the minimum length of time the Office must keep data.
  2. Identifying the office division responsible for the original data.
- (c) Establishing rules regarding the inspection and copying of office data as reasonably necessary for the protection of such data.
- (d) Identifying data or portions of data that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of data.
- (f) Ensuring a current schedule of fees for public data as allowed by law is available.
- (g) Ensuring the posting or availability to the public a document that contains the basic rights of a person who requests government data, the responsibilities of the Office, and any associated fees (Minn. Stat. § 13.025).
- (h) Ensuring data created by the Office is inventoried and subject to inspection and release pursuant to lawful requests consistent with the MGDPA requirements (Minn. Stat. § 13.03, Subd. 1).
- (i) Ensuring that the current version of each office policy identified in Minn. R. 6700.1615 is posted on the office's website or otherwise posted in the public area of the Office in accordance with Minn. R. 6700.1615 (Minn. R. 6700.1615, Subd. 2).

### **703.10 DATA SECURITY**

The Responsible Authority and the Custodian of Records shall develop and maintain appropriate safeguards to ensure that all data and records on individuals is maintained to ensure that any non-public, private and confidential data are safeguarded. The Responsible Authority shall develop policy and procedure to ensure that data and records are stored and maintained in manner that provides secure data sharing among government entities as provided by law, as well as policy and procedures to ensure that data is only accessible to those personnel whose work assignment require access to non-public data.

The Custodian of Records shall maintain the department's record system CIS (Computer Information Services) Record Management Systems (RMS) software and Computer Aided Dispatch (CAD) and any other associated applications that contain private and confidential data as the systems manager. The Systems Manager will ensure that all department users whose job duties require access to records and data on individuals have been properly trained on data security and data release. The Systems Manager shall also maintain a record/roster of personnel who have access to applications, and maintain both user identification and password restricted privilege levels within the CIS records system (Minn. Stat. §13.05 Subd 5(a)(2) and (3).

SEE- Policy 704 Protected Information

### **703.11 RELEASE RESTRICTIONS**

Examples of release restrictions include:

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- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver's license record, motor vehicle record, or any office record, including traffic collision reports, is restricted except as authorized by the Office, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Private data on the following individuals (Minn. Stat. § 13.82, Subd. 17):
  - 1. An undercover law enforcement officer
  - 2. A victim or alleged victim of criminal sexual conduct, or sex trafficking, or of a violation of Minn. Stat. § 617.246, Subd. 2
  - 3. A paid or unpaid informant if the Office reasonably believes revealing the identity would threaten the personal safety of the informant
  - 4. A victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, unless the Office reasonably determines that revealing the identity of the victim or witness would not threaten the personal safety or property of the individual
  - 5. A person who placed a call to a 9-1-1 system or the identity of the person whose phone was used to place a call to the 9-1-1 system when revealing the identity may threaten the personal safety or property of any person or the purpose of the call was to receive help in a mental health emergency. A voice recording of a call placed to the 9-1-1 system is deemed to reveal the identity of the caller
  - 6. A juvenile witness when the subject matter of the investigation justifies protecting the identity of the witness
  - 7. A mandated reporter
  - 8. A judicial official as described in Minn. Stat. § 480.40 (Minn. Stat. § 13.991)
- (c) Audio recordings of calls placed to the 9-1-1 system requesting law enforcement, fire, or medical agency response, except that a written transcript of the call is public unless it reveals the identity of protected individuals (Minn. Stat. § 13.82, Subd. 4).
- (d) Criminal investigative data involving active cases and inactive investigative data (Minn. Stat. § 13.82, Subd. 7):
  - 1. If the release of the data would jeopardize another ongoing investigation or would reveal the identity of protected individuals or is otherwise restricted.
  - 2. Images and recordings, including photographs, video, and audio records that are clearly offensive to common sensibilities. However, the existence of any such image or recording shall be disclosed.
  - 3. As otherwise restricted by law.
- (e) Juvenile records and data (Minn. Stat. § 260B.171).
- (f) State criminal history data held in the Bureau of Criminal Apprehension (BCA) database, including but not limited to fingerprints, photographs,

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- identification data, arrest data, prosecution data, criminal court data, and custody and supervision data (Minn. Stat. § 13.87).
- (g) Traffic collision reports and related supplemental information (Minn. Stat. § 169.09, Subd. 13).
  - (h) Corrections and detention data (Minn. Stat. § 13.85).
  - (i) Personnel data except, unless otherwise restricted (Minn. Stat. § 13.43, Subd. 2):
    1. Name, employee identification number, and some aspects of compensation
    2. Job title, bargaining unit, job description, education and training background, and previous work experience
    3. Date of first and last employment
    4. Existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action
    5. Final disposition of any disciplinary action together with the specific reasons for the action, and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of this office
    6. Terms of any agreement settling any dispute arising out of an employment relationship
    7. Work location, work telephone number, badge number, and honors and awards received
    8. Time sheets or other comparable data only used to account for an employee's work time for payroll purposes, excluding the use of sick or other medical leave or other nonpublic data
    9. All other personnel data regarding employees of this office are private data and may only be released as authorized by that classification
  - (j) Any data that was created under the direction or authority of the County Attorney exclusively in anticipation of potential litigation involving this office shall be classified as protected nonpublic or confidential data while such action is pending (Minn. Stat. § 13.39).
  - (k) All data collected by an Automated License Plate Reader (ALPR) on individuals or nonpublic data absent an exception (Minn. Stat. § 13.82; Minn. Stat. § 13.824).
  - (l) Response or incident data, so long as the Custodian of Records determines that public access would likely endanger the physical safety of an individual or cause a perpetrator to flee, evade detection, or destroy evidence (Minn. Stat. § 13.82, Subd. 14).
  - (m) Any data on individuals receiving peer counseling or critical incident stress management services (Minn. Stat. § 13.02, Subd. 12; Minn. Stat. § 181.9731; Minn. Stat. § 181.9732).

Any other record not addressed in this policy shall not be subject to release where such record is classified as other than public data. All public data shall be released as required by the MGDPA (Minn. Stat. § 13.03, Subd. 1).

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### 703.11.1 ACCESS TO PRIVATE DATA OF SUBJECTS WHO ARE MINORS

Access to private data concerning minors shall be restricted to the individual (Minor) who is the subject of the data; those individual with the department whose work assignments require access to such records and data and any other entity or agency who is required access to the data by statute or federal law, and parents of the minor. The responsible authority shall assume the parent(s) has authority to exercise the right to receive and access the private data of the minor child unless provided evidence that there is state law, court order governing such release of the data such as divorce decree, separation or custody agreement or other legally binding instrument which provides to the contrary.

Access to private data of a minor by parent(s):

- (a) Access to private data of a minor may be denied to parent when the minor, who is the subject of the data, provides the responsible authority a written request denying such access. The responsible authority shall also provide notice to the minor that they have the right to request that their private data be restricted from parental access. The written request shall contain the reasons that access to the private data should be denied. Upon receipt of the request, the responsible authority shall make a determination based if honoring the request to deny parental access is in the best interest of the minor data subject based on the following:
  - (a) Whether the minor is of sufficient age and maturity to be able to explain the reasons for and to understand the consequences of the request to deny access.
  - (b) Whether the personal situation of the minor is such that denying the parental access may protect the minor from physical or emotional harm.
  - (c) Whether there is ground for believing that the minor data subject's reasons for precluding parental access are reasonably accurate.
  - (d) Where the data in question is of such a nature that disclosure of it to the parent could lead to physical or emotional harm to the minor data subject; and
  - (e) Whether the data concerns medical, dental or health services provided pursuant to MSS, sections 144.341 to 144.347. If so, the data may be released only if failure to inform the parent would seriously jeopardize the health of the minor.

### 703.11 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any office member who receives a request for data shall route the request to the Custodian of Records or the authorized designee. The request for data shall be evaluated and be complied or answered in a prompt and reasonable manner based on the scope of the request and ability to determine the ability to release the data. Response to the requestor as to the status of the request and timeline for availability of the data shall be made as soon as practical if immediate release of the data is not possible at the time of the request (Minn. Stat. § 13.03, Subd 2(a)).

### 703.11.1 REQUESTS FOR RECORDS

The processing of requests for data is subject to the following:

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- (a) A person shall be permitted to inspect and copy public government data upon request at reasonable times and places and shall be informed of the data's meaning if requested (Minn. Stat. § 13.03, Subd. 3).
  - 1. The Office may not charge or require the requesting person to pay a fee to inspect data. Inspection includes, but is not limited to, the visual inspection of paper and similar types of government data. Inspection does not include printing copies, unless printing a copy is the only method to provide for inspection of the data (Minn. Stat. § 13.03, Subd. 3(b)).
  - 2. For data stored and made available in electronic form via remote access, public inspection includes allowing remote access by the public to the data and the ability to print copies or download the data. A fee may be charged for remote access to data where either the data or the access is enhanced at the request of the person seeking access (Minn. Stat. § 13.03, Subd. 3(b)).
- (b) Government data maintained by this office using a computer storage medium shall be provided in that medium in electronic form, if a copy can be reasonably made. The Office is not required to provide the data in an electronic format or program that is different from the format or program in which the data is maintained (Minn. Stat. § 13.03, Subd. 3 (e)).
- (c) The Office is not required to create records that do not exist.
- (d) The Custodian of Records or designee processing the request shall determine if the requested data is available and, if so, whether the data is restricted from release or denied. The Custodian of Records or designee shall inform the requesting person of the determination either orally at the time of the request or in writing as soon after that time as reasonably possible. The Custodian of Records or designee shall cite the specific statutory section, temporary classification or specific provision of state or federal law on which the determination is based. Upon the request of any person denied access to data, the denial shall be certified in writing (Minn. Stat. § 13.03, Subd. 3 (f)).
- (e) When a record contains data with release restrictions and data that is not subject to release restrictions, the restricted data shall be redacted and the unrestricted data released.
  - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the office-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.

### 703.13 REQUESTS FOR SUMMARY DATA

Requests for Summary Data are to be provided to the Responsible Authority or his designee in writing by completing a *Data Request Form*. Within 10 days of receipt of the request for summary data, the responsible authority shall inform the requestor of the estimated costs (if any) and provide the requested summary data, or provide a written statement to the requestor describing the time

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schedule for preparing the requested summary data including the reasons for the delay; or provide the requestor access to the data for the purposes of the requestor's preparation of summary data; or provide a written notice to the requestor that access to the summary data has been denied and the reasons the requestor is denied access to the summary data.

Summary Data shall be prepared in accordance with statute or any applicable law and redacting or removing any other personal identifiers or other private data or information from the Summary Data record.

Requestors of Summary Data may be required to complete a Nondisclosure Agreement as required by MSS 13.05 Subd 7.

Cost of preparation of Summary Data are borne by the requestor. In assessing the cost of Summary Data and its preparation the Responsible Authority shall:

- (a) Provide the requestor an estimate of the costs associated with the request.
- (b) Request payment in advance of preparation of the Summary Data.
- (c) Charge only for reasonable copying costs when requests require only copying and no other preparation of the Summary Data request.
- (d) Take in to account the reasonable value of the Summary Data to the entity of the data prepared and reduce the costs assessed to the requesting party.

### **703.14 SUBPOENAS AND DISCOVERY REQUESTS**

Any member who receives a subpoena duces tecum or discovery request for data should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested data.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the County Attorney, County Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Office so that a timely response can be prepared.

### **703.15 EXPUNGEMENT**

A petition for expungement and expungement orders received by the Office shall be reviewed for appropriate action by the Custodian of Records.

#### **703.15.1 PETITION FOR EXPUNGEMENT**

When responding to a petition for expungement, the Custodian of Records shall inform the court and the individual seeking expungement that the response contains private or confidential data (Minn. Stat. § 609A.03, Subd. 3).

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### **703.15.2 ORDERS OF EXPUNGEMENT**

The Custodian of Records shall expunge such records as ordered by the court. Records may include, but are not limited to, a record of arrest, investigation, detention or conviction. Once a record is expunged, members shall respond to any inquiry as though the record did not exist.

Upon request by the individual whose records are to be expunged, the Custodian of Records must send a letter at an address provided by the individual confirming the receipt of the expungement order and that the record has been expunged (Minn. Stat. § 609A.03, Subd. 8).

Expunged records may be opened only by court order (Minn. Stat. § 609A.03, Subd. 7).

Expunged records of conviction may be opened for purposes of evaluating a prospective employee of the Office without a court order.

The Custodian of Records shall inform any law enforcement, prosecution or corrections authority, upon request, of the existence of a sealed record and of the right to obtain access to it.

### **703.16 MAINTENANCE OF CLOSED RECORDS**

Records such as offense reports, arrest reports, juvenile records or other sensitive records shall be secured in such a manner as to reasonably protect them from unauthorized disclosure. Closed records shall be kept separate from public records and shall remain confidential.

## Protected Information

### 704.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Lyon County Sheriff's Office. This policy addresses the protected information that is used in the day-to-day operation of the Office and not the government data information covered in the Records Maintenance and Release Policy.

#### 704.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by members of the Lyon County Sheriff's Office and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

### 704.2 POLICY

Members of the Lyon County Sheriff's Office will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

### 704.3 RESPONSIBILITIES

The Sheriff shall select a member of the Office to coordinate the use of protected information (Minn. Stat. § 13.05, Subd. 13).

The responsibilities of this position include, but are not limited to:

- (a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, the National Law Enforcement Telecommunications System (NLETS), Minnesota Division of Driver and Vehicle Services (DVS) records, Minnesota Bureau of Criminal Apprehension (BCA) and the Minnesota Comprehensive Incident-Based Reporting System (CIBRS).
- (b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.
- (d) Developing procedures to ensure training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.



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- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.
- (g) Ensuring a comprehensive security assessment of any personal information maintained by the Lyon County Sheriff's Office is conducted at least annually (Minn. Stat. § 13.055, Subd. 6).
- (h) Ensuring CIBRS is notified within 10 days that an investigation in CIBRS has become inactive (Minn. Stat. § 299C.40).

### **704.4 ACCESS TO PROTECTED INFORMATION**

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Lyon County Sheriff's Office policy or training (Minn. Stat. § 13.09). Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access (Minn. Stat. § 13.05; Minn. Stat. § 299C.40).

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

### **704.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION**

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Sergeant for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Office may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Sheriff's Office Records to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of deputies, other office members or the public is at risk.

Nothing in this policy is intended to prohibit broadcasting warrant information.

#### **704.5.1 REVIEW OF CHRI**

Members of this office shall refer individuals seeking access to CHRI to the Minnesota BCA (Minn. Stat. § 13.87, Subd. 1(b)).

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### 704.5.2 REVIEW OF CIBRS DATA

An individual who is the subject of private data held by CIBRS may request access to the data by making a request to the Sergeant. If the request is to release the data to a third party, the individual who is the subject of private data must appear in person at the Office to give informed consent to the access or release.

Private data provided to the individual must also include the name of the law enforcement agency that submitted the data to CIBRS and the name, telephone number and address of the agency responsible for the data.

A person who is the subject of private data may challenge the data. The Sergeant shall review the challenge and determine whether the data should be completed, corrected or destroyed. The corrected data must be submitted to CIBRS and any future dissemination must be of the corrected data.

The Sergeant must notify BCA as soon as reasonably practicable whenever data held by CIBRS is challenged. The notification must identify the data that was challenged and the subject of the data.

### **704.6 SECURITY OF PROTECTED INFORMATION**

The Sheriff will select a member of the Office to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Developing and maintaining security practices, procedures and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.
- (d) Tracking, documenting and reporting all breach of security incidents to the Sheriff and appropriate authorities.

#### 704.6.1 MEMBER RESPONSIBILITIES

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

### **704.7 TRAINING**

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination when available.

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### **704.8 SECURITY BREACHES**

In the event of an actual or potential breach of the security or other unauthorized acquisition of private or confidential information, the Sheriff or designee shall ensure an investigation into the breach is made. Upon completion of the investigation and final disposition of any disciplinary action, a report containing the facts and result of the investigation shall be prepared. If the breach was conducted by an employee, contractor or agent of Lyon, the report must include a description of the type of data that was breached, the number of individuals whose information was breached, the disposition of any related disciplinary action, and the identity of the employee determined to be responsible for the breach (Minn. Stat. § 13.055).

Written notice shall be given to any individual whose private or confidential data was, or is reasonably believed to have been, acquired by an unauthorized person as soon as reasonably practicable. The notice shall include the following (Minn. Stat. § 13.055):

- (a) Notification that an investigation will be conducted.
- (b) Notification that a report containing the facts and results will be prepared.
- (c) Information on how the person may obtain access to the report, including that he/she may request delivery of the report by mail or email.

The notice may be delayed only so long as necessary to determine the scope of the breach and restore the reasonable security of the data or so long as it will impede an active criminal investigation. Notice shall be made by first class mail, electronic notice or substitute notice as provided in Minn. Stat. § 13.055, Subd. 4. If notification is required to be made to more than 1,000 individuals, notice to all consumer reporting agencies of the timing distribution and content of the notices must also be made (Minn. Stat. § 13.055, Subd. 5).

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# Brown, Lyon, Redwood and Renville Emergency Response Unit (BLRR)

## 705.-1 POLICY

It is the policy of this office to participate in a Emergency Response Unit (ERU) and to provide the equipment, manpower and training necessary to assist in maintaining the ERU. The ERU should develop sufficient resources to perform three basic operational functions:

- (a) Command and control
- (b) Containment
- (c) Entry/apprehension/rescue

It is understood it is difficult to categorize specific capabilities for critical incidents. Training needs may vary based on the experience level of the team personnel, team administrators and potential incident commanders. Nothing in this policy shall prohibit individual teams from responding to a situation that exceeds their training levels due to the exigency of the circumstances. The preservation of innocent human life is paramount.

### 705.-1.1 POLICY CONSIDERATIONS

A needs assessment should be conducted to determine the type and extent of ERU missions and operations appropriate to this office. The assessment should consider the team's capabilities and limitations and should be reviewed annually by the ERU commander or designee.

## 705.2 DEPLOYMENT

The ERU commander, team leader, or unit member responsible for the deployment will determine if a request for the unit is within the guidelines for deployment.

### 705.2.1 MEMBER RESPONSIBILITY

Upon notification of deployment, the Lyon County Sheriff's Office unit members will notify the Sheriff, or in his absence the Chief Deputy or Sergeant, and on-duty supervisor of the location of the event as well as the name of the requesting agency, the nature of the event, and the expected duration of the event. Upon returning to duty ERU members will provide a written or verbal report to the Sheriff as to the activity engaged in during the deployment.

### 705.2.2 SUPERVISOR RESPONSIBILITY

Upon receiving notification of deployment, the Sheriff, or his designee, will determine if the deployment will adversely affect the operation of the department; such a determination may result in denial of one or more ERU members being allowed to deploy. The supervisor may make adjustments to the ERU members' schedule to ensure that deployed members are not unduly burdened with regular shift assignments after a lengthy deployment. Deployment time may be substituted for all or part of the officer's scheduled shift.

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## **705.3 TRAINING**

The ERU Commander is responsible for the ongoing training of its members to ensure a high level of proficiency.

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## Field Training Officer Program

### 706.1 PURPOSE AND SCOPE

The Field Training Officer Program is intended to provide a standardized program to facilitate the deputy's transition from the academic setting to the actual performance of general law enforcement duties of the Lyon County Sheriff's Office.

It is the policy of this office to assign all new sheriff's deputies to a structured Field Training Officer Program that is designed to prepare the new deputy to perform in a patrol assignment and to acquire all of the skills needed to operate in a safe, productive and professional manner.

### 706.2 FIELD TRAINING OFFICER - SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced deputy trained in the art of supervising, training and evaluating entry-level and lateral sheriff's deputies in the application of their previously acquired knowledge and skills.

#### 706.2.1 SELECTION PROCESS

FTOs will be selected based on the following requirements:

- (a) Desire to be an FTO.
- (b) Minimum of two years of patrol experience with this office.
- (c) Demonstrated ability as a positive role model.
- (d) Evaluation by supervisors and current FTOs.

#### 706.2.2 CONTINUED TRAINING

All FTOs must complete a POST-approved FTO Course prior to being assigned to the position of FTO.

### 706.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The Field Training Officer Program Supervisor will be selected by the Sheriff or designee.

The responsibilities of the FTO Program Supervisor include the following:

- (a) Assignment of trainees to FTOs.
- (b) Conduct FTO meetings.
- (c) Maintain and ensure FTO/Trainee performance evaluations are completed.
- (d) Maintain, update and issue the Field Training Manual to each trainee.
- (e) Monitor individual FTO performance.
- (f) Monitor overall FTO Program.
- (g) Develop ongoing training for FTOs.

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## Field Training Officer Program

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### 706.4 TRAINEE DEFINED

**Trainee** - Any entry level or lateral sheriff's deputy newly appointed to the Lyon County Sheriff's Office who possesses a Minnesota POST license or is eligible to be licensed.

### 706.5 REQUIRED TRAINING

Entry level deputies shall be required to successfully complete the Field Training Program.

