

CHAPTER 1

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100.01 **DEPARTMENT**

The Police Department of the City of Paynesville, Minnesota.

100.02 **HEADQUARTERS/OFFICE**

City of Paynesville buildings that house the operations and employees of the Paynesville Police Department.

100.03 **CHIEF OF POLICE**

The Chief of Police is responsible to the City Administrator for the general management and control of the police department and for the efficiency and general good conduct of said department. Duties are defined in Chapter 2.

100.04 **POLICE OFFICERS**

The Police Officer is a licensed officer by the state of Minnesota hired by the City. Duties are defined in Chapter 2.

100.05 **OFFICER**

Every member duly appointed to the police department as a regular salaried peace officer and who has taken the oath as such within the City of Paynesville.

- 100.06** **MEMBER**
Any employee of the City of Paynesville hired as an employee of the Department.
- 100.07** **ASSOCIATES**
Other employees or personnel that may be employed or under the direction of the City.
- 100.08** **CITY**
City of Paynesville and all area incorporated within the city limits recognized by the Paynesville City Council and city charter.
- 100.09** **CHAIN OF COMMAND**
The unbroken line of authority extending from the Chief of Police through a single subordinate at level of command down to the level of execution.
- 100.10** **THROUGH OFFICIAL CHANNELS**
Through the hands of superior officers in the chain of command.
- 100.11** **INSUBORDINATION**
Failure or deliberate refusal of any member or employee to obey a superior officer. Disrespectful, insolent or abusive language toward a supervising officer is insubordination. Ridiculing a superior officer. Disregarding direct orders of a superior officer. Actions resulting in detriment to the department contrary to written policy within the Paynesville Police Department.
- 100.12** **NEGLECT OF DUTY**
Failure to give suitable attention to the performance of duty. Examples include but are not limited to:
- A. Failure to take corrective action on the occasion of a crime, disorder or other actor condition deserving police attention;
 - B. Absence without approved leave;
 - C. Unexcused failure to report for duty at the time and place designated;
 - D. Unnecessary absence from officer's assigned patrol area during a shift; and
 - E. Unexcused failure to conform with departmental operating procedures.
- 100.13** **INCOMPETENCE**
Incapable of satisfactory performance of police duties.
- 100.14** **SHIFT**
The period of time during which an individual member is on duty.
- 100.15** **ON DUTY**
The state of an officer during the period of the day when they actively engaged in the performance of their duties during a designated tour.

- 100.16** **OFF DUTY**
The state of a member during the period the officer is free from the performance of specified duties.
- 100.17** **SPECIAL DUTY**
Police service, the nature of which requires that the member be excused from the performance of their regular duties.
- 100.18** **EXTRA DUTY**
Duties assigned by supervising officers above and beyond regular shift hours.
- 100.19** **DAYS OFF**
Those days, determined by the Chief of Police, on which a given member is excused from duty.
- 100.20** **PTO LEAVE**
The time off granted to all members annually.
- 100.21** **COMPENSATORY TIME**
Time off which is earned by a member who has worked hours outside of the officer's regular duty hours and for which the officer does not want to receive overtime pay.
- 100.22** **LEAVE OF ABSENCE**
The period of time during which an officer is excused from active duty and during which the officer receives no pay.
- 100.23** **MILITARY LEAVE**
The period of time during which an officer is excused from duty by reason of serving in the Armed Forces of the United States in an active capacity as provided by law.
- 100.24** **PROBATIONARY PERIOD**
Original appointments shall be followed by a probationary period not to exceed twelve (12) months after becoming a licensed peace officer as defined by Minnesota Board of Peace Officers Standards and Training or not less than twelve (12) months after employment. Promotional appointments shall be followed by a probationary period not to exceed six (6) months.
- 100.25** **RULES AND REGULATIONS**
Directions issued by the Chief of Police to define the duties and conduct of all members.
- 100.26** **LAWFUL ORDER**
Any written or oral directives issued by a superior officer to any subordinate or group of subordinates in the course of police duty which is not in violation

of any law, ordinance or any departmental rule or regulation.

100.27

PROCEDURE

The official method of dealing with any given situation prescribed by Chief of Police's order or procedural guide.

100.28

REPORTS

A written communication, unless otherwise specified, relating to police matters.

100.29

AUTHORIZED EMERGENCY VEHICLE

An authorized emergency vehicle is a Tax-Exempt motor vehicle owned by the City of Paynesville that is equipped with an emergency red light and siren. Personal vehicles are not considered Authorized Emergency Vehicles and shall not be equipped with a red light or siren used for emergency operation.

100.30

ON THE AIR

In service with radio equipment in operation.

100.31

OFF THE AIR

In service but not available for radio communication.

100.32

OUT OF SERVICE

Not available for radio communication.

100.33

ON CALL

Status where officer is not on duty or on radio but is available for contact and response within 15 minutes to be on duty and on the scene of the call for service. This time is calculated from the time the officer receives the call until the time the officer has obtained the squad car and is en route to the call.

100.34

GENERAL ORDER

Permanent written order, issued by the Chief of Police, relating to some specific circumstance or situation, usually of a more temporary nature, such memoranda expresses the thinking of the issuing authority on the subject under consideration.

100.35

DISPATCH/COMMUNICATIONS CENTER

Radio communications center for Stearns County responsible for handling emergency and non emergency calls for service as established by contract between Stearns County and the City of Paynesville.

100.36

CITY OF PAYNESVILLE

Employer of all officers and employees at the Paynesville Police Department

100.37

STEARNS COUNTY

County in which the City of Paynesville and Paynesville Police Department is located as noted as county number 73 by the State of Minnesota.