The training period for lateral deputies may be modified depending on the trainee's demonstrated performance and level of experience.

#### 706.5.1 FIELD TRAINING MANUAL

Each new deputy will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and skills necessary to properly function as a deputy with the Lyon County Sheriff's Office. The deputy shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.

The Field Training Manual will specifically cover those policies, procedures, rules and regulations enacted by the Lyon County Sheriff's Office.

### 706.6 EVALUATIONS

Evaluations are an important component of the training process and shall be completed as outlined below.

#### 706.6.1 FIELD TRAINING OFFICER

The FTO will be responsible for the following:

- (a) Completing and submitting a written evaluation (DOR) on the performance of the assigned trainee to the trainee's immediate supervisor on a daily basis.
- (b) Reviewing the Daily Trainee Performance Evaluations with the trainee each day.
- (c) Completing a detailed weekly performance evaluation on the assigned trainee.
- (d) Completing a detailed end-of-phase performance evaluation on the assigned trainee at the end of each phase of training.
- (e) Signing off all completed topics contained in the Field Training Manual, noting the method of learning and evaluating the performance of the assigned trainee.

### 706.7 DOCUMENTATION

All documentation of the Field Training Program will be retained in the deputy's personnel files and will consist of the following:

- (a) DORs.
- (b) Weekly Evaluation Reports.

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## *Field Training Officer Program*

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- (c) A Certificate of Completion, certifying that the trainee has successfully completed the field training program.



## Ride-Along Policy

### 707.1 PURPOSE AND SCOPE

The Ride-Along Program provides an opportunity for persons to experience the law enforcement function first hand. This policy provides the requirements, approval process and hours of operation for the Ride-Along Program.

#### 707.1.1 ELIGIBILITY

Members of the following groups or organizations may participate in the Ride -Along Program as an observer: Students enrolled in law enforcement, criminal justice or related fields and governmental employees such as licensed peace officers from other jurisdictions or any other county official for the purpose of becoming more familiar with the daily operations of the Lyon County Sheriff's Office. Application is to be made in writing at least three days in advance of the date they wish to participate in the ride along program and plan to observe. No "walk-in" ride-alongs will be allowed. Said applications must be approved by the Sheriff or in his absence, the Chief Deputy.

#### 707.1.2 PARTICIPATION

Participation in the program will be limited to two (2) ride-along observation periods during a 12 month (1 yr) span. An observation period will be limited to no more than four (4) hours in duration.

Participants in the Ride- Along Program will be paired with, or participate only as an observer with a host deputy of the same gender. Cross-gender ride-alongs will not be permitted.

Participating Sheriff's Office personnel are required to have completed their probationary period (1 yr) before participation in the Ride-Along Program or host observers participating in the Ride-Along Program.

### 707.2 DEPUTY'S RESPONSIBILITIES

The deputy shall advise the dispatcher that a ride-along is present in the vehicle before going into service. Deputies shall consider the safety of the ride-along at all times.

Deputies should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation and as soon as practicable have another sheriff's unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

Conduct by a person participating in a ride-along that results in termination of the ride or is otherwise inappropriate should be immediately reported to a supervisor.

The Sheriff is responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, a copy of the ride-along waiver form shall be returned to the Sheriff with any comments that may be offered by the deputy.

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### **707.3 CONTROL OF RIDE-ALONG**

The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit participation. These instructions should include:

- (a) The ride-along will follow the directions of the deputy.
- (b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects or handling any sheriff's equipment.
- (c) The ride-along may terminate the ride at any time and the deputy may return the observer to his/her home or to the station if the ride-along interferes with the performance of the deputy's duties.
- (d) The deputy may terminate the ride-along and return the observer to their home or to the station if the ride-along interferes with the performance of any deputy's duties.
- (e) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety.
- (f) Deputies will not allow any ride-alongs to be present in any residence or situation that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other person.
- (g) Under no circumstance shall a civilian ride-along be permitted to enter a private residence with a deputy without the expressed consent of the resident or other authorized person.

## Drug Collection/Disposal Program

### 708.1 PURPOSE AND SCOPE

This policy is designed to establish guidelines for the proper collection, handling, and disposal of unused medications through the drug collection and disposal system. The drug collection and disposal program provides a safe disposal location for citizens to properly dispose of unused prescription medications.

### 708.2 OPERATING PROCEDURES

This program provides an environmentally safe alternative to disposing of medications in a landfill or sewer system, which may later negatively affect the environment. This program encourages citizens to remove their unneeded medications from their homes. This reduces access to addictive medications from accidental or intentional misuse by children and adults in the home.

The Lyon County Sheriff's Office will provide a steel mailbox style collection box in which citizens may deposit these medications.

- (a) The collection box shall be clearly marked with the agency name, agency logo, and cautionary statement.
- (b) Collection boxes shall be locked and securely mounted in the lobby to prohibit removal of the box or retrieval of medications from within the box without a key.
- (c) Citizens may place their unused medications/drugs into the collection box anonymously with no questions asked.
- (d) Medications can be placed into plastic bags or place the entire prescription bottle into the drop box.
- (e) Syringes/sharps will not be accepted

### 708.3 EMPLOYEE HANDLING PROCEDURES

The Lyon County Sheriff's Office and the Marshall Police Department will designate custodians of the collection box and they will be the sole possessors of the keys to the collection box.

- (a) Staff will not have access to the contents of the collection box.
- (b) The custodian will always have a secondary custodian or Supervisor oversee any handling, weighing, or storage of the contents from the collection box.
- (c) The custodian will assign a case number each time the contents of the storage container are destroyed. The disposal documentation will be entered into a supplemental report. This allows for tracing of data to monitor the program benefits.
- (d) The custodian will collect the deposited drugs on a frequency deemed necessary, based on usage.

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- (e) The custodian will package the deposited drugs, and place the drugs in a locked evidence locker.
- (f) The custodian will assign a licensed police officer to transport and witness the disposal of the collected medications at an approved incinerator site.

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## Animal Control

### 709.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for Lyon County Sheriff's Office personnel in dealing with calls related to animal control and to set forth procedures regarding animal control services, the handling of injured animals and the abatement of animal nuisances.

### 709.2 MEMBER RESPONSIBILITIES

Members who respond to or assist with animal-related calls for service should evaluate the situation and determine appropriate actions to control the situation.

Due to the hazards of handling animals without proper training and equipment, responding members generally should not attempt to capture and pick up any animal, but should keep the animal under observation until the arrival of appropriate assistance.

Members may consider acting before the arrival of such assistance when:

- (a) There is a threat to public safety.
- (b) An animal has bitten someone; members should take measures to confine the animal and prevent further injury.
- (c) An animal is creating a traffic hazard.
- (d) An animal is seriously injured.
- (e) The owner/handler has been arrested or is incapacitated. In such circumstances, the member should find appropriate placement for the animal.
  - 1. This is only necessary when the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animal.
  - 2. With the owner's consent, locating appropriate placement may require contacting relatives or neighbors to care for the animal.
  - 3. If no person can be found or the owner does not or cannot give consent, the animal should be taken to a designated animal care facility.

### 709.3 INJURED ANIMALS

When any injured domesticated animal is brought to the attention of a member of this agency, all reasonable attempts shall be made to contact the owner or responsible handler. When the owner or responsible handler cannot be located and the animal is not an immediate danger to the community, it shall be taken to a doctor of veterinary medicine as described below.

- (a) During normal business hours, the animal should be taken to an authorized veterinary care clinic.

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## *Animal Control*

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- (b) If after normal business hours, the animal should be taken to an authorized veterinary emergency services clinic.
- (c) The only exception to the above is when the animal is an immediate danger to the community or the owner of the animal is identified and takes responsibility for the injured animal.
- (d) When it is necessary to kill a seriously injured or dangerous animal the Firearms and Qualification Policy shall be followed. The decision to dispose of a seriously injured animal will rest with the on-duty Sergeant.
- (e) Injured or deceased wildlife should be referred to the nearest rehabilitation center.
- (f) When handling dead or injured animals, Office employees shall attempt to identify and notify the owner of the final disposition of the animal.
- (g) Each incident shall be documented, at minimum, to include the name of the reporting party and the veterinary hospital and/or person to whom the animal is released. If the ACO is off-duty, the information will be forwarded for follow-up.

### **709.4 DESTRUCTION OF ANIMALS**

When it is necessary to use a firearm to euthanize a badly injured animal or stop an animal that poses an imminent threat to human safety, the Firearms Policy shall be followed..

### **709.5 POLICY**

It is the policy of the Lyon County Sheriff's Office to be responsive to the needs of the community regarding animal-related issues. This includes enforcing local, state and federal laws relating to animals and appropriately resolving or referring animal-related problems, as outlined in this policy.

### **709.6 ANIMAL CRUELTY COMPLAINTS**

Laws relating to the cruelty to animals should be enforced, including but not limited to (Minn. Stat. § 343.21 et seq.):

- (a) An investigation should be conducted on all reports of animal cruelty.
- (b) Legal steps should be taken to protect an animal that is in need of immediate care or protection from acts of cruelty (Minn. Stat. § 343.29).
  1. A deputy may remove, shelter and care for any animal that is not properly sheltered from cold, heat or inclement weather, or any animal not properly fed and watered or provided with suitable food and drink, in circumstances that threaten the life of the animal.
  2. An animal taken into care during an animal cruelty investigation may be euthanized following a determination by a doctor of veterinary medicine that the animal is suffering and is beyond cure through reasonable care and treatment.

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### **709.7 ANIMAL BITE REPORTS**

Members investigating an animal bite should obtain as much information as possible for follow-up with the appropriate health or animal authorities. Efforts should be made to capture or otherwise have the animal placed under control. Members should attempt to identify and notify the owner of the final disposition of the animal.

#### **709.7.1 ANIMAL BITES TO HUMANS**

Members should coordinate with appropriate animal authorities to ensure that animals who have bitten a human are quarantined for rabies observation as required by Minn. R. 1721.0580.

### **709.8 STRAY DOGS**

If the dog has a license or can otherwise be identified, the owner should be contacted (Minn. Stat. § 343.29), if possible. If the owner is contacted, the dog should be released to the owner and a citation may be issued, if appropriate. If a dog is taken into custody, it shall be transported to the appropriate shelter/holding pen.

Members shall provide reasonable treatment to animals in their care (e.g., food, water, shelter).

### **709.9 PUBLIC NUISANCE CALLS RELATING TO ANIMALS**

Members should diligently address calls related to nuisance animals (e.g., barking dogs), as such calls may involve significant quality of life issues.

## Chapter 8 - Equipment



## Office-Owned and Personal Property

### 800.1 PURPOSE AND SCOPE

Office employees are expected to properly care for Office property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or office property while performing their assigned duties. Certain procedures are required depending on the loss and ownership of the item.

### 800.2 DOCUMENTATION OF ISSUED PROPERTY

All property issued shall be documented in the appropriate Initial issued Equipment Log acknowledged by signature. Upon an employee's separation from the Office, all issued equipment shall be returned and documentation of the return acknowledged by a supervisor.

#### 800.2.1 CARE OF OFFICE PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of office property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of office property may lead to discipline including, but not limited to, the cost of repair or replacement.

- (a) Employees shall promptly report through the chain of command, any loss, damage to or unserviceable condition of any office-issued property or equipment assigned for their use.
- (b) The use of damaged or unserviceable office property should be discontinued as soon as practicable and, if appropriate and approved by staff, replaced with comparable Office property as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or required by exigent circumstances, Office property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.
- (d) Office property shall not be thrown away, sold, traded, donated, destroyed or otherwise disposed of without proper authority.
- (e) In the event that any Office property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

### 800.3 USE OF PERSONAL PROPERTY

The carrying of personal equipment on-duty or its use in the performance of duties requires prior written approval by the Sheriff or appropriate supervisor personnel. The employee should submit for approval the description of personal property the employee has requested to carry, the reason for its use and the term of its use. Personal property of the type routinely carried by persons not performing law enforcement duties nor comprising a weapon are excluded from this

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requirement. The Sheriff or appropriate supervisory personnel should review the request and approved or deny the request as appropriate.

### 800.3.1 DEFINITIONS

**Personal Property** - Items or equipment owned by, provided by or purchased totally at the expense of the employee. This definition includes optional equipment items identified in the Uniform Regulations Policy.

### 800.3.2 FILING CLAIMS FOR LOSS OF PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made immediately to the supervisor. The supervisor may require a separate written report of the loss or damage.

The supervisor receiving such a report shall make an appropriate investigation and direct a memo to the Sheriff that shall include the result of his/her investigation and whether reasonable care was taken to prevent the loss, damage or unserviceable condition.

Upon review by the Sheriff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by supervisory personnel, who will then forward the claim for payment.

The Office will not replace or repair costly items (e.g., jewelry, exotic equipment) that are not reasonably required as a part of work.

### 800.3.3 REPORTING REQUIREMENT

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off-duty or within the time frame directed by the supervisor to whom the verbal report is made.

## **800.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER**

Deputies and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement function shall report it as provided below.

- (a) A verbal report shall be made to the employee's immediate supervisor as reasonably soon as circumstances permit.
- (b) A written report shall be submitted before the employee goes off-duty or within the time frame directed by the supervisor to whom the verbal report was made.

### 800.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY

If employees of another jurisdiction cause damage to personal property or property belonging to the County, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as reasonably soon as

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circumstances permit. The employee shall submit a written report before going off-duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate supervisory personnel.

## Personal Communication Devices

### 801.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded by the Office or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless-capable tablets, and similar wireless two-way communications and/or portable internet-access devices. PCD use includes but is not limited to placing and receiving calls, text messaging, blogging and microblogging, emailing, using video or camera features, playing games, and accessing sites or services on the internet.

### 801.2 POLICY

The Lyon County Sheriff's Office allows members to utilize office-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on- or off-duty for business-related purposes, or reasonably associated with work-related misconduct, will be subject to monitoring and inspection consistent with applicable law and this policy.

Additionally, the use of a PCD either on-duty or after duty hours for business-related purposes, or reasonably associated with work-related misconduct, may subject the member and the member's PCD records to civil or criminal discovery or disclosure under applicable data practices laws and rules of civil or criminal procedures.

Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory staff.

### 801.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received, or reviewed on any PCD issued or funded by the Office and shall have no expectation of privacy in their location should the device be equipped with location-detection capabilities. This includes records of all keystrokes or web-browsing history made on the PCD. The fact that access to a database, service, or website requires a username or password will not create an expectation of privacy if it is accessed through office PCDs or networks (see the Information Technology Use Policy for additional guidance).

Members have no expectation of privacy regarding any communications while using a personally owned PCD for office-related business or when the use reasonably implicates work-related misconduct.

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### **801.4 OFFICE-ISSUED PCD**

Depending on a member's assignment and the needs of the position, the Office may, at its discretion, issue or fund a PCD for the member's use to facilitate on-duty performance. Office-issued or funded PCDs may not be used for personal business either on- or off-duty unless authorized by the Sheriff or the authorized designee. Such devices and the associated telephone number, if any, shall remain the sole property of the Office and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Unless a member is expressly authorized by the Sheriff or the authorized designee for off-duty use of the PCD, the PCD will be either secured in the workplace at the completion of the tour of duty or turned off when leaving the workplace.

### **801.5 PERSONALLY OWNED PCD**

Members may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.
- (b) The Office accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) The PCD and any associated services shall be purchased, used, and maintained solely at the member's expense.
- (d) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications) or as otherwise authorized by office procedures.
  - 1. Use of a personally owned PCD for work-related business constitutes consent for the Office to access the PCD to inspect and copy the work-related data (e.g., for litigation purposes, public records retention and release obligations, internal investigations).
  - 2. Use of and data within a personally owned PCD may be discoverable in cases when there is reason to believe it is associated with work-related misconduct.
  - 3. Searches of a personally owned PCD by the Office should be limited to those matters reasonably associated with the work-related business or work-related misconduct.
- (e) The device shall not be utilized to record or disclose any office business-related information, including photographs, video, or the recording or transmittal of any information or material obtained or made accessible as a result of employment or appointment with the Office, without the express authorization of the Sheriff or the authorized designee.
- (f) If the PCD is carried on-duty, members will provide the Office with the telephone number of the device.
- (g) All work-related documents, emails, photographs, recordings, and other public records created or received on a member's personally owned PCD should be transferred to

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the Lyon County Sheriff's Office and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

Except with prior express authorization from their supervisors, members are not obligated or required to carry, access, monitor, or respond to electronic communications using a personally owned PCD while off-duty. If a member is in an authorized status that allows for appropriate compensation consistent with policy or existing collective bargaining agreements, or if the member has prior express authorization from their supervisor, the member may engage in office business-related communications. Should members engage in such approved off-duty communications or work, members entitled to compensation shall promptly document the time worked and communicate the information to their supervisors to ensure appropriate compensation. Members who independently document off-duty office-related business activities in any manner shall promptly provide the Office with a copy of such records to ensure accurate recordkeeping.

### **801.5.1 PUBLIC RECORDS**

Work related information including data created, received, recorded or stored on a personally owned PCD in the course of office duties is considered government data subject to the requirements of the Minnesota Government Data Practices Act and discovery obligations (Minn. Stat. § 13.01 et seq.).

### **801.6 USE OF PCD**

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct office business:

- (a) A PCD shall not be carried in a manner that allows it to be visible while in uniform unless it is in an approved carrier.
- (b) All PCDs in the workplace shall be set to silent or vibrate mode.
- (c) A PCD may not be used to conduct personal business while on-duty except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of PCDs to authorized break times unless an emergency exists.
- (d) Members may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.
- (e) Members are prohibited from taking pictures, audio or video recordings, or making copies of any such picture or recording media unless it is directly related to official office business. Disclosure of any such information to any third party through any means requires the express authorization of the Sheriff or the authorized designee.
- (f) Members will not access social networking sites for any purpose that is not official office business. This restriction does not apply to a personally owned PCD used during authorized break times.

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- (g) Using PCDs to harass, threaten, coerce, or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

### **801.7 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors include but are not limited to:

- (a) Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.
- (b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.
  1. An investigation into improper conduct should be promptly initiated when circumstances warrant.
  2. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Sheriff or the authorized designee.

### **801.8 USE WHILE DRIVING**

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions, and present a negative image to the public. Deputies operating emergency vehicles should restrict the use of these devices to matters involving official duties and, where practicable, stop the vehicle at an appropriate location to use the PCD (Minn. Stat. § 169.475).

Except in an emergency, members who are operating non-emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (Minn. Stat. § 169.475). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

### **801.9 OFFICIAL USE**

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, members shall conduct sensitive or private communications on a land-based or other office communications network.

## Vehicle Maintenance

### 802.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Office vehicles so that they are properly equipped, maintained, refueled and present a clean appearance.

### 802.2 DEFECTIVE VEHICLES

When a office vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who becomes aware of the defective condition. Paperwork, describing the correction needed, shall be promptly forwarded to the appropriate supervisory personnel. . The deputy assigned to a vehicle in need of repair will be responsible for making arrangements for repair, after seeking approval of the repair from a supervisor.

#### 802.2.1 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged or perform poorly shall be removed from service for inspection and repair as soon as practicable.

#### 802.2.2 SEVERE USE

Vehicles operated under severe use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as reasonably possible. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits or prolonged high-speed operation.

#### 802.2.3 REMOVAL OF WEAPONS

All firearms, weapons and control devices shall be removed from a vehicle and properly secured in the office armory prior to the vehicle being released for maintenance, service or repair.

### 802.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all Office vehicles for emergency purposes and to perform routine duties.

#### 802.3.1 PATROL VEHICLES

Deputies shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is present in the vehicle:

- 1 roll crime scene barricade tape
- 1 first aid kit, CPR mask
- 1 blanket
- 1 fire extinguisher



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- 1 blood borne pathogen kit, including protective gloves
- 1 sharps container
- 1 hazardous waste disposal bag
- 1 traffic safety vest
- 1 camera

### **802.4 VEHICLE REFUELING**

Absent emergency conditions or supervisor approval, deputies driving patrol vehicles shall not place a vehicle in service that has less than one-quarter tank of fuel. Whenever practicable, vehicles should be fully fueled when placed into service and refueled before the level falls below one-quarter tank.

Vehicles shall only be refueled at an authorized location.

### **802.5 WASHING OF VEHICLES**

All units shall be kept clean at all times and, weather conditions permitting, shall be washed as necessary to enhance their appearance.

Deputies on patrol shall obtain clearance from the dispatcher before responding to the car wash. Only one marked unit should be at the car wash at a time unless otherwise approved by a supervisor.

Employees using a vehicle shall remove any trash or debris at the end of the shift. Not public data should be placed in a designated receptacle provided for the shredding of this matter.

## Vehicle Use

### 803.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure office vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of office vehicles and shall not be construed to create or imply any contractual obligation by the County of Lyon to provide assigned take-home vehicles.

### 803.2 POLICY

The Lyon County Sheriff's Office provides vehicles for office-related business and may assign patrol and unmarked vehicles based on a determination of operational efficiency, economic impact to the Office, requirements for tactical deployments and other considerations.

### 803.3 USE OF VEHICLES

#### 803.3.1 UNSCHEDULED USE OF VEHICLES

Members utilizing a County-owned vehicle for any purpose other than their regularly assigned duties shall first notify the Sergeant of the reasons for use.

#### 803.3.2 INSPECTIONS

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

The interior of any vehicle that has been used to transport any person other than a member of this office should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner or arrestee, the transporting member shall search all areas of the vehicle that are accessible by the person before and after that person is transported.

All office vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

#### 803.3.3 MOBILE DIGITAL COMPUTER

Members assigned to vehicles equipped with a Mobile Digital Computer (MDC) shall log onto the MDC with the required information when going on-duty. If the vehicle is not equipped with a working MDC, the member shall notify Dispatch. Use of the MDC is governed by the Mobile Digital Computer Use Policy.

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#### 803.3.4 VEHICLE LOCATION SYSTEM

Patrol and other vehicles, at the discretion of the Sheriff, may be equipped with a system designed to track the vehicle's location. While the system may provide vehicle location and other information, members are not relieved of their responsibility to use required communication practices to report their location and status.

Members shall not make any unauthorized modifications to the system. At the start of each shift, members shall verify that the system is on and report any malfunctions to their supervisor. If the member finds that the system is not functioning properly at any time during the shift, he/she should exchange the vehicle for one with a working system, if available.

System data may be accessed by supervisors at any time. However, access to historical data by personnel other than supervisors will require Sergeant approval.

All data captured by the system shall be retained in accordance with the established records retention schedule.

#### 803.3.5 KEYS

Members approved to operate marked patrol vehicles should be issued a copy of the key as part of their initial equipment distribution. Members who are assigned a specific vehicle should be issued keys for that vehicle.

Members shall not duplicate keys. The loss of a key shall be promptly reported in writing through the member's chain of command.

#### 803.3.6 AUTHORIZED PASSENGERS

Members operating office vehicles shall not permit persons other than County personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Along Policy.

#### 803.3.7 ALCOHOL

Members who have consumed alcohol are prohibited from operating any office vehicle unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

#### 803.3.8 PARKING

Except when responding to an emergency or when urgent office-related business requires otherwise, members driving office vehicles should obey all parking regulations at all times.

Office vehicles should be parked in assigned stalls. Members shall not park privately owned vehicles in stalls assigned to office vehicles or in other areas of the parking lot that are not so designated unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

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### 803.3.9 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories without written permission from the Sergeant.

### 803.3.10 NON-LICENSED MEMBER USE

Non-licensed members using marked emergency vehicles shall ensure that all weapons have been removed before going into service. Non-licensed members shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

## **803.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES**

Office vehicles may be assigned to individual members at the discretion of the Sheriff. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the member is unable to perform his/her regular assignment.

### 803.4.1 ON-DUTY USE

Vehicle assignments shall be based on the nature of the member's duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other office members at the discretion of the Sheriff or the authorized designee.

### 803.4.2 ASSIGNED VEHICLES

Assignment of take-home vehicles shall be based on the location of the member's residence; the nature of the member's duties, job description and essential functions; and the member's employment or appointment status. Residence in the County of Lyon is a prime consideration for assignment of a take-home vehicle. Members who reside outside the County of Lyon may be required to secure the vehicle at a designated location or the Office at the discretion of the Sheriff.

Members are cautioned that under federal and local tax rules, personal use of a County vehicle may create an income tax liability for the member. Questions regarding tax rules should be directed to the member's tax adviser.

Criteria for use of take-home vehicles include, but are not limited to the following:

- (a) Vehicles shall only be used for work-related purposes and shall not be used for personal errands or transports, unless special circumstances exist and the Sheriff or a Sergeant gives authorization.
- (b) Vehicles may be used to transport the member to and from the member's residence for work-related purposes.
- (c) Vehicles will not be used when off-duty except:
  1. When the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or traveling to or from a work-related activity or function.

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2. When the member has received permission from the Sheriff or Sergeants.
- (d) Unattended vehicles are to be locked and secured at all times.
1. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging).
  2. All weapons shall be secured while the vehicle is unattended.
  3. All office identification, portable radios and equipment should be secured.
- (e) Vehicles are to be secured at the member's residence or the appropriate office facility, at the discretion of the Office when a member will be away (e.g., on vacation) for periods exceeding one week.
1. If the vehicle remains at the residence of the member, the Office shall have access to the vehicle.
  2. If the member is unable to provide access to the vehicle, it shall be parked at the Office.
- (f) The member is responsible for the care and maintenance of the vehicle.

### 803.4.3 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Lyon County Sheriff's Office or while off-duty, a deputy shall not initiate enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

Deputies may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

Deputies driving take-home vehicles shall be armed, appropriately attired and carry their office-issued identification. Deputies should also ensure that office radio communication capabilities are maintained to the extent feasible.

### 803.4.4 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the Office. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

- (a) Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage.
- (b) It is the member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.
- (c) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the Sheriff or Sergeant.
- (d) The Office shall be notified of problems with the vehicle and approve any major repairs before they are performed.

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- (e) Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

### **803.5 DAMAGE, ABUSE AND MISUSE**

When any office vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any collision report shall be filed with the agency having jurisdiction (see the Traffic Collisions Policy).

Damage to any office vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in memorandum format and forwarded to the Sergeant. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.

### **803.6 MAINTENANCE**

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of the assigned vehicles.

Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage. It is the assigned member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.

Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with policy.

### **803.7 ATTIRE AND APPEARANCE**

When operating any office vehicle while off-duty, members shall dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Office.

When operating any officially fully marked and distinguishable sheriff patrol squad while off-duty (while in-transit to training, meetings, seeking vehicle service work, etc.) while dressed in civilian attire, the deputy (at a minimum) shall be armed with their issued sidearm and have their official uniform badge visible within close proximity to their pistol, identifying them as a deputy sheriff.

### **803.8 OPERATING WITHOUT LIGHTS**

It is the policy of the Lyon County Sheriff's Office to adopt the standards of the Board of Peace Officers Standards and Training regarding operating without lights.

To adopt Departmental policy which coincides with the standards set forth by MN POST Board.

"Operating without Lights" Operating without lights means a Peace Officer operating a vehicle or watercraft without lights as an exemption to MSS 84.87, 84.928, 86B.511, 169.48 to 169.65 and 361.15.

"Peace Officer" Peace officer has the meaning given it in MSS 626.84 sub 1.

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The duties of a Deputy at times require that a vehicle be operated without lights. It is very important that when this is done, it is done in performance of your duties and that your conduct is reasonable and is consistent with standards adopted. The deputy also has to reasonably believe that operating the vehicle without lights is necessary under the circumstances to investigate. A criminal violation or suspect criminal violation of state law, rules, or orders, or local law, ordinances or regulations.

A member of the Lyon County Sheriff's Office MAY NOT operate without lights:

- At speeds faster than the posted speed limit.
- On inter-state highways.
- At speeds greater than what is reasonable and prudent under existing weather, road and traffic conditions.
- In situations where the Peace Officer is an active participant in pursuing a motor vehicle being operated in violation of MSS. 609.487.
- Contrary to the elements listed in MSS 169.541.

## Assigned Patrol Use Vehicle Policy

### 804.1 PURPOSE AND SCOPE

The Office may assign a patrol use vehicle to full-time deputies. This policy shall not be construed to create or imply any contractual obligation by County to assign patrol use vehicles and such assignment is at the discretion of the Sheriff. Assigned patrol use vehicles have demonstrated a long-term fiscal and service benefit to the County. Vehicles are provided better care during operation and storage and accumulate fewer service miles and hours of operation. This vehicle assignment results in an extended vehicle service life over pool patrol use vehicle assignment. Vehicles subsequently require less frequent replacement and reduced frequency of transfer and replacement of support equipment (radios, emergency, safety equipment). Ultimately per-mile operational costs are reduced.

### 804.2 LOGISTICS

The Office recognizes that the placement of all patrol vehicles in one location or a select few locations renders an increased risk of fleet damage due to act of nature or disaster (e.g., hail damage, tornado, floods, snowstorms) as well as planned or opportunity-based intentional damage and vandalism, domestic destruction and/or terrorism. These conditions could render the entire Office fleet unavailable for deployment.

### 804.3 DEFINITION

**Patrol Use Vehicle** - Includes, but is not limited to, any marked or unmarked squad car, transport, truck, plow, ATV, snowmobile, boat, hovercraft, rescue craft, jet-ski, dive vehicle, SERT vehicle, Mobile Crime Lab, undercover or unmarked vehicle or deployment trailers provided by the Office for the purpose of the job duties required by public safety or emergency response duties or essential job functions.

### 804.4 ASSIGNMENT OF PATROL USE VEHICLES

Assignment of Sheriff's patrol use vehicles shall be governed solely by the County and the Office under the discretion of the Sheriff.

#### 804.4.1 ELIGIBILITY

Eligibility for assignment of a patrol use vehicle requires the deputy to be in good standing with Office.

#### 804.4.2 ASSIGNMENT GUIDELINES AND USE CRITERIA

Guidelines for use of patrol use vehicles include the following:

- (a) The Sheriff retains the right to assign/revoke any or all assigned patrol use vehicle.
- (b) Patrol use vehicles should be operated in accordance with Office policy and state law.



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- (c) Patrol use vehicles shall not be used for unapproved use, either on- or off-duty and are restricted to operation by County employees, peace officers assigned to the County or by peace officers under their direction.
- (d) Patrol use vehicles are to be parked off-street at the deputy's residence unless prior arrangements have been made with the Sheriff or designee.
- (e) Patrol use vehicles are subject to inspection, search and validation of location at all times by the Sheriff, designee or any on-duty supervisor.
- (f) Patrol use vehicles are to be secured at the deputy's home or the Office when a deputy is on vacation. If the vehicle remains at the home of the deputy, the Office shall have access to the vehicle, including if garaged. If the deputy is unable or unwilling to provide access the patrol use vehicle it shall be parked at the Office.
- (g) A patrol use vehicle despite assignment to a deputy for specific duties may be re-assigned or utilized by other Office personnel at the discretion of the Office.
- (h) The assignment of patrol use vehicles may be suspended when the deputy is unable to perform his/her regular assignment.
- (i) Deputies who live outside the County who may be assigned a patrol use vehicle may be required to secure or garage the vehicle at a designated location or the central office at the discretion of the Sheriff.
- (j) Any patrol use vehicle assignment that is declined will be secured or garaged at a designated location or the station.
- (k) Patrol use vehicles will not be used by members when off-duty with the following exceptions:
  - 1. When the deputy is performing a work-related function while off-duty, including patrol use vehicle maintenance or travelling to or from a work-related activity or function.
  - 2. When the deputy has received permission for the use of the patrol use vehicle from the Sheriff or Sergeants.
- (l) A deputy's family members or other persons will not be allowed to ride in any County vehicle except as stated in the Ride Along Policy.

The Sheriff or designee may make exceptions to these provisions.

### **804.5 VEHICLE ALTERATIONS**

Alterations of any type to a patrol use vehicle require prior written authorization of the Sheriff or designee.

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### **804.6 DEPUTY MAINTENANCE RESPONSIBILITIES**

Deputies will be responsible for the upkeep of their assigned patrol use vehicle. Failure to adhere to these requirements may result in discipline and loss of patrol use vehicle assignment. The following should be performed as outlined below:

- (a) When in operation the deputy must be prepared and reasonably available to respond to emergency. If deputies are summoned to, or involved in, a law enforcement activity shall notify dispatch of their response or activity and should continue the action until cancelled or concluded.
- (b) Vehicles should be fueled at the end of each shift to prepare for an emergency response at the next use.
- (c) Upon start of shift check all fluid levels, tires, all safety and emergency equipment, interior and exterior to make verify the vehicle is in a safe operating condition and prepared for emergency service.
- (d) At the start and end of any use inspect the vehicle for any damage. If damage is discovered, advise your immediate supervisor.
- (e) Vehicle is kept clean both inside and out as is reasonable and all work-related and issued equipment is in the patrol use vehicle. The appearance of the vehicle reflects directly upon the deputy and the entire Office.
- (f) Ensure all scheduled vehicle maintenance and car washes are performed as necessary at a facility approved by a supervisor. The Office shall be notified of problems with Office-owned vehicles and approve any major repairs before they are performed. Scheduled regular maintenance, unless specified otherwise, is to perform vehicle maintenance as set by the vehicle manufacturer. This includes no less than:
  1. Belts, battery, fluids and radiator.
  2. Tune-ups, tires, brakes.
  3. Lube, oil and filter service every 3,000 miles.
- (g) Vehicle maintenance should not be delayed and should be coordinated in advance when reasonably possible for completion during a deputy's regular duty time to minimize cost to the County. If unanticipated circumstances thwart such advance planning, the deputy should arrange an alternative for timely vehicle maintenance with a supervisor. Vehicle maintenance during off-duty time resulting in overtime pay should be avoided and is warranted only in unusual circumstances after prior approval of a supervisor.
- (h) Receipts for all maintenance and service work should be submitted as soon as possible to the Sheriff.

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## *Assigned Patrol Use Vehicle Policy*

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### **804.7 ATTIRE AND APPEARANCE**

When operating a patrol use vehicle off-duty deputies may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public attire and appearance regardless of the activity should be suitable to reflect positively upon the Office.

## Firearms

### 805.1 PURPOSE AND SCOPE

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

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

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

#### 805.1.1 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).

### 805.2 POLICY

The Lyon County Sheriff's Office will equip its members with firearms to address the risks posed to the public and office members by violent and sometimes well-armed persons. The Office will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

### 805.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

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

All other weapons not provided by the Office, 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 Sergeant. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

#### 805.3.1 HANDGUNS

The authorized office-issued handgun is the Glock Model 22 .40 Cal.

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

MAKE	MODEL	CALIBER
Glock	22	.40

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## Firearms

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### 805.3.1 PATROL RIFLES

The authorized office-issued patrol rifle is the DPMS M4 .223 Cal. The following additional patrol rifles are approved for on-duty use:

MAKE	MODEL	CALIBER
	M4	.223

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 office training in a locking weapons rack in the patrol vehicle.

### 805.3.2 PERSONALLY OWNED DUTY FIREARMS

Members desiring to carry an authorized but personally owned duty firearm must receive written approval from the Sheriff 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 office list of approved firearms.
- (b) The firearm shall be inspected by the Firearms Instructor 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 Firearms Instructor, who will maintain a list of the information.

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### 805.3.3 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 office 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 Office.
- (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 Firearms Instructor 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 Sheriff 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 office 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 Firearms Instructor, who will maintain a list of the information.

### 805.3.3 AUTHORIZED OFF-DUTY FIREARMS

The carrying of firearms by members while off-duty is permitted by the Sheriff 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 Firearms Instructor for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Firearms Instructor.
- (d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Firearms Instructor that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (e) The member will successfully qualify with the firearm prior to it being carried.

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- (f) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Firearms Instructor, who will maintain a list of the information.
- (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, deputies shall carry their badges and Lyon County Sheriff's Office identification cards under circumstances requiring possession of such identification.

#### 805.3.3 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 Office shall be dispensed by the Firearms Instructor 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 Firearms Instructor when needed, in accordance with established policy.

#### 805.4 EQUIPMENT

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

##### 805.4.1 REPAIRS OR MODIFICATIONS

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

Firearms that are the property of the Office 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 Firearms Instructor.

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

##### 805.4.2 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.

##### 805.4.3 TACTICAL LIGHTS

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

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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.

### 805.4.4 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 Firearms Instructor. 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.

### 805.5 SAFE HANDLING, INSPECTION AND STORAGE

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

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Firearms Instructor. Members shall not dry fire or practice quick draws except as instructed by the Firearms Instructor or other firearms training staff.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Office, except in the GUN CLEANING ROOM..
- (d) Rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle.
- (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 Firearms Instructor approved by the Office for inspection and repair. Any firearm deemed in need of repair or service by the Firearms Instructor 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.



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#### 805.5.1 INSPECTION AND STORAGE

All firearms shall be inspected regularly and upon access or possession by another person. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Inspection of the rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction.

Personally owned firearms may be safely stored, unloaded, in armory at the end of the shift. Office-owned firearms, when stored at the office, shall be stored in the armory. Handguns will be stored unloaded. Rifles shall be unloaded in a safe manner outside the building and then stored in the armory.

#### 805.5.2 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are, unloaded, 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. Firearms should not be stored in a office vehicle unless it is in an approved firearms lock or vault. No office issued firearm should be left unattended in a non-office vehicle. Members shall not permit office-issued firearms to be handled by anyone not authorized by the Office 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).

#### 805.5.3 ALCOHOL AND DRUGS

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

### **805.6 FIREARMS TRAINING AND QUALIFICATIONS**

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

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

Training and qualifications must be on an approved range course.

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

#### 805.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

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

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

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

### **805.7 FIREARM DISCHARGE**

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

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

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

#### **805.7.1 DESTRUCTION OF ANIMALS**

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

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

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### 805.7.2 INJURED ANIMALS

A member of this office may euthanize a non-domestic animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical

If a member of this office encounters a domestic animal that is so badly injured that human compassion requires its removal from further suffer, the officer may euthanize the animal after consent is obtained from the owner. If the owner can not be located the officer should contact a veterinarian to assist in making a determination of the seriousness of the animals injuries prior to euthanisation.

### 805.7.3 WARNING AND OTHER SHOTS

Generally, 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.

Warning shots should not be used.

### 805.7.4 REPORTING FIREARMS DISCHARGE

The Sheriff 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).

## 805.8 FIREARMS INSTRUCTOR DUTIES

The range will be under the exclusive control of the Firearms Instructor. All members attending will follow the directions of the Firearms Instructor.

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

The Firearms Instructor 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 Firearms Instructor 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 Firearms Instructor.

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

The Firearms Instructor shall complete and submit to the appropriate supervisory personnel 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 a list of each member who completes the training. The Firearms

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Instructor should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Sergeant.

### **805.9 FLYING WHILE ARMED**

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

- (a) Deputies 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) Deputies must carry their Lyon County Sheriff's Office identification card, bearing the deputy's name, a full-face photograph, identification number, the deputy's signature, and the signature of the Sheriff or the official seal of the Office and must present this identification to airline officials when requested. The deputy should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver's license, passport).
- (c) The Lyon County Sheriff's Office must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the deputy's travel. If approved, TSA will send the Lyon County Sheriff's Office an NLETS message containing a unique alphanumeric identifier. The deputy 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 Sheriff authorizing armed travel may also accompany the deputy. The letter should outline the deputy's need to fly armed, detail the itinerary, and include that the deputy has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Deputies must have completed the mandated TSA security training covering deputies flying while armed. The training shall be given by the office-appointed instructor.
- (f) It is the deputy'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 deputy flying while armed should discreetly contact the flight crew prior to take-off and notify them of the deputy's assigned seat.
- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The deputy must keep the firearm concealed on the deputy's person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Deputies 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) Deputies shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

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### **805.10 CARRYING FIREARMS OUT OF STATE**

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

- (a) The deputy shall carry the deputy's Lyon County Sheriff's Office identification card whenever carrying such weapon.
- (b) The deputy is not the subject of any current disciplinary action.
- (c) The deputy may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) The deputy will remain subject to this and all other office policies (including qualifying and training).

Deputies 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 deputy 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.

## Patrol Rifles

### 806.1 PURPOSE AND SCOPE

To more effectively and accurately address the increasing level of firepower and body armor utilized by criminal suspects, the Lyon County Sheriff's Office will make patrol rifles available to qualified deputies as an additional and more immediate tactical resource.

### 806.2 PATROL RIFLE

#### 806.2.1 DEFINITION

**Patrol Rifle** - An authorized weapon which is owned by the Office and which is made available to properly trained and qualified deputies as a supplemental resource to their duty handgun or shotgun. No personally owned rifles may be carried for patrol duty unless pre-approved in writing by the Sheriff and the Office armorer.

### 806.3 SPECIFICATIONS

Only weapons and ammunition that meet agency authorized specifications, approved by the Sheriff and issued by the Office, may be used by deputies in their law enforcement responsibilities. The authorized patrol rifle issued by the Office is the DPMS M4 .223 Cal, or other similar make/model and caliber rifles.

### 806.4 RIFLE MAINTENANCE

- (a) Primary responsibility for maintenance of patrol rifles shall fall on the Firearms Instructor or armorer, who shall inspect and service each patrol rifle on an annual basis.
- (b) Each patrol deputy carrying a patrol rifle may be required to field strip and clean an assigned patrol rifle as needed.
- (c) Each patrol deputy shall be responsible for promptly reporting any damage or malfunction of an assigned patrol rifle to a supervisor, the Firearms Instructor or armorer.
- (d) Any patrol rifle found to be unserviceable shall also be clearly identified as non-serviceable, including details regarding the unserviceable condition.
- (e) Each patrol rifle shall be subject to inspection by a supervisor, the Firearms Instructor or armorer at any time.
- (f) No modification shall be made to any patrol rifle without prior written authorization from the Firearms Instructor or armorer.