CHAPTER 2

DUTIES AND RESPONSIBILITIES

- 200.01 Chief of Police
- 200.02 Police Officer

200.01 CHIEF OF POLICE

- A. The Chief of Police is the chief administrative officer of the department and has departmental authority in all matters of policy, operations, and discipline. The chief exercises all lawful powers of this office and issues such lawful orders as are necessary to ensure the effective performance of the department.
- B. Through the Chief of Police, the department is responsible for the enforcement of all laws and ordinances coming within its legal jurisdiction. The Chief of Police is responsible for planning, directing, coordinating, controlling and staffing all activities of the department, for its continued and efficient operation, for the enforcement of rules and regulation and forwarding of such reports as may be required by competent authority and for the department's relations with local citizens, the city government and other related agencies.
- C. The Chief of Police is responsible to the City Administrator and will administer the department under the direction and control of the City Administrator. The Chief of Police shall keep the City Administrator informed of incidents or developments that may unusually affect public or official relations.
- D. The Chief of Police is responsible for the training of all members of the department. This includes the preliminary training of members upon their appointment to the department, and the continued training of all members of the department to improve their ability to serve the public more efficiently and to keep them abreast of all new developments in the law enforcement field. The Chief of Police may appoint an officer as an FTO for the purpose of training officers within the department. The Chief of Police may send officers to specific training for the purpose of instruction of other officers in the Department.
- E. The Chief of Police shall be required to certify to the accuracy of all bills incurred by the department.
- F. The Chief of Police shall be the custodian of all property coming into the possession of the Police Department and shall be accountable for all such property delivered into his custody and be responsible for the safekeeping, proper disposition and accurate record of same. The Chief of Police shall see that all property is returned to its lawful owner when no longer needed by the department.
- G. The Chief of Police's character and ability is reflected in the efficiency, discipline, and morale of his officers. The Chief of Police shall not permit laxity, indifference, or incompetence on the part of officers under their command. The Chief of Police shall set an example to all subordinates in dignity, courtesy, truthfulness, courage, sobriety and attention to duty and observance of proper discipline.

200.02**POLICE OFFICER**

- A. A Police Officer is responsible for public safety in the City of Paynesville. The officer shall constantly be vigilant and alert for violations of laws and ordinances and shall make every effort to prevent any breach of the peace and offenses against persons and property.
- B. The Officer shall report promptly, at the designated hour and place as specified in Chapter 3, in proper uniform as specified in Chapter 4.
- C. Police Officers are charged with learning the geographical character of Paynesville well enough to enable them to give adequate directions to streets, public buildings, hospitals, and highways in an intelligent manner when requested. When unable to give the information requested, they shall either obtain it or direct the inquiring party to the person from whom the information may be obtained.
- D. Police Officers shall thoroughly familiarize themselves with the City of Paynesville. The officers shall be familiar with all public businesses, offices, and other entrances, exits, skylights and doors, the officers shall likewise familiarize themselves with the locations of safes and night lights.
- E. Police Officers shall at all times maintain an alert and business-like manner.
- F. During a Police Officer's shift the officer shall patrol the City of Paynesville giving particular attention to and frequently rechecking locations where the crime hazard is great. The officer is encouraged not patrol the City of Paynesville according to any fixed route or schedule, but shall alternate frequently and back track in order to be at a location least expected.
- G. When a door or window is found open under suspicious or unusual circumstances on any shift, a peace officer shall advise the dispatcher. The officer shall determine, if possible, whether a burglary has been committed and whether the door or window can be secured. The officer shall, if possible, notify the owner or occupant. If necessary and possible, the officer shall secure the window and/or door.
- H. Police Officers shall observe all persons they encounter in the City of Paynesville and shall investigate any person or persons whose conduct or presence seems suspicious. The officer shall question such person and fill out such forms or reports as are required by the department. The officer shall be particularly alert as to the actions of persons at night. The officer shall report the actions of persons known to be of interest to the department. This shall be noted in the daily logs.
- I. Police Officers shall be on the alert for persons matching the description of missing persons and wanted criminals, as well as vehicles reported stolen, or used in the commission of a criminal offense. The Police Officer shall investigate the occupant or contents of vehicles which cause suspicion where the officer has probable cause and legal grounds for such a search in accordance with proper legal procedure and Chapter 23 of this policy manual
- J. Police Officers shall give particular attention to places where violators might congregate. They shall use every lawful means to suppress the illegal activities of such persons and

shall require all such establishments to be conducted in accordance with city ordinances and state laws and shall report all violations.

- K. Police Officers shall be ever watchful of the physical and moral welfare of all children. The officer shall warn children away from playing in dangerous areas.
- L. Police Officers are charged with the enforcement of all provisions of local and state traffic codes. Recognizing that officers have discretion in making traffic stops and issuing citations, failure to take action in traffic violations cases is considered to be neglect of duty.
- M. Police Officers shall take notice of all nuisances, impediments, and obstructions, defects or other conditions, in or adjacent to the streets, alleys and public places, which tend to endanger the health, safety or convenience of the public. The Police Officer shall cause or immediately report to the appropriate authority regarding hazards or nuisances in need of correction but not requiring immediate action.
- N. Police Officers shall carefully investigate all complaints in the City of Paynesville which are assigned to them or which are brought to their attention by citizens. The officer shall take suitable action in those cases which come under the officer's jurisdiction and inform interested parties of the law or ordinances relative to the particular complaint or incident. If the legal remedy of the complaint lies outside of the jurisdiction of the Police Department, the Police Officer shall advise the complainant accordingly and refer the person to the proper authority. Police officers are to refrain from giving legal advice.
- O. The Police Officer shall perform such other duties as may be assigned.