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### *Patrol Rifles*

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#### **806.5 TRAINING**

Deputies shall not carry or utilize the patrol rifle unless they have successfully completed Office training. This training shall consist of patrol rifle user's course and qualification score with a certified patrol rifle instructor. Deputies shall thereafter be required to successfully complete required training and yearly firearms proficiency qualification conducted by a certified patrol rifle instructor.

Any deputy who fails to qualify or who fails to successfully complete Office-sanctioned training/qualification sessions will no longer be authorized to carry the patrol rifle without successfully retaking the initial patrol deputies user's course and qualification.

#### **806.6 DEPLOYMENT OF THE PATROL RIFLE**

Deputies may deploy the patrol rifle in any circumstance where the deputy 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 deputy reasonably anticipates an armed encounter.
- (b) When a deputy is faced with a situation that may require the delivery of accurate and effective fire at long range.
- (c) Situations where a deputy reasonably expects the need to meet or exceed a suspect's firepower.
- (d) When a deputy reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage.
- (e) When a deputy reasonably believes that a suspect may be wearing body armor.
- (f) When authorized or requested by a supervisor.
- (g) When appropriate to aid in the dispatch of an animal.

#### **806.7 DISCHARGE OF THE PATROL RIFLE**

The discharge of the patrol rifle shall be governed by the Use of Force Policy and the Shooting Policy.

#### **806.8 PATROL READY**

Any qualified deputy carrying a patrol rifle in the field shall maintain the weapon in a patrol ready condition until deployed. A rifle is considered in a patrol ready condition when it has been inspected by the assigned deputy, the fire selector switch is in the safe position, the chamber is empty and a fully loaded magazine is inserted into the magazine well.

#### **806.9 RIFLE STORAGE**

- (a) When not in use, patrol rifles will be stored in the Office armory in rifle racks.
- (b) In-service patrol rifles should be secured in the vehicle gun lock or case.

## Mobile Digital Computer Use

### 807.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use and application of the Mobile Digital Computer (MDC) system in order to ensure appropriate access to confidential records from local, state and national law enforcement databases, and to ensure effective electronic communications between office members and Dispatch.

### 807.2 IN-SQUAD MDC USE AND IN-SQUAD COMPUTER (MDC) USAGE AND OPERATIONS

- (a) In-Squad Computer (MDC) Use and (MDC) Usage and Operations.
1. Licensed Officer (Deputy Sheriff) personnel are only authorized to use the MDC, and software in the performance of their duties for official law enforcement related business being conducted by the Lyon County Sheriff's Office. In so much as the MDC, and all data and photos obtained through its use is maintained, used and shared according to data privacy laws and guidelines relating to each data, or, photo item and MN Government Data Practices Act. and MN Statutes Chapter 13.
  2. Any violation or construed misuse of the MDC unit, software, or dissemination or misuse of the data, photos or Mobile messaging is violation of this general order as well as any applicable other Lyon County and Lyon County Sheriff's Office Policy.
  3. Violations will investigated according to the Lyon County Sheriff's Office policy for the investigations of allegations of employee misconduct. Progressive discipline up to and including termination may result in the misuse of the MDC.
  4. Mobile messages sent to and from the MDC are subject to review by the Sheriff or his designee at any time.
  5. The Sheriff or his designee will be provided all login user information along with access to any required administrator passwords and access by the users of the MDC
  6. Users of the MDC are not to alter the MDC's software, hard drive or system configuration, or install any unauthorized hardware, software or install any other equipment to the MDC unit.

### 807.3 POLICY

Lyon County Sheriff's Office members using the MDC shall comply with all appropriate federal and state rules and regulations and shall use the MDC in a professional manner, in accordance with this policy.



## *Mobile Digital Computer Use*

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### **807.4 PRIVACY EXPECTATION**

Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received or reviewed on any office technology system (see the Information Technology Use Policy for additional guidance).

### **807.5 RESTRICTED ACCESS AND USE**

MDC use is subject to the Information Technology Use and Protected Information policies.

Members shall not access the MDC system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MDC by another member to their supervisors or Sergeants.

Use of the MDC system to access law enforcement databases or transmit messages is restricted to official activities, business-related tasks and communications that are directly related to the business, administration or practices of the Office. In the event that a member has questions about sending a particular message or accessing a particular database, the member should seek prior approval from his/her supervisor.

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive, harassing or any other inappropriate messages on the MDC system is prohibited and may result in discipline.

It is a violation of this policy to transmit a message or access a law enforcement database under another member's name or to use the password of another member to log in to the MDC system unless directed to do so by a supervisor. Members are required to log off the MDC or secure the MDC when it is unattended. This added security measure will minimize the potential for unauthorized access or misuse.

#### **807.5.1 USE WHILE DRIVING**

Use of the MDC by the vehicle operator should be limited to times when the vehicle is stopped. Information that is required for immediate enforcement, investigative, tactical or safety needs should be transmitted over the radio.

In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

### **807.6 DOCUMENTATION OF ACTIVITY**

Except as otherwise directed by supervisory personnel or other office-established protocol, all calls for service assigned by a dispatcher should be communicated by voice over the sheriff's radio and electronically via the MDC unless security or confidentiality prevents such broadcasting.

MDC and voice transmissions are used to document the member's daily activity. To ensure accuracy:

- (a) All contacts or activity shall be documented at the time of the contact.
- (b) Whenever the activity or contact is initiated by voice, it should be documented by a dispatcher.

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- (c) Whenever the activity or contact is not initiated by voice, the member shall document it via the MDC.

### 807.6.1 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted over the sheriff's radio or through the MDC system.

Members responding to in-progress calls should advise changes in status over the radio to assist other members responding to the same incident. Other changes in status can be made on the MDC while the vehicle is not in motion.

### 807.6.2 EMERGENCY ACTIVATION

If there is an emergency activation and the member does not respond to a request for confirmation of the need for emergency assistance or confirms the need, available resources will be sent to assist in locating the member. If the location is known, the nearest available deputy should respond in accordance with the Deputy Response to Calls Policy.

Members should ensure supervisory personnel is notified of the incident without delay.

Deputies not responding to the emergency shall refrain from transmitting on the sheriff's radio until a no-further-assistance broadcast is made or if they are also handling an emergency.

## **807.7 EQUIPMENT CONSIDERATIONS**

### 807.7.1 MALFUNCTIONING MDC

Whenever possible, members will not use vehicles with malfunctioning MDCs. Whenever members must drive a vehicle in which the MDC is not working, they shall notify Dispatch. It shall be the responsibility of the dispatcher to document all information that will then be transmitted verbally over the sheriff's radio.

### 807.7.2 BOMB CALLS

When investigating reports of possible bombs, members should not communicate on their MDCs when in the evacuation area of a suspected explosive device. Radio frequency emitted by the MDC could cause some devices to detonate.

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# Conducted Energy Device

## 808.1 PURPOSE AND SCOPE

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

## 808.2 POLICY

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

### 808.2.1 DEFINITIONS

For this particular policy, the term deputy can apply to any member of the Sheriff's Office who has been allowed to use a CED/TASER device.

## 808.3 ISSUANCE AND CARRYING CEDS

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

The CED (Taser) 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 inventory.

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

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

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

- (a) All CEDs shall be clearly distinguishable to differentiate them from the duty weapon and any other device.
- (b) For single-shot devices, whenever practicable, deputies should carry an additional cartridge on their person when carrying the CED.
- (c) Deputies should not hold a firearm and the CED at the same time.

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

### 808.3.1 USER RESPONSIBILITIES

Deputies 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 deputy's shift.

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

### **808.4 VERBAL AND VISUAL WARNINGS**

A verbal warning of the intended use of the CED should precede its application, unless it would otherwise endanger the safety of deputies 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 deputies and individuals with a warning that the CED may be deployed.

If, after a verbal warning, an individual fails to voluntarily comply with a deputy's lawful orders and it appears both reasonable and feasible under the circumstances, the deputy may, but is not required to, activate any warning on the device, which may include display of the electrical arc, an audible warning, or the laser in a further attempt to gain compliance prior to the application of the CED. The laser should not be intentionally directed into anyone's eyes.

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

### **808.5 USE OF THE CED**

The CED has limitations and restrictions requiring consideration before its use. The CED should only be used when its operator can safely deploy the device within its operational range. Although the CED may be effective in controlling most individuals, deputies 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, a deputy designated as lethal cover for any deputy deploying a CED may be considered for officer safety.

#### **808.5.1 APPLICATION OF THE CED**

The CED may be used when the circumstances reasonably perceived by the deputy 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 deputies, themselves, or others.

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

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

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### 808.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

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

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals known to have been recently sprayed with a flammable chemical agent or who are otherwise known to be in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- (f) Individuals whose position or activity is likely to result in collateral injury (e.g., falls from height, located in water, operating vehicles).

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

### 808.5.3 TARGETING CONSIDERATIONS

Recognizing that the dynamics of a situation and movement of the subject may affect target placement of probes, when practicable, deputies 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.

### 808.5.4 MULTIPLE APPLICATIONS OF THE CED

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

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

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

### **808.5.5 ACTIONS FOLLOWING DEPLOYMENTS**

Deputies 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, deputies shall notify a supervisor any time the CED has been discharged. If needed for evidentiary purposes, the expended cartridge, along with any probes and wire, should be submitted into evidence (including confetti tags, when equipped on the device). The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

### **808.5.6 DANGEROUS ANIMALS**

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

### **808.5.7 OFF-DUTY CONSIDERATIONS**

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

Deputies 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.

## **808.6 DOCUMENTATION**

Deputies 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 (UOF) 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 a office-approved process to preserve the data.

### **808.6.1 REPORTS**

The deputy 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

## **808.7 MEDICAL TREATMENT**

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel or deputies 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,

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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 deputy 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 deputy shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the CED (see the Medical Aid and Response Policy).

### **808.8 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 a 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 to be interviewed.

### **808.9 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 (Taser) instructor prior to again carrying or using the device.

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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 a deputy's knowledge and/or practical skills may be required at any time, if deemed appropriate, by a supervisor or the CED (Taser) Instructor. All training and proficiency for CEDs will be documented in the deputy's training files.

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

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

The Sergeant 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.



## Control Devices

### 809.1 PURPOSE AND SCOPE

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

### 809.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Lyon County Sheriff's Office authorizes deputies to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

### 809.3 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 Office or approved by the Sheriff or the authorized designee.

Only deputies 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, deputies should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

### 809.4 RESPONSIBILITIES

#### 809.4.1 SERGEANT RESPONSIBILITIES

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

#### 809.4.2 USE OF FORCE INSTRUCTOR RESPONSIBILITIES

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Every control device will be periodically inspected by the Use of Force Instructor, Taser, OC Instructors.

#### 809.4.3 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 Firearms Instructor or Sergeant for disposition.

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### **809.5 BATON GUIDELINES**

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

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

### **809.6 TEAR GAS GUIDELINES**

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Sergeant, 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.

### **809.7 OLEORESIN CAPSICUM (OC) GUIDELINES**

As with other control devices, oleoresin capsicum (OC) 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 OC 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.

#### **809.7.1 OC SPRAY**

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

#### **809.7.2 PEPPER PROJECTILE SYSTEMS**

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Because the compressed gas launcher delivers the projectiles with enough force to burst the projectiles on impact and release the OC powder, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine, or groin. Therefore, personnel deploying a pepper projectile system should not intentionally target those areas, except when the deputy reasonably believes the use of deadly force is appropriate. See the Use of Force Policy for additional guidance.

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

## *Control Devices*

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

### **809.7.3 TREATMENT FOR OC SPRAY EXPOSURE**

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

### **809.8 POST-APPLICATION NOTICE**

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

### **809.9 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.

#### **809.9.1 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.

Deputies are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved deputy determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and deputies 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 deputies.
- (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.

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### 809.9.2 DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the deputy 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 deputies 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 deputies and individuals that the device is being deployed.

Deputies should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, deputies 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 deputy reasonably believes the use of deadly force is appropriate. See the Use of Force Policy for additional guidance.

### 809.9.3 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.

Deputies 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 deputy shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

Absent compelling circumstances, deputies 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 deputy watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

## *Control Devices*

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### **809.10 TRAINING FOR CONTROL DEVICES**

The Sergeant shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary. Deputies 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 deputy's training file.
- (c) Deputies who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If a deputy cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the deputy will be restricted from carrying the control device and may be subject to discipline.

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

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

## AED Devices

### 810.1 PURPOSE AND SCOPE

It shall be the policy of the Lyon County Sheriff's Office to provide and allow trained personnel to carry and use AED portable defibrillators. The prescribed training and protocol will be followed as set out by the Medical Director of North Memorial Medical Center.

### 810.2 AED OPERATION

With regard to the "Standing Orders" on the use of the defibrillator, all portions shall be followed with the exception of the use of airways and oxygen, as Lyon County Sheriff Personnel does not utilize this equipment. Following the use of the AED by Sheriff's office members, the Law Enforcement AED Reporting Form will be completed and sent in as directed and the recording card or transcript of the car will be provided as needed to the State of Minnesota, the Medical Director or any designee as directed by the Medical Directors.

**NMMC First Responder Standing Orders " Semi-Automatic Defibrillator:** First Responders or trained persons who have been certified by North EMS Education training to use Semi Automatic Defibrillator shall observe the following procedure.

Indications: For use on patients over age 8 found in or who progress into cardiac arrest NOT due to trauma.

Procedure: Determine unresponsiveness, open airway and check for breathing. If no breathing:

- (a) One crew member (if properly trained and equipped) should insert an airway and begin ventilations with positive pressure.
- (b) Other crew members should determine absence of pulse. If no pulse: Bare chest, attach electrodes, instruct person ventilating to stop and assure no one is touching the patient, push analyze button. If shock indicated: push shock button - re-analyze, repeat sequence up to three times, if no pulse, begin CRP, after one minute, stop CRP and reanalyze. If shock indicated, repeat three shocks. If no shock indicated and no pulse, continue CPR. If NO shock indicated: start CPR, reassess for pulse after one minute, if no pulse, push analyze button and proceed per shock or continue CPR.
- (c) If cardiac conversion occurs, check for a pulse. If pulse is present, treat with Oxygen (if equipped) and continue to assure an airway. Take vital signs per protocol while awaiting ambulance arrival.

## Naloxone (Nasal Narcan) Program

### 811.1 PURPOSE AND SCOPE

The purpose and scope of this policy is to establish guidelines for the utilization and administering of Naloxone (AKA Naloxone Hydrochloride, Nasal Narcan, Intranasal Naloxone or Narcan™) a narcotic antagonist by the Lyon County Sheriff's Office personnel. The objective of this policy is to provide guidelines for the treatment of an opioid overdose and reduce the number of deaths associated with an acute opioid overdose.

As public safety and emergency first responders, responding routinely to medical emergencies, Sheriff's Office personnel have the ability to administer potentially lifesaving treatment via this drug. In certain circumstances, early intervention and on-site administering of Nasal Narcan to subjects in an opioid overdose has the immediate effect of reversing the effects of the opioid and potentially allow time for further advanced medical treatment.

Nasal Narcan is an intranasal administered (mucosal nasal atomizer delivered medication) designed to be administered in to the nostrils of an individual in respiratory distress associated with an opioid overdose immediately upon arrival of a first responder. With limited training and guidance through this program, Lyon County sheriff's Office personnel advance and promote the ability to reduce the number of opioid related overdose deaths.

### 811.2 PROCEDURE- PROTOCOL FOR ADMINISTERING NALOXONE (NASAL NARCAN)

The Lyon County Sheriff's Office will have on-site and field deployable Nasal Narcan kits, available for use in situations where responding personnel are advised of, or become aware of a call in which it is known, or they become aware of a potential opioid overdose, including;

- When advised by Dispatch of a known opioid overdose, or as advised upon arrival.
- When drugs or drug paraphernalia are located on or within close proximity of a subject in an apparent opioid overdose state.
- Where the victim is observed to be unresponsive, there is an absence of breathing and or the victim has no pulse. Other signs of overdose include: lack of response to sternal rub, shallow breathing and bluish lips or nail beds.
- Once an opioid overdose is suspected or known, Lyon County personnel shall follow protocol as outlined in the required Naloxone (Nasal Narcan) training, including;
- Identify and assess victim for responsiveness, pulse and status of breathing.
- If no pulse, initiate CPR and AED as per normal protocol; notify incoming EMS of subject status.
- If pulse is present and the victim is unconscious, assess breathing status;
  - If breathing is adequate (>8 per minute, no cyanosis) and no signs of trauma, place in the recovery position.

## *Naloxone (Nasal Narcan) Program*

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- If breathing is decreased or signs of low oxygen (cyanosis) and overdose is suspected (based on history, evidence on scene, bystander reports, physical examination) then proceed with Nasal Narcan administration.
- Retrieve and assemble Nasal Narcan kit.
- Administer a single dose in nostril of victim.
- Initiate breathing support with pocket mask, bag-valve-mask and oxygen if available.
- If no response after 3-5 minutes and a second dose of naloxone is available, repeat the administration of Nasal Narcan.
- Continue to monitor breathing and pulse – if breathing increases and there is no evidence of trauma, place in the recovery position.
- If at any time pulses are lost, initiate CPR and AED as per normal protocol.
- Keep responding EMS advised of patient status when able to do so and provide a full report of actions taken and subject condition and observations upon EMS arrival.
- If recovery occurs after delivery of Nasal Narcan, the subject should be monitored for relapse as Nasal Narcan is effective for 30- 90 minutes, wearing off possibly sooner than the opioid effects. Monitor for relapse and seek further medical evaluation.
- **Caution** should also be taken when Nasal Narcan is administered to narcotic addicts as the administering of Nasal Narcan may precipitate expedited opioid withdrawal, triggering hypertension, tachycardia and **VIOLENT BEHAVIOR**.
- Complete documentation and reporting requirement including a written report including any known patient information, actions taken including dosage of Nasal Narcan administered and any other pertinent patient information or treatment actions taken by Lyon County Sheriff's Office personnel.

### **811.3 MEDICAL DIRECTOR RESPONSIBILITIES (NORTH MEMORIAL HEALTH CARE)**

The medical director of the Naloxone (Nasal Narcan) Program will:

- Provide clinical consultation, expertise and oversight of medical issues related to the Naloxone (Nasal Narcan) program, including any changes, updates in policy or procedure as required by medical protocol and/or law.
- Approve the Nasal Narcan training program content and protocols as needed, and any refresher training as required, including:
- Approve and provide ongoing supervision of the program trainers and curriculum as needed.
- Approve of affiliated Nasal Narcan prescribers; or oversee procurement of Naloxone (Nasal Narcan) as needed.
- Review reports of all administration of Naloxone (Nasal Narcan) as required.



## *Naloxone (Nasal Narcan) Program*

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### **811.4 SUPERVISOR RESPONSIBILITIES**

Supervisory personnel shall be responsible for the following aspects of the Nasal Narcan Program:

- Ensure proper and efficient deployment and availability of Nasal Narcan.
- Maintaining an Inventory Record of all issued, used, or disposed of Nasal Narcan under the Naloxone Nasal Narcan Program.
- Ensuring that the Nasal Narcan kits are current and not expired and replacing any expired or non-serviceable or damaged kits.
- Ensuring that personnel that may be administering Nasal Narcan have received required training as outlined by the medical director.
- Ensuring that all deployments of Nasal Narcan have been properly documented and reported as required to the medical director, and documented in associated police reports.

### **811.5 TRAINING**

Participation in the Nasal Narcan Program by Lyon County personnel requires training as outlined and by the medical director prior to the issuance or administering of Nasal Narcan. Curriculum for the Nasal Narcan Program will be provided by, or approved by the medical director. At conclusion of the training the participant will demonstrate adequate understanding of the course material including:

- Risk factors for opioid overdose.
- Signs of Overdose
- Administering Nasal Narcan protocol guidelines
- Proper documentation and reporting requirements.

On-going and refresher training of the Naloxone Nasal Narcan Program shall be completed by all personnel issued or those who will potentially be administering Nasal Narcan as required by the medical director. Documentation of training shall be kept on file and placed in the appropriate personnel's Training Folder.

### **811.6 MAINTENANCE AND STORAGE**

Naloxone (Nasal Narcan) may be damaged by extreme temperatures, both high and low. Due to this fact, consideration as to storage of Nasal Narcan need to be considered when Nasal Narcan is stored in the interior of patrol vehicles during these conditions. Nasal Narcan should be removed from the patrol vehicle at the completion of shift and stored either at the LEC, or in another temperature controlled environment.

Lyon County Sheriff's Office personnel issued Nasal Narcan are responsible to ensure the proper storage of the Nasal Narcan under their control, as well as ensuring that any supply of Nasal Narcan that they are responsible for is not neglected, up-to- date and not expired and kept in

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## *Naloxone (Nasal Narcan) Program*

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continuously serviceable condition. Any non-serviceable or expired Nasal Narcan should be turned in and reported to the Sergeant for replacement and proper disposal.