CHAPTER 3

RULES, REGULATIONS, AND PERSONNEL

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300.00 **PURPOSE**

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

300.01 **LOYALTY**

Loyalty to the City, the Department and to associates is an important factor in departmental morale and efficiency. Members and employees should maintain a loyalty to the City, to the Department, and their associates as is consistent with law, personal ethics, and professional standards. This duty of loyalty shall be subordinate to an officer’s duty to report officer or other department misconduct.

300.02 **GENERAL RESPONSIBILITIES**

Members of the Department shall, within the boundaries of the City of Paynesville, preserve the public peace, prevent crime, detect and arrest violators of the law, protect life and property, and enforce the Criminal Laws of the United States; State of Minnesota; and the Ordinances of the City of Paynesville. They shall give the same prompt attention to complaints and render the same fair and equal treatment to all persons regardless of gender, race, color, creed, sexual orientation, marital status, social class, age, disability, religion or place of national origin.

300.03 **DEPARTMENT**

All employees of the department shall be governed by the ordinary and reasonable rules of good conduct and behavior in their private and professional lives and shall not commit any act tending to bring reproach or discredit upon the department.

300.04 **COORDINATION**

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

300.05 **COOPERATION WITH OTHER AGENCIES**

Officers shall cooperate with all law enforcement agencies, other city departments and public service organizations and shall give aid and information as such organizations may be entitled to receive consistent with departmental orders.

300.06

VIOLATION OF RULES

Officers shall not commit any acts or omit any acts, which constitute a violation of any of the rules, regulations, directives, orders or policies of the department, whether stated in the Standard Operating Procedure or elsewhere. Ignorance of the rules, regulations, directives, orders or policies shall not be considered as justification for any such violations. Officers shall be responsible for their own acts and they shall not shift to others the burden of responsibility for executing or failing to execute a lawful order or police duty.

300.07

KNOWLEDGE OF ORDINANCES AND REGULATIONS

Every member is required to establish and maintain a working knowledge of municipal ordinances and state statutes currently in force, the rules and policies of the department, including the general and special orders of the department.

300.08

REPORTING FOR DUTY

Officers shall report for duty at the time and place required by assignment or orders and shall be physically and mentally fit to perform their duties. They shall be properly equipped and cognizant of information required for the proper performance of duty so that they may immediately assume their duties. Judicial subpoenas shall constitute an order to report for duty. Members of the department shall be punctual in reporting for duty at the time designated by their superior officers. Failure to report promptly at the time directed may be deemed neglect of duty and may be subject to disciplinary action. Sickness or illness should be reported by a member at least two hours prior to the time he is due to report for duty. Once having reported sick, the member shall keep the department advised as to their status and expected return to duty.

300.09

MAINTAINING OF COMMUNICATIONS

Officers on duty or when officially on call shall be available by normal communications or shall keep the department or Communication Center informed of the means by which they may be reached when not immediately available.

300.10

USE OF DRUGS

Officers shall not use any controlled substances, narcotics, or hallucinogens except when prescribed in the treatment of officers by a physician or dentist. When controlled substances, narcotics or hallucinogens are prescribed, officers shall notify their superior officer.

300.11

ABSENCE FROM SHIFT

Every member of employee who fails to appear for a shift at the date, time and place specified for so doing without the consent of competent authority is "absent without leave." No officer or member of the department shall be absent from his or her regular shift without permission of a commanding officer. No officer shall exchange shifts without the expressed permission of the Chief of Police.

300.12

LOITERING

Officers shall not loiter in cafes, drive-ins, service stations or other public places except for the purpose of transacting police business or to take regular meals and/or coffee breaks as provided for in departmental orders. When on duty, employees shall not loiter in or around the police department. If it is necessary to conduct business in these areas, it should be done as quickly as possible.

300.13

SLEEPING, LOAFING, OR IDLING ON DUTY

Officers shall remain awake while on duty. If unable to do so, they shall report to their superior officer, who shall determine the proper course of action.

300.14

ALCOHOLIC BEVERAGES AND DRUGS IN POLICE INSTALLATIONS

Officers shall not store or bring into any police facility or vehicle alcoholic beverages, controlled substances, narcotics or hallucinogens except alcoholic beverages, controlled substances, narcotics or hallucinogens, which are held as evidence.

300.15

USE OF ALCOHOL - ON DUTY

Officer shall not drink intoxicating beverages while in uniform except in the performance of official duties. Officers must receive authorization to consume alcoholic beverages on duty from the Chief of Police. Officers shall not appear for duty, or be on duty, while under the influence of intoxicants to any degree whatsoever, or have an odor of intoxicants on their breath. SEE ALSO 900.08

300.16

USE OF ALCOHOL - OFF DUTY

Officers, while off-duty, shall refrain from consuming intoxicating beverages to the extent that it discredit them or the Paynesville Police Department, or render the officer unfit to report for their next shift or as an officer.

300.17

TOBACCO/VAPING

- A. Officers, when in uniform, may use tobacco/vaping as long as:
 - i. They do not have to leave their assignment or post for the sole purpose of smoking.
 - ii. They are not engaged in an investigation, handling a call for service, or undertaking traffic control or direction.

- B. Officers, when in uniform, may not use tobacco/vaping:
 - i. When in front of or when in direct contact with members of the public.
 - ii. When in public buildings, city owned vehicles, or any other place prohibited by Minnesota state law or local Ordinance.

300.18

CITIZEN COMPLAINTS

Officers shall courteously and promptly accept and record in writing any complaint made by a citizen against any officer or any department policy or procedure. Officers shall immediately notify the Chief or Police of a complaint as required by department procedures.

300.19

RESPONDING TO CALLS

Members of the department shall respond without delay to all calls for police assistance from citizens or other members. Emergency calls shall take precedence; however, all calls shall be answered as soon as possible consistent with normal safety precautions and vehicular laws.

300.20

IMMEDIATE ACTION

Except where circumstances make it necessary for members to report a matter or refer a complaint to a more suitable member or agency, members shall take suitable action on reports and complaints by a private person. Proper requests for information or assistance shall be fulfilled and members shall aid the person in otherwise obtaining the requested information or assistance.

300.21

REFERRALS

No officer shall refer any citizen to the City Administrator, Mayor, Council members or Commissioners on police department matters. If the request cannot be handled by the officer, it shall be referred up the chain of command.

300.22

CARE OF DEPARTMENTAL PROPERTY

All members are responsible for the safekeeping and proper care of all property used by them and belonging to the department. Property shall only be used for official purposes and in the capacity for which it was designed. It shall not be transferred to any other person without explicit permission of the Chief of Police

300.23

DAMAGED OR INOPERATIVE PROPERTY OR EQUIPMENT

Members and employees shall immediately report to the Chief of Police the loss or damage to the departmental property assigned to or used by them. The immediate superior will be notified on any defects or hazardous conditions existing in any departmental equipment or property.

300.24

COURT APPEARANCE

Attendance at a court or quasi-judicial hearing as required is an official duty assignment. Permission to omit this duty must be obtained from the prosecuting attorney handling the case or other competent authority. While appearing in court either the official uniform or suit and tie will be worn. Weapons will not be displayed unless wearing the uniform. Members shall present a neat and clean appearance avoiding any mannerisms, which might imply disrespect to the court.

300.25

COURT DEMEANOR

Members of the Department shall observe the utmost attention and respect toward magistrates or other officers of the courts at all times. When giving testimony, they shall speak in a distinct, clear, audible tone so as to be easily heard by the court and jury. Officer shall not chew gum, chew tobacco or eat while in court. They shall testify with the strictest accuracy, confining themselves to the case before the court, and neither suppress or overstate the slightest circumstance with a view of favoring or discrediting any person. When cross-examined, they shall answer with the same readiness and civility as when testifying in support of charge, remembering that the needs of justice will be promoted by showing a desire simply to tell the whole truth, whether it will be in favor or against the defendant.

300.26

COURT ATTENDANCE CIVIL CASES

Employees shall not testify in a civil case unless legally summoned to do so and when summoned, shall notify the Chief of Police.

300.27

ENDORSEMENTS AND REFERRALS

Officers shall not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service, (such as an attorney, towing service, bondsman, mortician, etc.) In the case of towing service, when such service is necessary, and the person needing the service is unable or unwilling to procure it or requests assistance, officers shall proceed in accordance with established departmental procedures.

300.28

ACCEPTANCE OF FEES, COMPENSATION

No member of the department shall accept any fees or compensation of any kind from any persons, agencies, courts, court officials, or any others except such fees and compensation as are specifically provided and authorized by law and except with permission of the Chief of Police according to policies of the department.

300.29

OTHER TRANSACTIONS

Every member and employee is prohibited from buying or selling anything of value from or to any complainant, suspect, witness, defendant, prisoner or other person involved in any case which has come to his attention or which arose out of his departmental employment except as may be officially authorized by the Chief of Police. This does not apply to local businesses.

300.30

PROCESSING PROPERTY

Property which has been discovered, gathered or received in connection with departmental responsibilities will be processed in accordance with established departmental procedures. Officers shall not convert to their own use, manufacture, conceal, falsify, destroy, remove, tamper with or withhold any property found in connection with an investigation or other police action, except in accordance with established departmental procedures.

300.31

CONTRIBUTIONS

Members, while on duty and in uniform, shall not collect or receive any money or other thing of value, nor shall they circulate subscription papers, or collect money from any person for any purpose without the express permission of the Chief of Police.

300.32

OFF DUTY REPORTING IN EMERGENCIES

Members off duty shall, upon official notice, report for duty immediately upon receipt of notification and comply with instructions given at the time of notification. Members shall report immediately in the event of any major disaster. All officers and members of the department, when on PTO or regular days off, are subject to recall to duty by the Chief of Police in the event of an emergency which by its nature would necessitate the need of such officers and members.

300.33

OFF DUTY SERVICE

Members off duty shall perform necessary police service whenever and wherever they are aware of a criminal offense, excluding all traffic violators except driving while intoxicated cases, careless or reckless driving, or other offenses when property or life is in jeopardy.

300.34

OFF DUTY NEIGHBORHOOD DISPUTES

Members shall not intentionally become involved in neighborhood quarrels or disputes when off duty. These disputes should be handled by disinterested persons or on duty officers.

300.35

CRITICISM OF CITY AND DEPARTMENT

Constructive criticism of any department, operation, employee or policy of local government is encouraged. Whenever there are any such constructive criticisms, they shall only be discussed with members of the department and shall be transmitted up the chain of command by appropriate action.