Issuance, use and disposal of Nasal Narcan will be documented and an inventory record will be maintained by the Sergeant responsible for overseeing the Naloxone Nasal Narcan Program for the Lyon County Sheriff's Office.

## Night Vision Equipment (NVE)

### 812.1 PURPOSE AND SCOPE

The purpose of this policy provides guidance for the issuance and appropriate use of Night Vision Equipment (NVE), including NVE as "controlled equipment" obtained through the LESO 1033 Program

### 812.2 POLICY

The intended purpose of the night vision equipment (NVE) is to enhance the capabilities of the Lyon County Sheriff's Office by allowing its' members to see and have increased visual perception and optical acuity during low-light operations. The NVE will be issued to, and only used by members of the sheriff's office trained specifically in the proper use and deployment of the equipment consistent with the rules of law, and policy, procedures and principles of the Lyon County Sheriff's Office. Use and deployment of any NVE as controlled equipment will comply with any restricted use policy and procedures of the LESO 1033 Program specific to the use and deployment of such equipment.

NVE equipment will be used by sheriff's office personnel exclusively in emergency response situations and tactical operations. Emergency situations and tactical operations include, but are not limited to: disaster-related emergencies, active shooter scenarios, hostage or other search and rescue operations, anti-terrorism preparedness, protection, prevention, response, recovery or relief, and armed, violent or potentially violent criminal apprehension.

### 812.3 ISSUANCE OF NVE

Office members assigned to the BLRR ERU and having been trained in the proper use of the NVE will be issued and allowed to use NVE during BLRR ERU training and operational emergency response situations and tactical operational events.

Use of NVE equipment outside of BLRR ERU personnel for training and emergency and tactical events will be authorized and at the direction of the Sheriff or his designee based on operational need of the sheriff's office. Any other unauthorized use and deployment of the NVE is prohibited.

### 812.4 TRAINING

Training for the users of the NVE will include; initial basic operation and understanding of the equipment, maintenance, and proper storage of the NVE.

Members issued and assigned NVE will complete an annual review of the Lyon County Sheriff's Office policy on the use of NVE and complete any required office training including PATROL training on open field searches, curtilage, and plain view.

### 812.5 DOCUMENTATION AND REPORTING

Office members issued NVE and having used and deployed the NVE shall report use of the NVE in any written reports completed, and/or UOF reports as required. Use of NVE as controlled

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## *Night Vision Equipment (NVE)*

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property shall be reported if used during any "significant incidents" or as required by the LESO 1033 Program reporting and recording requirements. Any records/reports of significant incidents shall be made available to the LESO 1033 Program, the MN state Coordinator or made available to the public in so much as the data associated with the use of the controlled equipment is "public data".

# Personal Protective Equipment

## 813.1 PURPOSE AND SCOPE

This policy identifies the different types of personal protective equipment (PPE) provided by the Office as well the requirements and guidelines for the use of PPE.

This policy does not address ballistic vests or protection from communicable disease, as those issues are addressed in the Body Armor and Communicable Diseases policies.

### 813.1.1 DEFINITIONS

Definitions related to this policy include:

**Personal protective equipment (PPE)** - Equipment that protects a person from serious workplace injuries or illnesses resulting from contact with chemical, radiological, physical, electrical, mechanical, or other workplace hazards.

**Respiratory PPE** - Any device that is worn by the user to protect from exposure to atmospheres where there is smoke, low levels of oxygen, high levels of carbon monoxide, or the presence of toxic gases or other respiratory hazards. For purposes of this policy, respiratory PPE does not include particulate-filtering masks such as N95 or N100 masks.

## 813.2 POLICY

The Lyon County Sheriff's Office endeavors to protect members by supplying certain PPE to members as provided in this policy.

## 813.3 MEMBER RESPONSIBILITIES

Members are required to use PPE as provided in this policy and pursuant to their training.

Members are responsible for proper maintenance and storage of issued PPE. PPE should be stored in an appropriate location so that it is available when needed.

Any member who identifies hazards in the workplace is encouraged to utilize the procedures in the Workplace Accident and Injury Reduction Policy to recommend new or improved PPE or additional needs for PPE.

## 813.4 HEARING PROTECTION

Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed industry standards for use at firing ranges (29 CFR 1910.95; Minn. R. 5205.0010).

## 813.5 EYE PROTECTION

Approved eye protection, including side protection, shall be used by members during firearms training. Eye protection for members who wear prescription lenses shall incorporate the

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## *Personal Protective Equipment*

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prescription (e.g., eye protection that can be worn over prescription lenses). Members shall ensure their eye protection does not interfere with the fit of their hearing protection.

The Firearms Instructor shall ensure eye protection meets or exceeds consensus standards set by the American National Standards Institute (29 CFR 1910.133; Minn. R. 5205.0010).

### **813.6 RESPIRATORY PROTECTION**

Supervisory personnel are responsible for ensuring a respiratory protection plan is developed and maintained by a trained and qualified member. The plan shall include procedures for (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) Selecting appropriate respiratory PPE based on hazards and risks associated with functions or positions.
- (b) Fit testing, including identification of members or contractors qualified to conduct fit testing.
- (c) Medical evaluations.
- (d) PPE inventory control.
- (e) PPE issuance and replacement.
- (f) Cleaning, disinfecting, storing, inspecting, repairing, discarding and otherwise maintaining respiratory PPE, including schedules for these activities.
- (g) Regularly reviewing the PPE plan.
- (h) Remaining current with applicable National Institute for Occupational Safety and Health (NIOSH), American National Standards Institute (ANSI), Occupational Safety and Health Administration (OSHA), Environmental Protective Agency (EPA) and state PPE standards and guidelines.

#### **813.6.1 RESPIRATORY PROTECTION USE**

Designated members may be issued respiratory PPE based on the member's assignment (e.g., a narcotics investigator who is involved in clandestine lab investigations).

Respiratory PPE may be worn when authorized by a scene commander who will determine the type and level of protection appropriate at a scene based upon an evaluation of the hazards present.

Scene commanders are responsible for monitoring members using respiratory PPE and their degree of exposure or stress. When there is a change in work area conditions or when a member's degree of exposure or stress may affect respirator effectiveness, the scene commander shall reevaluate the continued effectiveness of the respirator and direct the member to leave the respirator use area when the scene commander reasonably believes (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) It is necessary for the member to wash his/her face and the respirator facepiece to prevent eye or skin irritation associated with respirator use.

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- (b) The member detects vapor or gas breakthrough, or there is a change in breathing resistance or leakage of the facepiece.
- (c) The member needs to replace the respirator, filter, cartridge, or canister.

### 813.6.2 MEMBER RESPONSIBILITIES FOR RESPIRATORY PROTECTION

Members shall not use self-contained breathing apparatus (SCBA), full-face respirators, or cartridge respirators unless they have completed training requirements for the equipment.

Members exposed to environments that are reasonably known to be harmful due to gases, smoke, or vapors shall use respiratory PPE.

Members using respiratory PPE shall (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) Ensure that they have no facial hair between the sealing surface of the facepiece and the face that could interfere with the seal or the valve function. Members also shall ensure that they have no other condition that will interfere with the face-to-facepiece seal or the valve function.
- (b) Not wear corrective glasses, goggles, or other PPE that interferes with the seal of the facepiece to the face, or that has not been previously tested for use with that respiratory equipment.
- (c) Perform a user seal check per office-approved procedures recommended by the respirator manufacturer each time they put on a tight-fitting respirator.
- (d) Leave a respiratory use area whenever they detect vapor or gas breakthrough, changes in breathing resistance or leakage of their facepiece and ensure that the respirator is replaced or repaired before returning to the affected area.

### 813.6.3 RESPIRATOR FIT TESTING

No member shall be issued respiratory PPE until a proper fit testing has been completed by a designated member or contractor (29 CFR 1910.134; Minn. R. 5205.0010).

After initial testing, fit testing for respiratory PPE shall be repeated (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) At least once every 12 months.
- (b) Whenever there are changes in the type of SCBA or facepiece used.
- (c) Whenever there are significant physical changes in the user (e.g., obvious change in body weight, scarring of the face seal area, dental changes, cosmetic surgery, or any other condition that may affect the fit of the facepiece seal).

All respirator fit testing shall be conducted in negative-pressure mode.

### 813.6.4 RESPIRATORY MEDICAL EVALUATION QUESTIONNAIRE

No member shall be issued respiratory protection that forms a complete seal around the face until (29 CFR 1910.134; Minn. R. 5205.0010):

- (a) The member has completed a medical evaluation that includes a medical evaluation questionnaire.

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## *Personal Protective Equipment*

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- (b) A physician or other licensed health care professional has reviewed the questionnaire.
- (c) The member has completed any physical examination recommended by the reviewing physician or health care professional.

### **813.7 RECORDS**

Supervisory personnel are responsible for maintaining records of all:

- (a) PPE training.
- (b) Initial fit testing for respiratory protection equipment.
- (c) Annual fit testing.
- (d) Respirator medical evaluation questionnaires and any subsequent physical examination results.

1. These records shall be maintained in a separate confidential medical file.

The records shall be maintained in accordance with the office records retention schedule, 29 CFR 1910.1020 and Minn. R. 5205.0010.

### **813.8 TRAINING**

Members should be trained in the respiratory and other hazards to which they may be potentially exposed during routine and emergency situations.

All members shall be trained in the proper use and maintenance of PPE issued to them, including when the use is appropriate; how to put on, remove, and adjust PPE; how to care for the PPE; and the limitations (29 CFR 1910.132; Minn. R. 5205.0010).

Members issued respiratory PPE shall attend annual training on the proper use of respiratory protection devices (29 CFR 1910.134; Minn. R. 5205.0010).

### **813.9 LIFE JACKETS**

The Sergeant should ensure watercraft used by members are equipped with U.S. Coast Guard approved life jackets and that members who work over or near water where there is a danger of drowning are provided properly fitting U.S. Coast Guard approved life jackets.

Members are responsible for wearing provided life jackets when working over or near water where there is a danger of drowning.

Each member is responsible for inspecting the member's provided life jacket before and after each use. Damaged or defective jackets should be taken out of service and the Sergeant notified so a replacement can be issued.



## Chapter 9 - Firearm Permits

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## Permit to Carry a Pistol

### 900.1 PURPOSE AND SCOPE

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

### 900.2 QUALIFIED APPLICANTS

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

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

### 900.3 APPLICATION PROCESS

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

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

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## *Permit to Carry a Pistol*

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

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

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

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

### **900.3.1 ADDITIONAL STATE REQUIREMENTS**

An applicant should not be denied a permit based solely on the applicant's participation in the medical cannabis registry program or if the applicant is of legal age and uses adult-use cannabis or other legal cannabis-related products (Minn. Stat. § 624.7152).

### **900.4 EMERGENCY PERMIT**

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

### **900.5 SUSPENDING APPLICATION OR PERMIT**

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

### **900.6 VOIDING OR REVOKING PERMIT**

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

The Sheriff may file a petition with the district court for an order to revoke the permit on the grounds that there is a substantial likelihood that the person is a danger to him/herself or to the public if he/

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## *Permit to Carry a Pistol*

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she is authorized to carry a pistol under permit. The court shall issue an order revoking the permit if the Sheriff proves such danger by clear and convincing evidence.

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

### **900.7 APPLICATION FOR RENEWAL**

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

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

### **900.8 CARRYING FIREARMS IN RESTRICTED AREAS**

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

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

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## *Permit to Carry a Pistol*

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- (j) Any jail, lockup, or correctional facility (Minn. Stat. § 641.165).
- (k) Offices and courtrooms of the Minnesota Supreme Court and Court of Appeals as established by order of the court. Violation of such a ban by a permit holder may be enforced as civil or criminal contempt of court but is not a violation of the carry permit law.
- (l) In a field while hunting big game by archery unless permitted by Department of Natural Resources regulations. (Minn. Stat. § 97B.211; Minn. Stat. § 97B.411).
- (m) In federal court facilities or other federal facilities (18 USC § 930).

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

### **900.9 RECOGNITION OF PERMITS FROM OTHER STATES**

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

## Retiree Concealed Firearms

### 901.1 PURPOSE AND SCOPE

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

### 901.2 POLICY

It is the policy of the Lyon County Sheriff's Office to provide identification cards to qualified former or retired deputies as provided in this policy.

### 901.3 LEOSA

The Sheriff may issue an identification card for LEOSA purposes to any former deputy of this office who (18 USC § 926C(c)):

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

#### 901.3.1 LEOSA IDENTIFICATION CARD FORMAT

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

If the Lyon County Sheriff's Office qualifies the former deputy, the LEOSA identification card or separate certification should indicate the date the former deputy was tested or otherwise found by the Office to meet the active duty standards for qualification to carry a firearm.

#### 901.3.2 AUTHORIZATION

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

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

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## Retiree Concealed Firearms

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

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

### **901.4 FORMER DEPUTY RESPONSIBILITIES**

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

#### **901.4.1 RESPONSIBILITIES UNDER LEOSA**

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

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

### **901.5 DENIAL, SUSPENSION OR REVOCATION**

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

### **901.6 FIREARM QUALIFICATIONS**

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

# Handgun Purchase and Transfer Permit

## 902.1 PURPOSE AND SCOPE

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

## 902.2 APPLICATION PROCESS

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

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

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

## 902.3 INVESTIGATION

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

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

## 902.4 GROUNDS FOR DISQUALIFICATION

The Sheriff shall deny a permit to an applicant when the applicant is prohibited by state or federal law from possessing a pistol or semiautomatic military-style assault weapon, determined to be a danger to themselves or the public when in possession of a firearm, or listed in the criminal gang investigative data system (Minn. Stat. § 624.7131, Subd. 4).

## 902.5 GRANTING OR DENIAL OF PERMIT

The Sheriff shall issue a transferee permit or deny the application within 30 days of application for the permit. The permits and their renewal shall be granted free of charge (Minn. Stat. § 624.7131, Subd. 5).

The Sheriff shall provide an applicant with written notification of a denial and the specific reason for the denial (Minn. Stat. § 624.7131, Subd. 5).



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When the refusal to grant a permit is due to a substantial likelihood that the applicant is a danger to themselves or the public when in possession of a firearm, the written notification shall provide the specific factual basis justifying the denial, including the source, and inform the applicant that they may submit additional documentation within 20 business days (Minn. Stat. § 624.7131, Subd. 4).

Upon receipt of additional documentation, the Sheriff shall reconsider the denial and inform the applicant within 15 business days of the result of the reconsideration. A notice of denial after reconsideration must be in the same form and substance as the original denial, specifically address any continued deficiencies, and inform the applicant of the right to judicial review of the denial (Minn. Stat. § 624.7131, Subd. 4).

A permit holder whose permit was denied may seek a judicial review by filing a petition in the district court for the county in which the application was submitted (Minn. Stat. § 624.7131, Subd. 8).

### **902.6 VOIDING OR REVOKING PERMIT**

The permit becomes void at the time that the holder becomes prohibited from possessing or receiving a pistol under Minn. Stat. § 624.713, in which event the holder is required to return the permit within five days to the Office.

The Sheriff shall revoke a permit once they become aware the permit holder is ineligible to possess firearms and shall provide the holder with written notice (Minn. Stat. § 624.7131, Subd. 7).

## Chapter 10 - Custody

# Custodial Searches

## 1000.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Lyon County Sheriff's Office facility. Such items can pose a serious risk to the safety and security of office members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

### 1000.1.1 DEFINITIONS

Definitions related to this policy include:

**Custody search** - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

**Physical body cavity search** - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

**Strip search** - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

## 1000.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

## 1000.3 FIELD AND TRANSPORTATION SEARCHES

A deputy should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any office vehicle.

Whenever practicable, a custody search should be conducted by a deputy of the same sex as the person being searched. If a deputy of the same sex is not reasonably available, a witnessing deputy should be present during the search.

# Lyon County Sheriff's Office

Lyon County SO Policy Manual

## *Custodial Searches*

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### **1000.4 SEARCHES AT SHERIFF'S FACILITIES**

Custody searches shall be conducted on all individuals in custody, upon entry to the Lyon County Sheriff's Office facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

#### **1000.4.1 PROPERTY**

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this office, such as weapons or large items. These items should be retained for safekeeping in accordance with the Deputy Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another office member. The inventory should include the case number, date, time, member's Lyon County Sheriff's Office identification number and information regarding how and when the property may be released.

#### **1000.4.2 VERIFICATION OF MONEY**

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The office member sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

### **1000.5 STRIP SEARCHES**

No individual in temporary custody at any Lyon County Sheriff's Office facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

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## *Custodial Searches*

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- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
  - 1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.
- (c) Custody history (e.g., past possession of contraband while in custody, assaults on office members, escape attempts).
- (d) The individual's actions or demeanor.
- (e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

### 1000.5.1 STRIP SEARCH PROCEDURES

Strip searches at Lyon County Sheriff's Office facilities shall be conducted as follows (28 CFR 115.115):

- (a) Written authorization from the Sergeant shall be obtained prior to the strip search.
- (b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.
- (d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.
- (e) Members conducting a strip search shall not touch the breasts, buttocks, or genitalia of the individual being searched.
- (f) The primary member conducting the search shall prepare a written report to include:
  - 1. The facts that led to the decision to perform a strip search.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.
  - 3. The written authorization for the search, obtained from the Sergeant.
  - 4. The name of the individual who was searched.
  - 5. The name and sex of the members who conducted the search.
  - 6. The name, sex, and role of any person present during the search.
  - 7. The time and date of the search.
  - 8. The place at which the search was conducted.

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## *Custodial Searches*

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9. A list of the items, if any, that were recovered.
  10. The facts upon which the member based their belief that the individual was concealing a weapon or contraband.
- (g) No member should view an individual's private underclothing, buttocks, genitalia, or female breasts while that individual is showering, performing bodily functions, or changing clothes, unless the individual otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect the individual's privacy and dignity.

### 1000.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with Sergeant authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Sergeant authorization does not need to be in writing.

### 1000.6 PHYSICAL BODY CAVITY SEARCH

Physical body cavity searches shall be subject to the following:

- (a) No individual shall be subjected to a physical body cavity search without written approval of the Sergeant and only upon a search warrant or approval of legal counsel. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).
- (b) Only a physician may conduct a physical body cavity search.
- (c) Except for the physician conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary office members needed to maintain the safety and security of the medical personnel shall be present.
- (d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.
- (e) All such searches shall be documented, including:
  1. The facts that led to the decision to perform a physical body cavity search of the individual.

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## *Custodial Searches*

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2. The reasons less intrusive methods of searching were not used or were insufficient.
  3. The Sergeant's approval.
  4. A copy of the search warrant.
  5. The time, date, and location of the search.
  6. The medical personnel present.
  7. The names, sex, and roles of any office members present.
  8. Any contraband or weapons discovered by the search.
- (f) A copy of the written authorization shall be retained and shall be provided to the individual who was searched or other authorized representative upon request.

### **1000.7 TRAINING**

The Sergeant shall ensure members have training that includes (28 CFR 115.115):

- (a) Conducting searches of cross-gender individuals.
- (b) Conducting searches of transgender and intersex individuals.
- (c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

### **1000.8 GENDER IDENTITY OR EXPRESSION CONSIDERATIONS**

If an individual who is subject to a strip search or physical body cavity search has a gender identity or expression that differs from their sex assigned at birth, the search should be conducted by members of the same gender identity or expression as the individual, unless the individual requests otherwise.

### **1000.9 JUVENILES**

No juvenile should be subjected to a strip search or a physical body cavity search at the Office.

The Sheriff or the authorized designee should establish procedures for the following:

- (a) Safely transporting a juvenile who is suspected of concealing a weapon or contraband, or who may be experiencing a medical issue related to such concealment, to a medical facility or juvenile detention facility as appropriate in the given circumstances.
  1. Procedures should include keeping a juvenile suspected of concealing a weapon under constant and direct supervision until custody is transferred to the receiving facility.
- (b) Providing deputies with information identifying appropriate medical and juvenile detention facilities to which a juvenile should be transported for a strip or body cavity search.

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## *Custodial Searches*

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Nothing in this section is intended to prevent a deputy from rendering medical aid to a juvenile in emergency circumstances (see the Medical Aid and Response Policy for additional guidance).



## Attachments

## Model Sexual Assault Investigation Policy 021921.pdf

**POST UOF and DEADLY UOF Model Policy.pdf**

## Adoption of County Schedule.pdf

Minnesota Historical Society  
 Division of Archives and Manuscripts  
 1500 Mississippi Street  
 St. Paul, MN 55101  
 612-296-6980 1-800-652-9747

## NOTIFICATION OF ADOPTION OF COUNTY GENERAL RETENTION SCHEDULE

1. Complete this form and send the original and 2 copies to the Government Records Archivist at the above address.
2. Destruction of records according to the general schedule is NOT permitted until this form is signed by the Minnesota Historical Society.