300.36

CRITICISM OF OFFICERS

Every member shall refrain from making any statement or allusion, which discredits or disparages any member, except when reporting to his superiors as required by these rules. Every officer shall accord courtesy, consideration and cooperation to every officer. The officer shall avoid the manifestation of any unfriendliness toward any officer. This policy shall not extend to officers who have engaged in or are presently engaged in illegal or disreputable conduct.

300.37

PUBLIC APPEARANCES AND STATEMENTS

Officers shall not publicly criticize or ridicule the department, its policies, or other officers by speech, writing or other expression, where such speech, writing or other expression is defamatory, obscene, and/or unlawful, tends to undermine the effectiveness of the department, interferes with the maintenance of discipline, or is made with reckless disregard for truth or falsity. Officers shall not address public gatherings, appear on radio or television, prepare any articles for

publication, act as correspondents to a newspaper or a periodical, release or divulge investigative information, or any other matters of the department while holding themselves out as having an official capacity in such matters without official sanction or proper authority.

300.38

UNCALLED FOR REMARKS

No officer or member of the department shall, upon the street, in any business, house or elsewhere, to any officer or member of the department or to any citizen, make any remark in regard to any officer or member of the department which may bring the department or any officer or member thereof into disrepute, or subject it or them to ridicule. Any such matter shall be brought to the attention of the Chief of Police through the chain of command.

300.39

FALSE ALLEGATIONS

No officer or member shall make a false official report or make a false statement or gossip about any member or officer of the department, or the business of the department, to the discredit or to the detriment of any such officer or member of the department, or the department as a whole.

300.40

ABUSE OF PROCESS/WITHHOLDING EVIDENCE

Officers shall not convert to their own use, manufacture, conceal, falsify, destroy, remove, tamper with, or withhold evidence of information, or make false accusations of a criminal or traffic charge.

300.41

DEPARTMENTAL REPORTS, TRUTHFULNESS

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

300.42

ASSISTANCE TO OTHER OFFICERS

All members are required to take appropriate police action toward aiding a fellow officer exposed to danger or in a situation where danger might be impending.

300.43

OPERATION OF VEHICLES

Officer shall operate official vehicles in a careful and prudent manner and shall obey all laws of the state and all departmental orders pertaining to such operation. Officers shall set a proper example for other persons by their operation of a vehicle. Loss or suspension of a civilian driver's license shall be reported to the department immediately. See also emergency vehicle operations Chapter 7.

300.44

USE OF DEPARTMENT EQUIPMENT

Officers shall utilize department equipment only for its intended purpose, in accordance with established department equipment. All department equipment issued to officers, including manuals, shall be maintained in proper order.

300.45 **CITIZENS IN POLICE CARS**
See Ride-Alongs Section 500.06

300.46 **PERSONAL ADVERTISING**
Employees shall not permit the use of their photographs or names for advertising purposes; or by testimonial, recommendation, or other means participate in any advertising scheme or enterprise related to or based upon their employment with the department, without the approval of the Chief of Police.

300.47 **DEVOTE WHOLE TIME TO POLICE BUSINESS**
Each officer and member of the department shall devote their loyalty to the services of the department. Other employment that may conflict with the officer's duties to the department is strictly prohibited. Officers shall bear in mind that the nature of police work may require them to be called to work in an emergency even when they are off-duty and not on call, and they should act accordingly. A request for outside employment shall be routed through the Chief of Police. An officer who believes a request for outside employment was unduly denied may seek appeal to the City Council.

300.48 **UNNECESSARY INTERFERENCE, PRIVATE BUSINESS**
Officers shall not interfere unnecessarily with the lawful business of any person.

300.49 **CIVIL ACTIONS**
Employees shall not institute any civil action arising out of their official duties without first notifying the Chief of Police. Officers shall not use their positions with the department as a means of forcing or intimidating, persons with whom they are engaged in civil matters to settle the case in favor of the officer.

300.50 **PAYMENTS FOR LINE OF DUTY INJURY**
Employees or members shall not accept or agree to accept anything for personal injury incurred in line of duty without first notifying the Chief of Police.

300.51 **CIVIL DISPUTES**
Members shall avoid entering into civil disputes particularly while performing their police duties but shall prevent or abate breach of the peace or crime in all such cases.

300.52 **TESTIFYING FOR THE DEFENDANT**
Any member or employee subpoenaed to testify for the defense in any trial or hearing, or against the City or Department, in any hearing or trial shall notify the Chief of Police upon receipt of the subpoena.

300.53 **CHANGE OF ADDRESS**
Members shall notify the department, within 24 hours of change of address. This notification will be in written form to the Chief of Police.

300.54

PHONES

Officers shall have a means of phone communication in their residences and shall immediately report any change of telephone numbers to their superior officers and to such other persons as may be appropriate. See also cell phones 500.07.

300.55

RESIDENCE CARDS

Members of this department shall not utilize any business or personal card or other form of communication or inscribe thereon any message which purports to grant the bearer any special privileges not enjoyed by all citizens.

300.56

RESPECT TO SUPERIORS

Every member shall accord respect to the supervisor at all times and shall refrain from critical or derogatory comments in public or private on orders or instruction received from or issued by the supervisor.

300.57

ADDRESSING SUPERIORS

When addressing superior officers, members shall observe a respectful attitude and use proper title.

300.58

INFORMING SUPERIORS

Members shall inform superiors of any matter coming to their attention, which may affect the welfare or be of interest to the department or any other city service.

300.59

INSUBORDINATION

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

300.60

ILLEGAL ORDERS

Officers shall not obey an order which they know or should know would require them to commit any illegal act. If in doubt as to the legality of an order, officers shall request the issuing officer to clarify the order or to confer with higher authority and responsibility of the superior. An officer who has been given an illegal order shall report that order to the appropriate supervisor.

300.61

ACTING SUPERIORS

A member temporarily filling the position of a superior, in an acting capacity, shall be vested with all the authority and responsibility of the superior. This shall be appointed by the Chief of Police or City Administrator.

300.62

OFFICER IN CHARGE

At the scene of any occurrence when a superior officer is not present, the officer assigned to that particular occurrence will be in charge.

300.63

RADIO DISCIPLINE

All members of the department operating the police radio either from a mobile unit or in the communications center shall strictly observe regulations for such operations as set forth in departmental orders and by the Federal Communications Commission. See also Radio Frequency Use 500.04

300.64

“GOING OFF THE AIR”

All members will advise the communications center when they are going to be away from the radio. The officer should indicate their location and reason for “going off the air”. This is especially applicable for checking in and out for “lunch and coffee breaks”. See also Radio Frequency Use 500.04

300.65

AVAILABILITY WHEN ON DUTY

Officers on duty shall not conceal themselves except for some police purpose. They shall be immediately and readily available to the public during duty hours. Officers should remain in public and visible unless in performance of an official duty requires the officer to be concealed or sequestered from public visibility.

300.66

DUTY, REQUIRED

Employees on duty shall devote their entire time and energies to the duties and responsibilities of the rank, grade or position to which they are assigned.

300.67

ORDERS

Any order sent via email, given in written form, or posted on the bulletin boards of the department with written or electronic signature of the Chief of Police shall have same effect as and be construed as a part of, these Rules and Regulations. Any permanent order shall be incorporated into the departments general orders.

300.68

OFFICIAL BUSINESS

All officers shall treat as confidential the business of the department. They shall give such information only to those authorized to receive it.

300.69

DIVULGING CRIMINAL RECORDS/REPORTS

Contents of any criminal record or report filed in the Police Department shall not be exhibited or divulged to any person other than during the process of an investigation or to another duly authorized law enforcement officer or under due process of law, except as directed by a superior officer. This includes all information obtained through DVS or Portals. Only the Chief of Police or his designee shall distribute records and reports from the department.

300.70

COMPROMISING CRIMINAL CASES

Officers and employees shall not interfere with the proper administration of criminal justice. They shall not attempt to interrupt legal process except where a manifest injustice might otherwise occur. They shall not participate in, or be concerned with any activity, which might interfere with the process of law. Except in the interest of justice they shall not attempt to have any traffic citations or notices to appear, or final warnings reduced, voided, or stricken from the

records or files. Any officer having knowledge of such action and failing to inform the superior thereof shall be subject to disciplinary action.

300.71

WITHHOLDING INFORMATION

Officers receiving or possessing facts or information relative to a criminal offense or case shall not retain such facts or information through ulterior motives, desire for personal credit, or aggrandizement, but shall report the facts or information in accordance with departmental procedure.

300.72

INTERVENTION

Officers shall not interfere with cases being handled by other officers of the department or by any other agency or person unless: (This does not prohibit an officer from discussing the situation with the officer at a later time)

- A. Ordered to intervene by a superior officer,
- B. The intervening officer believes beyond a reasonable doubt that a manifest injustice would result from inaction.
- C. Immediate action is required to protect life or property related to the case.

300.73

FALSE REPORTS OR ENTRIES

No officer of the department shall make false official reports or knowingly enter or cause to enter in any departmental book, record, or reports, any inaccurate, false or improper police information or other material matter.

300.74

DEPARTMENTAL CORRESPONDENCE

An officer of the department shall not forward correspondence of a departmental nature to any person outside the Department without the permission of the Chief of Police.

300.75

RELEASE OF INFORMATION TO NEWS MEDIA

A member of the department will not issue any statement, copy or report, resume' or any other information to representatives of the news media of any crime without the permission of the Chief of Police or the chief's duly authorized representative.

300.76

DUTY OF CANDOR

Upon the order of the Chief of Police, the Chief's designee or a superior officer, officers shall truthfully answer all questions specifically directed and narrowly related to the scope of employment and operations of the department, which may be asked of them.

300.77

MANUAL MAINTENANCE

All members and employees issued departmental manuals and ordinance books are responsible for their maintenance and will make appropriate changes or inserts as directed.

300.78

CUSTODY OF INDIVIDUALS

Members charged with the custody of individuals shall observe all laws and departmental orders regarding this activity. Persons in custody shall be kept securely with the amount of restraint necessary to protect the public, the officer, and the individual in custody. Persons in custody shall be treated firmly and humanely.

300.79

PRISONERS OR SUSPECTS, SAFEGUARDING

Officers shall be cautious in the arrest and detention of prisoners or suspects and shall take all necessary precautions to prevent an escape, the carrying of weapons on the prisoner's person after arrest, injury to themselves or any other person, or damage to property.

300.80

PRISONERS OR SUSPECTS, AVAILABILITY OF WEAPONS

Officers shall not place weapons or objects adaptable for use as weapons, and capable of inflicting serious bodily injury, or permit such weapons or objects to remain unattended, in any location in the police quarters normally accessible to a prisoner or suspect. This regulation does not apply to fixtures or furnishings, which are part of the physical plant.

300.81

PRISONERS PROPERTY

The arresting officer is responsible for the security of personal property in the possession of the arrested person under the officer's control at the time of the arrest. Officers shall see that such properties are safely delivered to the proper custodial personnel. After which the officer will no longer be responsible for such property.