County <p style="text-align: center;">Lyon County</p>	Telephone (include area code) <p style="text-align: center;">507-537-7666</p>
Street Address <p style="text-align: center;">611 W. Main St., PO Box #28</p>	City, Zip Code <p style="text-align: center;">Marshall, MN 56258</p>

This is to notify the Minnesota Historical Society that the county named above has officially adopted the Minnesota County General Records Retention Schedule (November, 1985). Counties are advised to adopt the entire schedule. If this is not possible, individual sections may be adopted. ("X" the appropriate items.)

The County Adopts the Entire Schedule.

The County Adopts Only the following Sections:

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Administration<br><input type="checkbox"/> Assessor<br><input type="checkbox"/> Attorney<br><input type="checkbox"/> Auditor<br><input type="checkbox"/> Community Health/Nursing Service<br><input type="checkbox"/> Highway | <input type="checkbox"/> Human Services/Public Welfare<br><input type="checkbox"/> Library<br><input checked="" type="checkbox"/> Medical Examiner/Coroner<br><input type="checkbox"/> Parks and Recreation<br><input type="checkbox"/> Personnel<br><input type="checkbox"/> Planning<br><input type="checkbox"/> Public Defender | <input type="checkbox"/> Recorder<br><input checked="" type="checkbox"/> Records Common to all Departments<br><input checked="" type="checkbox"/> Sheriff/Law Enforcement<br><input type="checkbox"/> Survey<br><input type="checkbox"/> Treasurer<br><input type="checkbox"/> Veterans Service |
|--|--|---|

Name/Title of County Official (print) <p style="text-align: center;">Mark M. Mather, Sheriff</p>	Signature of County Official <span style="float: right;">Date</span> <p style="text-align: center;"><i>Mark M. Mather</i> <span style="float: right;">11 January 2016</span></p>
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The Minnesota Historical Society acknowledges your Notification of Adoption of the County General Retention Schedule. You are authorized to retain and dispose of records as indicated on the Schedule.

Director or Designee, Minnesota Historical Society <span style="float: right;">Date</span> <p style="text-align: center;"><i>Charles L. Rodger</i> <span style="float: right;">13 Jan 2016</span></p>
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## Retention Schedules.pdf

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
1. ANNUAL REPORTS		Publ	MS 13.03				Retain permanently or transfer to the State Archives.	Y
2. ATTENDANCE RECORDS Sick leave, vacations, paid and unpaid leave requests, compensation, time sheets, part-time claims. Department copies.		Publ Priv	MS 13.03 MS 13.43				2 yrs.	N
3. BUDGET/BUDGET RECORDS Budget proposals; approved budget. Includes supporting data and monthly department budget report.		Publ	MS 13.03				2 yrs.	N
4. BILLING CLAIMS Monthly expense records for department expenses, purchase orders, invoices, claim forms, accounts payable forms, etc.		Publ	MS 13.03				6 yrs.	N
5. CONTRACT/AGREEMENTS Copies of contracts and agreements entered into with agencies and businesses and other pertinent information, i.e. selection process of vendor, equipment and bid specifications.		Publ	MS 13.03				10 yrs. after contract has expired.	N
6. CORRESPONDENCE a. Routine correspondence and memorandums between departments, administration, and other agencies. b. County Administrator/Executive Secretary/County Executive correspondence and subject files of a policy making nature.			Varies with subject of correspondence.				3 yrs.	N
							3 yrs., then transfer to the State Archives for selection and disposition.	Y

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
7. GRANTS State and Federal.		Publ Priv	MS 13.03				6 yrs. after grant agreement expires unless agreement dictates otherwise.	N
8. INVENTORY Physical inventory of furnishings and equipment in department.		Publ	MS 13.03				Until superseded.	N
9. LABOR RELATIONS RECORDS Includes copies of contracts between management and various unions; background bargaining information; records on grievances and disciplinary actions and how they were settled. (Not originals, for originals/master copies of union contracts and labor dispute data see Personnel Section of this schedule, items 20 & 21.)		Publ Priv Non- Publ	MS 13.03 MS 13.43 MS 13.37				Until superseded.	N
10. LEGISLATIVE FILE Records on pending legislation with which department has interest.		Publ	MS 13.03				Review annually and dispose of obsolete material.	N
11. MEETING MINUTES Minutes recording actions taken in meetings necessary for the management of the department and its activities. (Originating department only.) Does not include County Board minutes. The State Archives wishes to have transferred minutes of county committees and governing boards.		Publ	MS 13.03				6 yrs., then transfer to the State Archives for selection and disposition.	Y



RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
12. MEETING MINUTES Tape recordings of meetings.		Publ	MS 13.03				Tapes may be reused or discarded 1 yr. after formal approval of written minutes by board. Tape recordings cannot be the permanent record.	N
13. PERSONNEL POLICY FILE Memos and directives on personnel policies and actions.		Publ	MS 13.03				Until superseded.	N
14. PERSONNEL RECORDS Department copies of personnel records of employee's employment history; may include applications, resumes, accident reports; disciplinary actions, promotions, reclassification consideration, performance reviews.		Publ Priv	MS 13.03 MS 13.43				Until employee's termination.	N

\*\*SEE OTHER SECTIONS OF THIS GENERAL SCHEDULE FOR RECORDS SERIES NOT LISTED HERE.

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
1. ACCIDENT REPORTS Officers report of an accident investigation conducted by him/her and required by State Law, indicating drivers names, DOB, address, passengers, cause of accident, amt. of damage, injuries, and drawing of accident with description.	MS 169.09, Subd. 9	Priv Conf	MS 169.09, Subd. 13		Required by MN Dept. of Public Safety, and original must be sent to State Dept. of Transportation. Required in the possible event of civil action or criminal action as a result thereof.	Officers, Party involved or his designee, Public Safety	3 yrs.	N
2. ACCOUNTS PAYABLE RECORDS Copies of monthly abstracts for bills.		Publ	MS 13.03				2 yrs.	N
3. ADMISSION RELEASE RECORDS	Dept. of Corr. Rules 2910.2100	Publ Priv	MS 13.03 MS 13.82				2 yrs. after inmate discharge.	N
4. ADULT CASE FILES Written reports of investigation or action taken by deputy. Reports regarding criminal investigations and non-criminal action taken or investigated including miscellaneous reports, criminal offense reports, and supporting documents.		Publ Priv Conf	MS 13.03 MS 13.82				10 yrs. unless homicide, then retain permanently.	N
5. APPREHENSION AND DETENTION ORDERS Orders from Court/Probation Officers with reference to the rules sent forth regarding an inmate during his incarceration and often for behavior and rules afterward.	MS 241 - 244 MS 401 MS 629.13 MS 629.22	Publ	MS 13.03 MS 13.82 MS 243.05	Post Curr	Legal documents justifying purpose of detaining an individual.	Records Personnel, Jailers	Until inmate off probation.	N

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
6. ARSON Arson reporting immunity law, disclosure of information insurance company to release to authorized person.	MS 299F.054						6 yrs.	N
7. BOARD OF PRISONERS BILLING Bills sent to other jurisdictions for boarding their prisoners.		Publ	MS 13.03				2 yrs.	N
8. BOOKKEEPING RECORDS FOR JAIL AND CIVIL PROCESS TRANSACTIONS Records of deposit slips, transaction records within the system, prisoner and Hueber transactions, billing and receipting of fees to/from other agencies and attorneys.		Publ	MS 13.03		Enables proper receipting to Auditor/Treas. records of monthly transactions within Sheriff's Dept.	State and County Auditor, County Board	6 yrs.	N
9. CHILD ABUSE/MALTREATMENT OF MINORS a. Substantiated Reports: Records maintained by police/welfare with availability to prosecuting authority for disclosure of name of substantiated report.	MS 626.556	Priv Conf	MS 626.556, Subd. 7,11,13		To compile an investigation of ongoing case for possible use in criminal process.	Law Enforcement, Co. Attny., and Social Service Agency	7 yrs. after date of final entry in case record. MS 626.556, Subd. 11 (b)	N
b. Unsubstantiated Reports							1 yr. See statute for procedure. MS 626.556, Subd. 11 (a, c)	N
10. CIVIL ACTION BOOKS Lists date, type of action, attorney, plaintiff, defendant, fees charged for all actions served.		Publ	MS 13.03				20 yrs.	

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
11. CIVIL PROCESSES (SHERIFF'S DAY BOOK) The means by which court obtains jurisdiction over a cause of action to determine personal or property rights and the authority to enforce its orders against all parties to the action.	MS 387.03 MS 387.05 MS 387.20, Subd. 5	Publ Priv	MS 13.03				5 yrs.	N
12. COMMITMENTS: ADULT Order of the court showing the name of the person to be committed and the location of the commitment.	MS 641.04	Publ	MS 13.03 MS 13.82 MS 243.49	Pre Post Curr	Required by Soc. Serv. to legally hold incarcerated persons.		5 yrs.	N
13. COMMITMENTS: JUVENILE Order of the court showing the name of the person to be committed and the location of the commitment. Legal doc. from sentencing court which authorizes confinement at the jail facility.	MS 260.161	Priv	MS 260.161			Seek permission from Juvenile Court to destroy when ju- venile reaches 18.		N
14. CONTINGENT FUND RECORDS Documents relating to funds received from and paid back to Sheriff's Contingent Fund; County claims, travel requests and documentation of claim.		Publ	MS 13.03				6 yrs.	N
15. COURT ORDERS FROM COURT SERVICES AND PROBATE COURT Documents relating to orders to sheriff to find and take into custody certain individuals for the court.		Publ	MS 13.03 MS 13.84, Subd. 5				5 yrs.	N
16. COURT ORDERS SERVED WORKSHEET Worksheet showing date received, issuing court, plaintiff, defendant, person served, attorney of record, letter of instruction, if sent.		Publ	MS 13.03				5 yrs.	N

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
17. CRIMINAL RECORDS Availability for public employment or licensing purposes. Convenience copy from BCA, NCIC-FBI, or NLETS.	MS 299C.10	Priv	MS 364.04		BCA & FBI requirements.	Law Enforcement Officers, RCA and FBI Agents; Data subject or his designee	Destroy immediately after usefulness.	N
18. CRIMINAL WARRANTS - CANCELLED Documents relating to warrants of arrest issued by courts that have been cancelled.		Publ	MS 13.03				5 yrs. or return to court when no longer in effect or valid.	N
19. DELINQUENT MOBILE HOME TAX BOOKS Books showing delinquent mobile home taxes for warrants and citations, correspondence, receipt books showing money collected and dispersed.		Publ	MS 13.03				6 yrs.	N
20. DELINQUENT TAX RECEIPTS Receipts issued to person/company for delinquent personal property taxes. List also given to Clerk of District Court.	MS 277.03 MS 277.05	Publ	MS 13.03				6 yrs.	N
21. NOTIFICATION OF PERSONS RELEASED FROM STATE CORRECTIONAL FACILITIES To advise sheriff that person released is in his jurisdiction. Copy from the statewide criminal justice telecommunications network.	MS 241.06	Publ	MS 241.06			Law Enforcement Personnel	Destroy at the discretion of the receiving agency.	N
22. EXECUTIONS SERVED WORKSHEETS Time card showing employee's activities. Daily log of staff.		Publ	MS 13.03				6 yrs.	N
23. EXPLOSIVE USE PERMITS Applicants name, address and personal information to be checked with the BCA for clearance to obtain an explosive use permit.	MS 299F.75	Priv				BCA and Law Enforcement Staff	3 yrs.	N

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
24. FIREARM APPLICATIONS/PERMITS Applicant names, addresses, and personal information. Permits are to obtain and or carry a handgun. Includes application to purchase and a copy of the firearm permit to carry.		Priv	MS 13.36			Law Enforcement Staff	Permanent	N
25. FOOD SERVICE RECORDS		Publ	MS 13.03				1 yr.	N
26. GUNSHOT WOUND REPORT Physicians, surgeons, hospital mgrs. and other health professionals shall report gunshot wounds they treat to the Sheriff.	MS 626.52 MS 626.53, Subd. 1	Conf				Law Enforcement Staff, Law agency offices	7 yrs.	N
27. HUEBER RELEASE RECORDS Permission from the courts to allow for inmate work outside the jail, sign in/out sheets for control of hours worked, record of payment for this privilege, and monies paid to the court by their order.		Publ	MS 13.03	Pre Post Curr	For control of prisoner in/out activity while working away from the jail, aid in billing process.	Jail Staff, Auditor, Courts	6 yrs.	N
28. INITIAL COMPLAINT REPORT First record of all calls for service or reports of offenses received. Date and time call was received; name of victim, witness or reporting party; times showing when deputy was assigned, arrived and cleared; who took call, short narrative.		Publ Priv Conf	MS 13.03 MS 13.80 MS 13.82				3 yrs.	N
29. INITIAL COMPLAINT REPORTS OF TRANSPORTS OF PRISONERS Documents relating to all transportations of individuals showing date, time, name of person, by whom, and to where transported.		Publ	MS 13.03 MS 13.82				3 yrs.	N

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
30. INCIDENT COMPLAINT LOGS (DOCKETS) Including:								
a. Chronological record of events.	MS 387.04 11 MCAR, Sec. 2.006	Publ	MS 13.03 MS 13.82				5 yrs., then transfer to State Archives for selection and disposition.	
b. I.D. of undercover agents, informants, victims of sexual assault or intra-familial sex abuse.	MS 299C.065 MS 387.04	Priv Conf	MS 13.82 MS 299C.065, Subd. 4				5 yrs.	N
c. Arrest warrant indices until taken into custody, served or appear before court.	MS 299C.065 MS 387.04	Publ Conf	MS 13.03 MS 13.82, Subd. 12				5 yrs.	N
d. Description of stolen, lost or recovered property.	MS 299.065 MS 387.04	Priv Non-Publ	MS 13.82, Subd. 13				5 yrs.	N
e. Program data.	MS 299C.06 MS 387.04 11 MCAR, Sec. 2.006	Conf Prot Non-Publ	MS 13.82, Subd. 14				5 yrs.	N
f. Deliberative processes or investigative techniques, final opinion or justification.	MS 299C.06 MS 387.04	Publ Conf Prot Non-publ	MS 13.03 MS 13.82, Subd. 16				5 yrs.	N
g. Inmate count report.		Publ	MS. 13.03		Lists name of inmate, offense, date of sentence, court, term of sentence, days served, work release status.		5 yrs.	N

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
31. INMATE FINANCIAL RECORDS Records of inmates financial in/out status during incarceration.	MS 241.08 MS 241.09	Priv	MS 13.85	Pre Post Curr	All in/out money transactions taking place on each inmate account during incarceration.	Jail Staff	2 yrs.	N
32. INMATE HISTORY CARD Summary card showing all transactions involving individual inmates, filed after discharge, and kept in booking room during the incarceration.	Laws of 1975, Chap. 201, Sec 1 Laws 1977, Chap. 453, Sec. 4, Subd. 3	Priv	MS 13.69 MS 13.82 MS 243	Pre Post Curr	History card is record of name date of birth, address, next of kin, date in/out, offense, length of sentence, length of stay, type of discharge.	Jail Staff, Data subject and any other party the data subject has given informed consent	Retain permanently or transfer to the State Archives.	Y
33. INMATE INCIDENT REPORTS Jailer/Officers report giving particulars in case of accident/incident to inmate while incarcerated in the Jail. Such incident will also be located in the daily log.	MS 176.231	Publ Priv	MS 13.03 MS 13.85 MS 176.231		For use in maintaining records in the instance of pending civil suits; and the collection of data for Corrections in the proper control of Jail.	Dept. of Corr., Jail Staff	2 yrs.	N
34. INMATE MEDICAL RECORD Any and all medical activity involving each inmate during incarceration; all doctors visits, doctors directions, medicine administered and directed, medical complaints and doctor's name seen or consulted.	MS 13.42 MS 241.69	Priv	MS 13.42 MS 13.85 NCAR 2	Pre Post Curr	Record maintenance of inmate as directed by Dept. of Corr Rules.	Jail Staff, Dept. of Corrections	2 yrs. after inmate discharged.	N
35. INMATE VISITOR REGISTRATION LOG/JAIL VISITOR REGISTER Sign in log stating name of visitor, relation to inmate being seen, date, time, and name of inmate seen.	Dept. of Corr. Rules	Publ Priv	MS 13.03 MS 13.85 MS 241.251		Maintain records per Dept. of Corr. Rules.	Court, Jail Staff, Dept. of Corrections, Attorney	5 yrs.	N





RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
41. JUVENILE DETENTION BOOK Lists name, address, date of birth, offense, date of release, and date booked for all juveniles jailed.		Priv	MS 260.161				Permanent	N
42. LOCAL IDENTIFICATION FILE Local level only. Contains prisoner information including name, address, offense, date of birth, length of incarceration, arresting agency, nearest relative and historical information about a person's activities while in jail, mug shot, fingerprints in the local jurisdiction.		Publ	MS 13.03		To determine if persons under investigations have a current or previous criminal history in that jurisdiction.		5 yrs. after last contact. The BCA does not recommend retention of this data at all.	N
43. MALTREATMENT OF VULNERABLE ADULTS	MS 626.557, Subd. 10,12	Publ	MS 13.03		Case investigation for possible prosecution; future reference towards compiling history of re-occurrence.	Law Enforcement Staff, Courts, Social Services	7 yrs. MS 626.557, Subd. 12	N
a. Substantiated Reports: Records maintained by police/welfare with availability to prosecuting authority for disclosure of name of substantiated report.		Priv	MS 13.05, Subd. 7 MS 13.46, Subd. 2					
b. Unsubstantiated Reports		Conf	MS 626.557, Subd. 12				4 yrs. MS 626.557, Subd. 12	N
c. False Reports							2 yrs. MS 626.557, Subd. 12	N
44. MASTER INDEX: ADULTS Any and all instances of reporting any subject for action necessary by an officer, court dispositions regarding violations, and all criminal activity - any dealings with any subject needing police attention.	BCA CJIS	Publ Priv Conf	MS 13.03	Pre Post Curr	The method of control of the entire filing system within record system.	Law Enforcement Staff, Courts, Probation Dept., Corrections Dept.	10 yrs. after last contact.	N

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
45. MASTER INDEX: JUVENILE Any and all instances of reporting any subject for action necessary by an officer, court dispositions regarding violations, and all criminal activity - any dealings with any subject needing police attention.	B.C.A. CJIS	Publ Priv Conf	MS 13.03	Pre Post Curr	The method of control of the entire filing system within records system.	Law Enforcement Staff, Courts, Probation Dept., Corrections Dept.	10 yrs. after last contact.	N
46. MORTGAGE FORECLOSURE BOOKS AND WORKSHEETS Books showing mortgagor, mortgagee, date of sale, attorney of record, and purchase price.		Publ	MS 13.03				Retain books permanently or transfer to the State Archives; retain worksheets 10 yrs.	Y
47. OFFICER INVESTIGATIVE PROGRESS REPORTS Deliberative processes or investigative techniques, final opinion or justification. Officers views.		Publ Conf	MS 13.03 MS 13.82, Subd. 16		To maintain a record of the chronological order of the investigative process of the case for future possible court testimony.	Law Enforcement Personnel, Attorneys and Co. Attorney	As long as case file maintained.	N
48. OPERATION IDENTIFICATION ITEMIZATION A list of items marked with a selected number, location of such number, and article name, kept for any participating person.		Priv	MS 13.37, Subd. 1 (a)		Aid to citizens in event of theft or destruction as well as law enforcement.	Law Enforcement Personnel	Permanent	N
49. PRISONER PROPERTY ENVELOPES SHOWING SIGNED RELEASE Lists prisoner's name, date of arrest, and personal property taken from him before being put in a cell, and date and signature when items returned.		Publ Priv	MS 13.03 MS 13.82 MS 13.85				2 yrs. after release.	N
50. PROPERTY LISTS Description of stolen, lost, or recovered property.	MS 299C.065 MS 387.04	Priv Non- publ	MS 13.82, Subd. 13		For proper identification in case investigation process and recovery process.	Law Enforcement Personnel	2 yrs. after sheriff's sale.	N

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
51. RADIO/DISPATCH LOGS Documents relating to calls taken by dispatcher and referred to a County Police Dept.		Publ Priv Conf	MS 13.03 MS 13.82		Maintain accurate records of activity by date and time of occurrence, Court use.	Dept. of Corr., Attorneys, Courts, and Staff	5 yrs.	N
52. RECEIPT BOOKS Receipts made out for cash or property received.		Publ	MS 13.03				6 yrs.	N
53. SHERIFF'S TRUST FUND/CHECKING ACCOUNT RECORDS Bank statements, deposit slips, and cancelled checks of Sheriff's trust fund. All refund checks and deposits for civil process fees and trust account.		Publ	MS 13.03				6 yrs.	N
54. SHIFT ACTIVITY REPORT: SUPERVISORS Summary of department activity occurring during a supervisor/watch commander's shift.		Publ Priv Conf	MS 13.03 MS 13.43 MS 13.82 MS 13.85				2 yrs.	N
55. STAFF TRAINING RECORDS Records of hours of training for sheriff's personnel.							Until termination.	N
56. STATISTICAL REPORTS OF INMATES Monthly reports generated which show how many commitments have been received, number of inmates, when released, and time spent.	MS 241.06 MS 299C.05 MS 299C.06	Publ	MS 13.03 MS 13.82	Pre Post Curr			2 yrs.	N
57. SUMMONS, SUBPOENAS, AND COMPLAINTS SERVED, WORKSHEETS, AND OFFICERS LOGS Summary of department activity occurring during a supervisor/watch commander's shift.		Publ	MS 13.03 MS 13.82				5 yrs.	N

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
58. TDW SLIPS/REPORTS Record of all vehicles towed by dept.		Publ	MS 13.03				5 yrs.	N
59. WARRANT FILES Arrest warrant exists until taken into custody, served, or appear before court.	MS 299C.065 MS 387.04	Publ Conf	MS 13.03 MS 13.82, Subd. 12		Assist the Court System in bringing criminals before the Courts in cases of the law being broken or violated.	Law Enforcement Personnel, State, Fed., County	Until warrant cancelled.	N
60. WARRANTS FOR INTERCEPTING COMMUNICATIONS Court warrant approving interception of wire or oral communication.	MS 626A.06	Conf	MS 13.39				3 yrs.	N

\*\*SEE OTHER SECTIONS OF THIS GENERAL SCHEDULE FOR RECORDS SERIES NOT LISTED HERE.