300.82

TRANSPORTATION OF VIOLENT OR DANGEROUS PRISONERS

When, in the opinion of the officer transporting prisoners, a violent or dangerous prisoner is being transported, they shall be handcuffed with their hands behind their backs. The only exception to this rule is when the health or other physical condition of the prisoner does not permit it.

300.83

TRANSACTION WITH PRISONERS

Members shall not conduct any non-police business with or engage in any transaction with any person confined in the jail without the express permission of the Chief of Police.

300.84

ARREST, SEARCH AND SEIZURE

Officers shall not make any arrest, search or seizure, which they know or ought to know, is not in accordance with law and established department procedures or policies.

300.85

PTO TIME

PTO time in the department will be on a first come, first serve basis for all dates within the calendar year. If there is a conflict with more than one officer

interested in the days off, seniority starting with the Chief of Police then next senior officer as defined by the start date with the City shall have priority. The Chief of Police making the schedule will make all efforts to grant PTO when requested but has the right to deny any PTO based on the need to maintain a filled schedule. PTO request forms must provide 24 hours advance notice for the PTO to be considered.

300.86

INJURY IN LINE OF DUTY

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

300.87

SCHEDULING

Shift schedules will be prepared by the Chief of Police. Schedules will be for no less than one month. Schedules will be posted no less than the last day of the month preceding the beginning of the new schedule (i.e. October's schedule shall be posted no later than the last day of August.) All schedules will provide for the best possible coverage, while also promoting stability and minimizing frequent shift changes for all members of the department. Changes to the schedule will be made to accommodate requests for time off, or other issues as deemed necessary by the Chief of Police; this may include the length of shifts. The schedule is subject to change at any time; however every effort will be made to avoid changes to the schedule once it has been posted.

300.88

EMERGENCY SUSPENSION

The following personnel have the authority to impose emergency suspensions until the next business day and longer if such action is in the best interest of the department:

- A. City Administrator
- B. Chief of Police

CHAPTER 4

UNIFORMS, EQUIPMENT, AND APPEARANCE

400.01	Class A Uniform	400.15	Handcuffs
400.02	Jacket	400.16	Handcuff Carrier
400.03	Trousers, Winter	400.17	Shoes
400.04	Trousers, Summer	400.18	Socks
400.05	Shirts, Winter	400.19	Required Equipment – On Duty Uniform
400.06	Shirts, Summer		
400.07	Undershirts/Underpants/ Clothing, Winter	400.20	Required Equipment – On Duty Civilian Attire
400.08	Undershirts/Clothing, Summer	400.21	Carry Off Duty Firearms
400.09	Raincoat	400.22	Wearing of Uniform and Its Appearance
400.10	Ties		
400.11	Department Shoulder Patch	400.23	Uniform of the Day
400.12	Belt	400.24	Soft Body Armor
400.13	Holster	400.25	Personal Appearance
400.14	Duty Weapon		

400.01 **CLASS A UNIFORM**

Class A uniforms shall be worn for official ceremonies or other official duties determined by the Chief of Police. Class A uniforms shall be department long sleeve shirts, trousers with hip and side pockets only, navy or black socks, polished black boots, collar brass, name tag, badge, pens, equipment belt, radio, tie, tie bar, and hat.

400.02 **JACKET**

Officers will wear jackets approved by the Chief of Police.

400.03 **TROUSERS, WINTER**

Winter trousers shall be made to department specifications as to material and cut--two side pockets, two hip pockets. Trousers to be uncuffed and have belt loops with a zipper fly. Trousers with cargo pant style pockets may be worn with approval by the Chief of Police. Pants will be dark navy in color.

400.04 **TROUSERS, SUMMER**

Summer trousers shall be made to department specifications as to style and material, same cut, and color as the winter trousers.

400.05 **SHIRTS, WINTER**

Winter shirts shall be of the design and material specified by the Chief of Police, long sleeves with shoulder straps, badge tabs, two breast pockets with flaps and equipment. Shirts will be dark navy in color. The Chief of Police may wear a white shirt.

400.06 **SHIRTS, SUMMER**

Summer shirts shall be of the design and material specified by the Chief of Police, with short sleeves, shoulder straps, badge tabs, two breast pockets. Shirts will be dark navy in color. The Chief of Police may wear a white shirt.