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
1. AUTOPSY REPORT Brief clinical data about deceased person and detailed description of organs and pathological findings.	Laws 1981, Chap. 91 MS 390.11, Subd. 2,3 MS 390.32, Subd. 2,3	Priv Conf	MS 13.83	Pre Post Curr	Documentation of findings which assist in determining the cause and manner of death.	County Attorney, next of kin or authorized personnel or agency	20 yrs., then transfer to the State Archives.	Y
2. CASH LOG OF MONEY FROM DECEASED Journal of cash brought in and released.					Record of cash from deceased.		6 yrs.	N
3. CLOTHING FORM List of clothing accompanying the deceased.	MS 525.393	Priv	MS 13.83	Pre Post Curr	Inventory.	County Attorney, next of kin, authorized personnel or agency, or investigating law enforcement agency	10 yrs.	N
4. CORRESPONDENCE Letters to family members, correspondence with attorney and/or insurance personnel, and list of reports sent out.	Laws 1981, Chap. 91	Priv	MS 13.83	Pre Post Curr	Office Record.	County Attorney, next of kin or authorized personnel or agency	10 yrs.	N
5. DEATH CARD INDEX Index card giving name of deceased, date of death and case reference number.					Quick reference to locate a record.	Office Personnel	Retain permanently or transfer to the State Archives.	Y
6. DEATH CERTIFICATE Statistical data concerning deceased and cause and manner of death.	MS 14.221 MS 390.23 MS 390.32, Subd. 10 7 MCAR, Sec. 1.013 Sec. 1.014	Publ	MS 13.03 MS 13.83	Pre Post Curr	Official death record.	Minnesota Department of Health	10 yrs.	N

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
7. EXTERNAL EXAMINATION REPORT Description of external appearance of body, including type of clothing, and physical description noting any abnormalities.	Laws 1981, Chap. 91 7 MCAR, Sec. 1.014 (F)	Priv Conf	MS 13.83	Pre Post Curr	Documentation of findings which assist in determining the cause and manner of death.	County Attorney, next of kin, authorized personnel or agency, or investigating law enforcement agency	10 yrs.	N
8. INVESTIGATIVE REPORT Information about deceased gathered at the time of the initial investigation including history, physical findings, and past medical history.	Laws 1981, Chap. 91 7 MCAR, Sec. 1.014 (F)	Conf	MS 13.83	Pre Post Curr	Worksheet of data collected.	Intraoffice use only, however may be released at the discretion of the Medical Examiner or may be subject to subpoena	10 yrs.	N
9. LABORATORY TEST RESULTS Specific test performed and the results.	MS 390.11, Subd. 4 MS 390.32, Subd. 4	Priv Conf	MS 13.83	Pre Post Curr	Documentation of findings which assist in determining cause and manner of death.	County Attorney, next of kin, or authorized personnel or agency	10 yrs.	N
10. MEDICAL EXAMINER REPORT Final report on deceased. Includes history, toxicology, classification of death, and cause of death.	Laws 1981 Chap. 91 7 MCAR, Sec. 1.014 (F)	Priv Conf	MS 13.83	Pre Post Curr	Case summary.	County Attorney, next of kin, authorized personnel or agency or investigating law enforcement agency	20 yrs., then transfer to the State Archives.	Y
11. MORGUE LOG BOOK Name of deceased, location of death, physical description, removal information.	MS 525.393	Publ	MS 13.03	Pre Post Curr	Office record.		20 yrs., then transfer to the State Archives.	Y
12. NOTES Suicide notes or other written material left by the deceased.	MS 390.221	Priv Conf	MS 13.83	Pre Post Curr	Documentation of findings which assist in determining the cause and manner of death.	County Attorney, next of kin, authorized personnel or agency, or investigating law enforcement agency	10 yrs.	N

RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
13. PHOTOGRAPHS Kodachrome and prints taken at the scene of investigation and/or autopsy.	Laws 1981, Chap. 91 7 MCAR, Sec. 1.014 (F)	Priv Conf	MS 13.83	Pre Post Curr	Documentation of findings which assist in determining cause and manner of death.	County Attorney, next of kin, authorized personnel or agency	10 yrs.	N
14. POLICE REPORTS OR MEDICAL RECORDS Information gathered by police or physician either prior to or after death and submitted to this office to aid in determining cause and manner of death.	MS 390.32	Conf	MS 13.83	Pre Post Curr	Documentation of findings which assist in determining the cause and manner of death.	Intraoffice use only	10 yrs.	N
15. PROPERTY FORM Listing of personal effects accompanying the deceased to the morgue.	Laws 1981, Chap. 91, Subd. 10 MS 390.221 MS 525.393	Priv	MS 13.83	Pre Post Curr	Inventory.	County Attorney, next of kin, authorized personnel or agency or investigating law enforcement agency	10 yrs.	N
16. TOXICOLOGY JOURNAL Workbook listing type of toxic testing performed and the results.	Laws 1981, Chap. 91 MS 390.11, Subd. 4 MS 390.32, Subd. 4	Conf	MS 13.83	Pre Post Curr	Workbook.	Intraoffice use only, however may be subject to subpoena	10 yrs.	N
17. TOXICOLOGY LOG BOOK Information concerning the type of specimens obtained for testing.	Laws 1981, Chap. 91 MS 390.11, Subd. 4 MS 390.32, Subd. 4	Conf	MS 13.83	Pre Post Curr	Office record.	Intraoffice use only, however may be subject to subpoena	10 yrs.	N
18. TOXICOLOGY REPORT Results of toxicological studies performed on deceased person.	Laws 1981, Chap. 91	Priv Conf	MS 13.83	Pre Post Curr	Documentation of findings which assist in determining cause and manner of death.	County Attorney, next of kin, authorized personnel or agency	10 yrs.	N



RECORDS SERIES DESCRIPTION	ENABLING AUTHORITY	DATA CLASS	CITATION FOR CLASSIFICATION	PRE POST CURR	PURPOSE AND USE FOR COLLECTION	AUTHORIZED RECIPIENTS	RETENTION/STATUTE	ARCH
19. TOXICOLOGY REQUEST Form utilized within the department for requesting specific tests.	Laws 1981, Chap. 91 MS 390.11, Subd. 4 MS 390.32, Subd. 4	Conf	MS 13.83	Pre Post Curr	Office record.	Intraoffice use only	10 yrs.	N
20. X-RAY RECORDS X-ray films on deceased.	Laws 1981, Chap. 91 7 MCAR, Sec. 1.014 (F)	Priv Conf	MS 13.83	Pre Post Curr	Documentation of findings which assist in determining the cause and manner of death.	County Attorney, next of kin, or authorized personnel or agency	10 yrs.	N

NOTE: Any records relating to a homicide should be retained permanently.

\*\*SEE OTHER SECTIONS OF THIS GENERAL SCHEDULE FOR RECORDS SERIES NOT LISTED HERE.

## Confidential Informants Model Policy .pdf

**Lyon Co. SO-MN Data Practices  
Act Spreadsheet PAGE 2.jpg**



## CI Agreement.pdf

# LYON COUNTY SHERIFF'S OFFICE

## Cooperating Individual Agreement

During my association with the LYON COUNTY SHERIFF'S OFFICE as a *Cooperating Individual (AKA Confidential Informant)*, I (the undersigned) do hereby agree to be bound by the following conditions and procedures while so associated:

1. \_\_\_\_\_ I agree that I have no police power under the State of Minnesota or any local government subdivision and have no authority to carry a weapon while performing my activity as a Cooperating Individual.
  
2. \_\_\_\_\_ I acknowledge that I am associated with the LYON COUNTY SHERIFF'S OFFICE as a Cooperating Individual on a case or time basis as an independent contractor and that any payment I receive from the LYON COUNTY SHERIFF'S OFFICE will not be subject to Federal or State Income Tax Withholding or Social Security. All reporting of income is the responsibility of the Cooperating Individual.
  
3. \_\_\_\_\_ I acknowledge that as a Cooperating Individual and independent contractor, I am not entitled to worker's compensation or unemployment compensation, and I shall not hold the LYON COUNTY SHERIFF'S OFFICE liable for any injuries or damages incurred while acting as a Cooperating Individual.
  
4. \_\_\_\_\_ I agree not to divulge to any person, except the Deputy/Investigator with whom I am associated, my status as a Cooperating Individual for the LYON COUNTY SHERIFF'S OFFICE unless required to do so in court and shall not represent myself to others as an employee or representative of the LYON COUNTY SHERIFF'S OFFICE.
  
5. \_\_\_\_\_ I agree not to use the LYON COUNTY SHERIFF'S OFFICE or any of its employees as credit references or employment references unless prior approval is obtained from the Deputy/Investigator with whom I am associated.
  
6. \_\_\_\_\_ I agree that my association with the LYON COUNTY SHERIFF'S OFFICE does not afford me any special privileges.
  
7. \_\_\_\_\_ I agree that I will submit to a search of my person, belongings or motor vehicle by a Deputy/ Investigator of the LYON COUNTY SHERIFF'S OFFICE who is utilizing my services to make a controlled purchase of a controlled substance.

# LYON COUNTY SHERIFF'S OFFICE

8. \_\_\_\_\_ I agree that after making a purchase or receiving anything of evidentiary value, I will contact an Investigator as soon as possible for delivery of such evidence to him/her.

9. \_\_\_\_\_ I agree to maintain a strict accounting of all funds provided to me by the LYON COUNTY SHERIFF'S OFFICE as part of my activity as a Cooperating Individual. I understand that misuse of public funds could be grounds for criminal prosecution against me.

10. \_\_\_\_\_ I agree I will not use the LYON COUNTY SHERIFF'S OFFICE address or telephone number for my own use (personal or private).

11. \_\_\_\_\_ I agree that violation of any of the above enumerated provisions will be grounds for immediate removal as a Cooperating Individual and the possible filing of criminal charges against me.

12. \_\_\_\_\_ I acknowledge that my association with the LYON COUNTY SHERIFF'S OFFICE as a Cooperating Individual is a basis to proceed with forfeiture of any property seized by the LYON COUNTY SHERIFF'S OFFICE as a result of my criminal activity and that this Agreement may be entered as evidence in a forfeiture action to prove my cooperation with the LYON COUNTY SHERIFF'S OFFICE.

13. \_\_\_\_\_ I am not receiving in-patient or out-patient treatment administered by a licensed service provider for substance abuse.

14. \_\_\_\_\_ I am not participating in a treatment-based drug court program.

_____	_____	_____
CI Printed Name	Signature	Date

_____	_____	_____
Deputy/Inv Printed Name	Signature	Date

_____	_____	_____
Sheriff Printed Name	Signature	Date

## Model Sexual Assault Investigation Policy.pdf



**Lyon Co. SO-MN Data Practices  
Act Spreadsheet PAGE 1.jpg**



**Cooperation Agreement (charges pending).pdf**

## COOPERATION AGREEMENT (Charges Pending)

THIS AGREEMENT is made between the State of Minnesota, by and through \_\_\_\_\_, hereinafter referred to as “Prosecuting Attorney”), The Lyon County Sheriff’s Office and \_\_\_\_\_ (DOB \_\_\_\_\_), (hereinafter referred to as “You”). By signing this document, both You and the Lyon County Sheriff’s Office agree to the following:

1. You agree to cooperate with \_\_\_\_\_ of the Lyon County Sheriff’s Office and such other law enforcement officers designated by \_\_\_\_\_ (hereinafter collectively referred to as “investigating officers”) by being truthful, honest, and candid about matters within your knowledge as they relate to criminal investigation. Your cooperation shall include the following duties:
  - A. You are to inform \_\_\_\_\_ of suspected criminal activities in the jurisdiction of the Lyon County Sheriff’s Office.
  - B. You must assist investigating officers to gather evidence necessary to criminally prosecute \_\_\_\_\_ (\_\_\_\_\_) suspected criminals. This will include purchasing or scheduling purchases of controlled substances and/or other contraband at the direction of \_\_\_\_\_ or any investigating officers.
  - C. You must call, meet, and communicate with \_\_\_\_\_ or any investigating officers when they tell you to do so.
  - D. You must participate in debriefings regarding what you have done and observed while making buys or when gathering evidence for \_\_\_\_\_ or any investigating officers.
  - E. You must submit to a device that detects lies or stress if it is related to your work as a CI.
  - F. You must submit to searches of your person, belongings, or motor vehicle, and allow the applications of surveillance devices by Deputy/ Investigators of the Lyon County Sheriff’s Office.
  - G. You must agree to testify in court at the request of any county, State and/or Federal Prosecutor or the controlling Investigator of the Sheriff’s Office.
  - H. You must meet with the Prosecuting Attorney prior to trial and provide him or her with information necessary to prepare for trial.
2. You are agreeing to purchase or to arrange the purchase of narcotics for subsequent prosecution. The cases contemplated by this agreement are for the possession or sale of sufficient controlled substance

amounts to result in the conviction of \_\_\_\_\_ (\_\_\_\_\_) individuals for a \_\_\_\_\_ Degree Controlled Substance crime pursuant to M.S.A. § §152.021 – 152.022.

Purchases must be corroborated to the satisfaction of the office of the Prosecuting Attorney by such means as taped telephone calls with the seller, body transmitter recordings of drug related conversations and transactions, and physical surveillance by law enforcement officers of purchases made by you or an undercover officer.

Corroboration will be sufficient if, in the opinion of the office of the Prosecuting Attorney, there is no reasonable doubt that the individual did in fact distribute narcotics to you or an undercover officer.

3. In exchange for your cooperation as described above and upon your complete performance of the terms of this agreement, the Prosecuting Attorney agrees to do the following:

**Refrain from prosecuting you for the crime of \_\_\_\_\_.**

4. What follows are **WARNINGS**. By signing this agreement, you are stating that you have read and understand the following warnings:
  - A. You do not have any police powers under the State of Minnesota or any local government subdivision. **This agreement DOES NOT make you a law enforcement officer**: You cannot arrest people like a law enforcement officer can; you cannot carry a concealed weapon. You cannot say that you are a law enforcement officer or that you are employed by law enforcement.
  - B. Confidentiality is an integral part of this Agreement. Unless under threat of contempt or perjury, you cannot tell people that you are a CI.
  - C. Do not purchase controlled substances or other contraband without obtaining the permission of an investigating officer first.
  - D. If the Sheriff's Office lends you money to purchase controlled substances or contraband, you are expected to use it for the Buy and return any funds not used. If you misuse the money, you will be prosecuted for theft.
  - E. When you purchase controlled substances or other contraband at the direction of investigating officers, you must give all of it to law enforcement. If you keep any of it, you will be prosecuted for possession of a controlled substance.
  - F. Neither the Prosecuting Attorney nor anyone from the Lyon County Sheriff's Office has authority to override Court Orders. While fulfilling this Cooperation Agreement, **it is your duty to**

**continue to comply with all conditions and restrictions imposed by bail, pretrial release, probation, parole, supervised release, restraining orders, or other court order.**

- 5. Understand that the Lyon County Sheriff's Office is paying you as an independent contractor and that you shall be solely responsible for determining the hours of activities in a manner in which such activities are undertaken. You understand that any payment received from the Lyon County Sheriff's Office will not be subject to federal or state income tax withholding or social security. All reporting of income to governmental agencies is your responsibility.
- 6. As an independent contractor, you are not entitled to workman's compensation or unemployment compensation from the Lyon County Sheriff's Office and you shall not hold the Lyon County Sheriff's Office or any assisting law enforcement agency liable for any injury or damage incurred by reason of your association with the Lyon County Sheriff's Office.
- 7. The terms of this Agreement shall be from \_\_\_\_ through \_\_\_\_.

The first controlled purchase of the contract needs to be completed adequately in the first (30 days)

- 8. This Agreement may be terminated immediately by the Lyon County Sheriff's Office, for violation of any of the above-enumerated provisions or for any other reason. In addition, the CI may be terminated at the Deputy/ Investigators discretion if there is no contact with CI within a 30 day period. Upon termination of this Agreement by its natural expiration or otherwise, you shall cease any efforts undertaken as a cooperating individual.

**I HAVE READ AND REVIEWED THE TERMS OF THE ABOVE COOPERATION AGREEMENT AND AGREE TO ABIDE BY ITS TERMS. I UNDERSTAND THE CONSEQUENCES OF MY FAILURE TO DO SO AND AM DOING SO FREELY AND VOLUNTARILY.**

Dated:            day of \_\_\_\_\_, 2022

CI Printed Name:

\_\_\_\_\_  
Signature of Cooperating Individual

Dated:            day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Prosecuting Attorney

Dated:            day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Lyon County Sheriff

## Eyewitness Identification Procedures Model Policy.pdf

## EYEWITNESS IDENTIFICATION PROCEDURES MODEL POLICY

Minn. Stat. 626.8433

### **POLICY:**

Officers shall adhere to the procedures for conducting eyewitness identifications set forth in this policy, in order to maximize the reliability of identifications, minimize erroneous identifications, and gather evidence that conforms to contemporary eyewitness identification protocols. Photo arrays and line-ups will be conducted by displaying the suspect and fillers sequentially using a blind or blinded administration.

### **Purpose:**

It is the purpose of this policy to establish guidelines for eyewitness identification procedures involving show-ups, photo arrays, and line-ups. Erroneous eyewitness identifications have been cited as the factor most frequently associated with wrongful convictions. Therefore, in addition to eyewitness identification, all appropriate investigative steps and methods should be employed to uncover evidence that either supports or eliminates the suspect identification.

### **Definitions:**

**Show-up:** The presentation of a suspect to an eyewitness within a short time frame following the commission of a crime to either confirm or eliminate him or her as a possible perpetrator. Show-ups, sometimes referred to as field identifications, are conducted in a contemporaneous time frame and proximity to the crime.

**Line-up:** The process of presenting live individuals to an eyewitness for the purpose of identifying or eliminating suspects.

**Photo Array:** A means of presenting photographs to an eyewitness for the purpose of identifying or eliminating suspects.

**Administrator:** The law enforcement official conducting the identification procedure.

**Blinded Presentation:** The administrator may know the identity of the suspect, but does not know which photo array member is being viewed by the eyewitness at any given time.

**Confidence Statement:** A statement in the witness's own words taken immediately after an identification is made stating his or her level of certainty in the identification.



**Filler:** A live person, or a photograph of a person, included in an identification procedure who is not considered a suspect.

**Sequential:** Presentation of a series of photographs or individuals to a witness one at a time.

**Simultaneous:** Presentation of a series of photographs or individuals to a witness all at once.

## **Procedure:**

### **1. Show-ups**

The use of show-ups should be avoided whenever possible in preference to the use of a lineup or photo array procedure. However, when circumstances require the prompt presentation of a suspect to a witness, the following guidelines shall be followed to minimize potential suggestiveness and increase reliability.

- a. Document the witness's description of the perpetrator prior to conducting the show up.
- b. Conduct a show-up only when the suspect is detained within a reasonably time frame after the commission of the offense and within a close physical proximity to the location of the crime.
- c. Do not use a show-up procedure if probable cause to arrest the suspect has already been established.
- d. If possible, avoid conducting a show-up when the suspect is in a patrol car, handcuffed, or physically restrained by officers, unless safety concerns make this impractical.
- e. Caution the witness that the person he or she is about to see may or may not be the perpetrator—and it is equally important to clear an innocent person. The witness should also be advised that the investigation will continue regardless of the outcome of the show-up.
- f. Do not conduct the show-up with more than one witness present at a time.
- g. Separate witnesses and do not allow communication between them before or after conducting a show-up.
- h. If one witness identifies the suspect, use a line-up or photo array for remaining witnesses.
- i. Do not present the same suspect to the same witness more than once.

- j. Do not require show-up suspects to put on clothing worn by, speak words uttered by, or perform other actions of the perpetrator.
- k. Officers should scrupulously avoid words or conduct of any type that may suggest to the witness that the individual is or may be the perpetrator.
- l. Ask the witness to provide a confidence statement.
- m. Remind the witness not to talk about the show-up to other witnesses until police or prosecutors deem it permissible.
- n. Videotape the identification process using an in-car camera or other recording device when feasible.
- o. Document the time and location of the show-up, the officers present, the result of the procedure, and any other relevant information.

## **Line-up and Photo Array Procedures**

### **2. Basic Procedures for Conducting a Line-up or Photo Array**

- a. Line-ups will not typically be utilized for investigations, unless conducting a photo array is not possible.
- b. Whenever possible, a blind presentation shall be utilized. In cases where a blind presentation is not feasible for a photo array, a blinded presentation should be used. Live line-ups must be conducted using a blind presentation.
- c. The line-up or photo array should consist of a minimum of six individuals or photographs. Use a minimum of five fillers and only one suspect.
- d. Fillers should be reasonably similar in age, height, weight, and general appearance and be of the same sex and race, in accordance with the witness's description of the offender.
- e. Avoid the use of fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
- f. Create a consistent appearance between the suspect and the fillers with respect to any unique or unusual feature (e.g., scars, tattoos, facial hair) used to describe the perpetrator by artificially adding or concealing that feature on the fillers.
- g. If there is more than one suspect, include only one in each line-up or photo array.

- h. During a blind presentation, no one who is aware of the suspect's identity should be present during the administration of the photo array. However, during a line-up, the suspect's attorney should be present.
- i. Place suspects in different positions in each line-up or photo array, both across cases and with multiple witnesses in the same case.
- j. Witnesses should not be permitted to see or be shown any photos of the suspect prior to the line-up or photo array.
- k. The witness shall be given a copy of the following instructions prior to viewing the line-up or photo array and the administrator shall read the instructions aloud before the identification procedure.

*You will be asked to look at a series of individuals.*

*The perpetrator may or may not be present in the identification procedure.*

*It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.*

*I don't know whether the person being investigated is included in this series.*

*Sometimes a person may look different in a photograph than in real life because of different hair styles, facial hair, glasses, a hat or other changes in appearance. Keep in mind that how a photograph was taken or developed may make a person's complexion look lighter or darker than in real life.*

*You should not feel that you have to make an identification. If you do identify someone, I will ask you to describe in your own words how certain you are.*

*The individuals are not configured in any particular order.*

*If you make an identification, I will continue to show you the remaining individuals or photos in the series.*

*Regardless of whether you make an identification, we will continue to investigate the incident.*

*Since this is an ongoing investigation, you should not discuss the identification procedures or results*

- l. The line-up or photo array should be shown to only one witness at a time; officers should separate witnesses so they will not be aware of the responses of other witnesses.
- m. Multiple identification procedures should not be conducted in which the same witness views the same suspect more than once.
- n. Officers should scrupulously avoid the use of statements, cues, casual comments, or providing unnecessary or irrelevant information that in any manner may influence the witnesses' decision-making process or perception.
- o. Following an identification, the administrator shall ask the witness to provide a confidence statement and document the witness's response.
- p. The administrator shall ask the witness to complete and sign an Eyewitness Identification Procedure Form.
- q. Line-up and photo array procedures should be video or audio recorded whenever possible. If a procedure is not recorded, a written record shall be created and the reason for not recording shall be documented. In the case of line-ups that are not recorded, agents shall take and preserve a still photograph of each individual in the line-up.

### 3. Photographic Arrays

#### a. Creating a Photo Array

1. Use contemporary photos.
2. Do not mix color and black and white photos.
3. Use photos of the same size and basic composition.
4. Never mix mug shots with other photos and ensure consistent appearance of photograph backgrounds and sizing.
5. Do not include more than one photo of the same suspect.
6. Cover any portions of mug shots or other photos that provide identifying information on the subject – and similarly cover other photos used in the array.
7. Where the suspect has a unique feature, such as a scar, tattoo, or mole or distinctive clothing that would make him or her stand out in the photo array, filler photographs should include that unique feature either by selecting fillers who have the same features themselves or by altering the photographs of fillers to the extent necessary to achieve a consistent appearance.
8. Fillers should not be reused in arrays for different suspects shown to the same witness.

#### b. Conducting the Photo Array

1. The photo array should be preserved, together with full information about the identification process as part of the case file and documented in a report.

2. If a blind administrator is not available, the administrator shall ensure that a blinded presentation is conducted using the following procedures.
  - a. Place the suspect and at least five filler photos in separate folders for a total of six (or more depending on the number of fillers used).
  - b. The administrator will take one folder containing a known filler and place it to the side. This will be the first photo in the series. The administrator should then shuffle the remaining folders (containing one suspect and the remainder of fillers) such that he or she cannot see how the line-up members are ordered. These shuffled folders will follow the first filler photo. The stack of photos is now ready to be shown to the witness.
  - c. The administrator should position himself or herself so that he or she cannot see inside the folders as they are viewed by the witness.
3. The witness should be asked if he or she recognizes the person in the photo before moving onto the next photo. If an identification is made before all of the photos are shown, the administrator should tell the witness that he or she must show the witness all of the photos and finish showing the sequence to the witness, still asking after each photo if the witness recognizes the person in the photo.
4. If possible, the array should be shown to the witness only once. If, upon viewing the entire array the witness asks to see a particular photo or the entire array again, the witness should be instructed that he or she may view the entire array only one additional time. If a second viewing is permitted, it must be documented.

#### 4. Line-ups

- a. Conducting the Line-up
  1. Live line-ups shall be conducted using a blind administrator.
  2. Ensure that all persons in the line-up are numbered consecutively and are referred to only by number.
- b. The primary investigating officer is responsible for the following:
  1. Scheduling the line-up on a date and at a time that is convenient for all concerned parties, to include the prosecuting attorney, defense counsel, and any witnesses.
  2. Ensuring compliance with any legal requirements for transfer of the subject to the line-up location if he or she is incarcerated at a detention center.
  3. Making arrangements to have persons act as fillers.
  4. Ensuring that the suspect's right to counsel is scrupulously honored and that he or she is provided with counsel if requested. Obtaining proper documentation of any waiver of the suspect's right to counsel.
  5. Allowing counsel representing the suspect sufficient time to confer with his or her client prior to the line-up and to observe the manner in which the line-up is conducted.

**References:**

Eyewitness Identification Procedure Form  
Sequential Photo Display Form

## CI Suitability and Personal History.pdf

# Lyon County Sheriff's Office Suitability Report

<b>Cooperating Individual Information</b>						
Activation Date:		CI Control Number:			FBI Number:	
Last Name:			First Name:		Middle Name:	
Date of Birth:		Sex:	Race:		Height:	
Weight:	Hair:	Eyes:	Facial hair:	Marital:	AKA/Nickname:	
Scars/Marks/Tattoos:						
Address:						
City:				State:	Zip:	
Cell Phone:			Home Phone:		Work Phone:	
Driver's License Number]				State:	Status:	
Occupation:			Employer:			
Employer Address:						
Pending Criminal Charges:						
<b>Vehicles</b>						
Year:	Make:		Model:		License #:	
State:						
Year:	Make:		Model:		License #:	
State:						
<b>Emergency Contact / Relatives &amp; Associates</b>						
Primary Contact:				Relation:		
Address:						
City:				State:	Zip:	



## Lyon County Sheriff's Office Suitability Report

Cell Phone:	Home Phone:	Work Phone:
Secondary Contact:		Relation:
Address:		
City:		State:      Zip:
Cell Phone:	Home Phone:	Work Phone:
<b>Probation/Parole/Supervised Release</b>		
Is the Cooperating Individual on Probation/Parole/Supervised Release? If NO – skip the rest of this section.		Yes <input type="checkbox"/> No <input type="checkbox"/>
County:	Charge:	
Probation/Parole/Supervised Release Agents Name:	Phone Number:	
The Probation/Parole/Supervised Release officer has been consulted:	Yes <input type="checkbox"/> No <input type="checkbox"/>	
Agents notes about the consultation:		
<b>Additional Required Information</b>		
Does the CI have a relationship to anyone in Law Enforcement?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
If yes, describe:		
Does the CI have prior or current service as a CI with this or another law enforcement organization?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
If yes, describe:		
Does the CI have a prior record as a witness?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
If yes, describe:		
Motivation for cooperation:		
<b>Substance Abuse and Safety Considerations</b>		
If the cooperating individual is known to be a substance abuser, or is at risk for substance abuse, he/she was provided a referral to prevention or treatment services. Use NA for no risk.	Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/>	

## Lyon County Sheriff's Office Suitability Report

If the cooperating individual has a physical or mental illness that impairs the ability of the prospective or current CI to understand instructions and make informed decisions he/she was 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.	Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/>
Has any physical or mental infirmity or other physical, mental, or emotional dysfunction that impairs the CI's ability to knowingly contract or otherwise protect the informant's self-interest been taken into consideration before the CI signed the agreement?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Primary investigator affirms that there has been consideration and documentation of the individual's diagnosis of mental illness, substance abuse, or disability; and history of mental illness, substance abuse, or disability	Yes <input type="checkbox"/> No <input type="checkbox"/>
Primary investigator affirms that there has been a consideration for the risk of physical harm to the potential CI or their immediate family or relatives for cooperating with law enforcement	Yes <input type="checkbox"/> No <input type="checkbox"/>

### Signatures

Deputy/INV Printed Name	Signature	Date
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Secondary Deputy/INV Printed Name	Signature	Date
-----------------------------------	-----------	------

Sergeant Printed Name	Signature	Date
-----------------------	-----------	------

**Sergeant Recommend to Approve**    Yes     No

Sheriff Printed Name	Signature	Date
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**Sheriff's Approval**    Yes     No

## Model Sexual Assault Investigation Policy 02.16.21.pdf

**MN Public Assembly-First  
Amendment Rights Model Policy .pdf**

## **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](#)**

### **1) 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.

### **2) POLICY**

The [\(law enforcement agency\)](#) 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 [\(law enforcement agency\)](#) ("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.

### 3) 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.

#### 4) 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.

#### 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.
-

## CI Deactivation Memo.pdf

LYON COUNTY SHERIFF'S OFFICE

Deactivation of Cooperating Individual – CI#

By my signature below, I (print name) \_\_\_\_\_, acknowledge termination of my position as a Cooperating Individual (CI) for the LYON COUNTY SHERIFF'S OFFICE.

If requested, the agency will provide and assist me with referral to health services for assistance with any substance abuse and/or physical, mental, or emotional health concerns.

Further, I understand that contractual agreements regarding monetary remuneration, criminal justice assistance, or other considerations whether specified or not, are hereby terminated.

CI Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Reason form not signed by CI: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_

Termination was:  Amicable  Non-Amicable

- Reason for Termination:  Objectives Met
 Objectives Not Met
 Voluntary Deactivation by CI
 Other

Notes:

Deputy/ Investigator Printed Name Signature Date

Sergeant Printed Name Signature Date

**MN POST Professional Conduct of  
Peace Officers Model Policy.pdf**



**CI CONTINUED Suitability.pdf**

# LYON COUNTY SHERIFF'S OFFICE

<b>Continuing Suitability Report</b>			
Activation Date:	CI Control Number:		
Last Name:	First Name:		
Address:			
City:	State:	Zip:	
Employment Status or Occupation:	Employer:		
Employer Address:			
<b>Probation/Parole/Supervised Release</b>			
Is the Cooperating Individual on Probation/Parole/Supervised Release? If NO – skip the rest of this section.		Yes <input type="checkbox"/>	No <input type="checkbox"/>
County:	Charge:		
Probation/Parole/Supervised Release Agents Name:	Phone Number:		
The Probation/Parole/Supervised Release officer has been consulted:	Yes <input type="checkbox"/>		No <input type="checkbox"/>
Agents notes about the consultation:			
<b>Additional Required Information</b>			
Does the CI have an affiliation with legitimate businesses and illegal or suspicious enterprises	Yes <input type="checkbox"/>		No <input type="checkbox"/>
If yes, describe:			
Describe the extent to which potential information, associations, or other assistance could benefit a present or future investigation:			
What is the CI's relationship with the target of the investigation:			
CI's motivation for cooperation:			
Does the CI pose a risk of adversely affecting an existing or future investigation	Yes <input type="checkbox"/>		No <input type="checkbox"/>
If yes, describe:			

# LYON COUNTY SHERIFF'S OFFICE

Describe the extent to which information provided by the CI can be corroborated:	
Does the CI have a prior record as a witness?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, describe:	
Is the CI the subject of a pending investigation, under arrest, or been charged with a crime within the past 6 months?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, describe:	
Is the CI a risk to the public or a flight risk?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Does the CI have a relationship to anyone in Law Enforcement?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, describe:	
Does the CI have prior or current service as a CI with this or another law enforcement organization?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, describe:	
<b>Substance Abuse and Safety Considerations</b>	
Primary investigator affirms that there has been consideration and documentation of the individual's diagnosis of mental illness, substance use disorder, traumatic brain injury, or disability	Yes <input type="checkbox"/> No <input type="checkbox"/>
Primary investigator affirms that there has been consideration and documentation of the individual's history of mental illness, substance use disorder, traumatic brain injury, or disability	Yes <input type="checkbox"/> No <input type="checkbox"/>
Primary investigator affirms that there has been consideration of risk of physical harm to the potential CI or their immediate family or relatives for cooperating with law enforcement	Yes <input type="checkbox"/> No <input type="checkbox"/>
<p><b>Note: 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.</b></p>	

# LYON COUNTY SHERIFF'S OFFICE

## Signatures

\_\_\_\_\_  
Deputy/INV Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secondary Deputy/INV Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sergeant Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Sergeant Recommend to Approve Continued Suitability** Yes  No

\_\_\_\_\_  
Sheriff Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Sheriff's Approval** Yes  No

**UOF Model Policy Revised 12-2021.pdf**

**USE OF FORCE AND DEADLY FORCE MODEL POLICY**  
MN STAT 626.8452

**1) PURPOSE**

It is the policy of the Lyon County Sheriff's Office 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**

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**

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**

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;
  - a. To protect the peace officer or another from death or great bodily harm, provided that the threat:
    - 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
  - 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.
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 (1 a), items (i) to (iii).
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.

#### **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.

**Model Sexual Assault  
Investigation Policy 03-03-21.pdf**

## **I. PURPOSE**

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

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

## **II. POLICY**

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

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

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

## **III. DEFINITIONS**

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

A. **Consent:** As defined by Minn. Stat. 609.341, which states:

- (1) Words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act.
- (2) A person who is mentally incapacitated or physically helpless as defined by Minnesota Statute 609.341 cannot consent to a sexual act.

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

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

#### **IV. PROCEDURES**

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

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

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

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

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

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

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

### C. Victim Interviews

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

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

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

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

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

**1. Minors and Vulnerable Adults**

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

- a. Officers responding to reports of sexual assaults involving these sensitive population groups shall limit their actions to the following:
  - (1) Ensuring the safety of the victim;
  - (2) Ensuring the scene is safe;
  - (3) Safeguarding evidence where appropriate;
  - (4) Collecting any information necessary to identify the suspect; and
  - (5) Addressing the immediate medical needs of individuals at the scene



- b. Initial responding officers should not attempt to interview the victim in these situations, but should instead attempt to obtain basic information and facts about the situation, including the jurisdiction where the incident occurred and that a crime most likely occurred. Officers should seek to obtain this information from parents, caregivers, the reporting party, or other adult witnesses, unless those individuals are believed to be the perpetrators.
- c. Officers responding to victims with special considerations must comply with the mandated reporting requirements of Minnesota Statute Section 260E.06 and 626.557, as applicable. Officers investigating cases involving victims with special considerations should coordinate these investigations with the appropriate local human services agency where required. Any victim or witness interviews conducted with individuals having special considerations must be audio and video recorded whenever possible. All other interviews must be audio recorded whenever possible.

Not all sexual assaults of minor victims require a mandatory report to social services. This policy recognizes that in certain cases, notifying and/or the involvement of a parent/guardian pursuant to 260E.22 can cause harm to the minor and/or impede the investigation. Officers responding to the sexual assault of a minor victim that does not trigger a mandated report under Minnesota Statute Section 260E.06 should assess for the impact on the victim and the investigation if parents/guardians were notified before making a decision to involve them.

- d. Officers should obtain necessary contact information for the victim's caregiver, guardian or parents and where the victim may be located at a later time. Officers should advise the victim and/or any accompanying adult(s), guardians or caregivers that an investigating officer will follow up with information on a forensic interview.
  - e. The officer should advise the victim's caregiver, guardian or parent that if the victim starts to talk about the incident they should listen to them but not question them as this may influence any future statements.
2. Victims of Domestic Abuse  
Officers responding to a report of sexual assault committed against a family and household member must also follow the requirements and guidelines in this agency's domestic abuse policy and protocol, in addition to the guidelines in this policy.

**E. Protecting Victim Rights**

- 1) Confidentiality: Officers should explain to victims the limitations of confidentiality in a criminal investigation and that the victim's identifying information is not accessible to the public, as specified in Minn. Stat. section 13.82, subd. 17(b)
- 2) Crime Victim Rights: Officers must provide the following information to the victim:
  - a. Crime victim rights and resource information required to be provided to all victims as specified by Minn. Stat. section 611A.02, subd. 2(b)
  - b. If the suspect is a family or household member to the victim, crime victim rights and resource information required to be provided to domestic abuse victims, as specified by Minn. Stat. section 629.341, subd. 3.
  - c. The victim's right to be informed of the status of a sexual assault examination kit upon request as provided for under Minn. Stat. section 611A.27, subd. 1.
  - d. Pursuant to Minn. Stat. 611A.26, subd. 1, no law enforcement agency or prosecutor shall require that a complainant of a criminal sexual conduct or sex trafficking offense submit to a polygraph examination as part of or a condition to proceeding with the investigation, charging or prosecution of such offense.
- 3) Other information: Officers should provide to the victim the agency's crime report/ICR number, and contact information for the reporting officer and/or investigator or person handling the follow up.
- 4) Language access: All officers shall follow agency policy regarding limited English proficiency.

**F. Evidence Collection**

- 1) Considerations for Evidence Collection  
Officers shall follow this agency's policy on crime scene response. In addition, officers may do the following:
  - a. Collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing. The agency should consider utilizing their agency or county crime lab in obtaining or processing the scene where the assault took place. This should be in accordance to any/all other policies and procedures relating to evidence collections.
  - b. Document any evidence of threats or any communications made by the suspect, or made on behalf of the suspect, to include those made to individuals other than the victim.

- c. In situations where it is suspected that drugs or alcohol may have facilitated the assault, officers should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, or other related items.
- d. If the victim has declined or a medical forensic exam will not be conducted, the officer should obtain victim consent and attempt to take photographs of visible physical injuries, including any healing or old injuries. Victim should be given directions about how to document any bruising or injury that becomes evidence later after these photographs are taken.

**G. Sexual Assault Medical Forensic Examinations**

- 1) Prior to the sexual assault medical forensic examination the investigating officer should do the following:
  - a. Ensure the victim understands the purpose of the sexual assault medical forensic exam and its importance to both their general health and wellness and to the investigation. Offer assurance to the victim that they will not incur any out-of-pocket expenses for forensic medical exams and provide information about evidence collection, storage and preservation in sexual assault cases.
  - b. Provide the victim with general information about the procedure, and encourage them to seek further detail and guidance from the forensic examiner, health care professional, or a victim advocate. Officers and investigators cannot deny a victim the opportunity to have an exam.
  - c. Officers should be aware and if necessary, relay to victims who do not want to undergo an exam that there might be additional treatments or medications they are entitled to even if they do not want to have an exam done or have evidence collected. Victims can seek that information from a health care provider or a victim advocate. If possible, transport or arrange transportation for the victim to the designated medical facility.
  - d. Ask the victim for a signed release for access to medical records from the exam.
- 2) Officers should not be present during any part of the exam, including during the medical history.
- 3) Following the exam, evidence collected during the exam shall be handled according to the requirements of agency policy and Minnesota Statute 299C.106.

**H. Contacting and Interviewing Suspects**

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

- 1) Conduct a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.
- 2) Consider conducting a pretext or confrontational call or messaging depending on jurisdictional statutes. Involvement of a victim should be based on strong

consideration of the victim's emotional and physical state. A victim advocate should be present whenever possible to offer support.

- 3) When possible, an attempt would be made to interview the suspect in person.
- 4) In situations where suspects do not deny that a sexual act occurred, but rather assert that it was with the consent of the victim, officers should do the following:
  - a. Collect evidence of past communication, including but not limited to all relevant interaction (including social media) between the suspect and victim.
  - b. Identify events that transpired prior to, during, and after the assault in an effort to locate additional witnesses and physical locations that might lead to additional evidence.
- 5) For sexual assaults involving strangers, officers should focus investigative efforts on the collection of video, DNA, and other trace evidence used for analysis to identify the perpetrator (handle evidence collection per agency policy).

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

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

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

**J. Role of the Supervisor**

Supervisors may do the following:

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

**K. Case Review/Case Summary**

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

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

# Lyon County SO Policy Manual

Lyon County SO Policy Manual

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