- 400.07** **UNDERSHIRTS/UNDERPANTS/CLOTHING, WINTER**
Winter cold weather gear that may be visible under the uniform may include black or dark navy turtlenecks or mock turtlenecks. If officer chooses not to wear turtlenecks or mock turtlenecks, a tie must be worn in its place. Items may contain lettering identifying the department as approved by the Chief of Police. Officers may wear long underwear or leggings as long as they are covered by the department trouser. All items worn under the uniform that are visible must have approval by the Chief of Police.
- 400.08** **UNDERSHIRTS/CLOTHING, SUMMER**
Summer undershirts worn under the uniform include white t-shirts or other cool weather gear that has a crew neck shirt line creating a triangular pattern under the uniform shirt. All items worn under the uniform that are visible must have approval by the Chief of Police.
- 400.09** **RAINCOAT**
Raincoat shall be of a size, color and style as approved by the Chief of Police.
- 400.10** **TIES**
Ties will be of uniform size and style as specified by the Chief of Police. Ties will be dark navy in color. Ties may be worn with long sleeve shirts during court testimony and will be worn for official ceremonies using Class A uniform. Ties will be accompanied by tie bar approved by the Chief of Police.
- 400.11** **DEPARTMENT SHOULDER PATCH**
The department shoulder patch shall be worn on the uniform shirt and jacket. It will be placed on the arm of the garment immediately below the shoulder seam (approx. 1”) of the shirt or jacket. The department will have one standard, uniform patch.
- 400.12** **BELT**
Black, of selected heavy weight top grain cowhide. Plain or deeply embossed with basket weave pattern with a buckle or other approved closure. Belt shall be of a law enforcement style approved by the Chief of Police.
- 400.13** **HOLSTER**
Holster shall be black in color, plain or deeply embossed basket weave pattern, molded to fit contours of the firearm, it shall be of top grain cowhide leather, or welt construction, set in bottom; level 2 or level 3 security, and made of one piece construction.
- 400.14** **DUTY WEAPON**
The service weapon worn by the officer on duty shall be approved by the Chief of Police. Any other firearm an officer wishes to carry on duty must be approved by the Chief. If any officer chooses to carry a second weapon he may do so, however, the officer electing to do so must qualify as competent in the use of said weapon and such time and ammunition needed for the qualification shall not be charged to the expense of the City of Paynesville. Such additional qualifications will be conducted simultaneously with the City sanctioned qualifications using the same facilities, instructors, and scorers. (SEE ALSO FIREARMS CHAPTER 18)
- 400.15** **HANDCUFFS**

The handcuffs carried by the officer should be Peerless, Smith & Wesson or other brand approved by the Chief of Police. Colors of handcuffs shall be black or silver in color.

400.16 **HANDCUFF CARRIER**

Shall be black in color, of top grain cowhide leather, plain or deeply embossed with basket weave. Made to fit standard Smith & Wesson or Peerless cuffs.

400.17 **SHOES**

All officers of the department, while in uniform, shall wear shoes made of black leather with plain design.

400.18 **SOCKS**

Officers may choose to wear socks that are comfortable to that officer. Navy or black socks shall be worn with Class A uniform if the sock is going to be visible.

400.19 **REQUIRED EQUIPMENT - ON DUTY UNIFORM**

While on duty in uniform, officers shall carry or have immediately available the following equipment: (This does not prevent additional equipment from being carried.)

- A. Badge
- B. Duty weapon and additional ammunition
- C. 2 sets of handcuffs
- D. Notebook
- E. TASER
- F. Collar brass insignia
- G. Flashlight and holder
- H. Name tag
- I. 2 pens approved by Chief of Police
- J. 2 sets of department keys
- K. Mic. pack for squad camera
- L. Radio
- M. Body Camera

400.20 **REQUIRED EQUIPMENT - ON DUTY CIVILIAN ATTIRE**

On duty officers wearing civilian clothes will carry the following equipment:

- A. Badge
- B. Duty weapon and additional ammunition
- C. Handcuffs
- D. Department ID card and MN driver's license
- E. Pen and Notepad
- F. Body camera, unless an officer is working undercover and such a camera cannot be appropriately obscured

400.21 **CARRY OFF DUTY FIREARMS**

Officers, when off-duty, may carry an approved firearm. When wearing civilian clothes, officers shall conceal the firearm from public view. Officers choosing to carry their firearm off duty shall carry badge and department identification in addition to approved firearm. Officers choosing to carry their weapon outside of the state of MN shall obtain permission from the Chief of Police and are subject to applicable state and

federal laws governing each state. Officers are not required to carry firearms off duty. Officers who obtain a permit to carry are not allowed to carry their duty weapon contrary to this policy. Any officer that violates this policy will forfeit the right to carry their city owned firearm off duty. (SEE ALSO FIREARMS CHAPTER 18)

400.22 WEARING OF UNIFORM AND ITS APPEARANCE

Officers shall keep their uniform clean well brushed and pressed. The uniform shall have badge, pens, name tag, and collar brass displayed. Officers shall arrive at the police department at the beginning of their tour with uniform in accordance with department policy. Officers shall wear well-polished shoes. They shall keep their hair neatly trimmed. They shall, as often as is necessary, examine and clean their equipment and keep same always in good serviceable condition.

400.23 UNIFORM OF THE DAY

Uniform of the day shall be set on a seasonal basis by the Chief of Police and will be followed by all members required to wear the uniform.

400.24 SOFT BODY ARMOR

The Paynesville Police Department recognizes the life saving capabilities of SBA and requires its members to wear SBA while on duty. It shall be required to use and wear SBA while on duty unless wearing of SBA will prohibit the officer from conducting official police business as authorized by the Chief of Police. Officers may be exempt from wearing SBA if the Chief of Police is provided notification from a physician advising that there is a medical need to avoid wearing SBA or authorization is granted by the Chief of Police.

400.25 PERSONAL APPEARANCE

A. Male Officers

Hair may be worn in contemporary styles but not longer than the top of the shirt collar at the back of the neck when standing with the head in a normal posture. Hair must be clean, neat and combed. The bulk or length of the hair shall not interfere with normal wearing of all standard headgear.

B. Female Officers

Hair may be worn in contemporary styles. Hair must be clean, neat and combed. The bulk or length of hair shall not interfere with normal wearing of all standard headgear.

C. Mustaches & Goatees

Mustaches and goatees are permitted. If a mustache is worn, it shall be kept neatly trimmed and shall not extend downward beyond the bottom of the upper lip. Handle bar and fu manchu mustaches are not permitted. Goatees must be kept neatly trimmed. No facial hair shall exceed one quarter of an inch in length. No other facial hair shall be allowed without prior approval of the Chief of Police.

D. Shaving

Officers shall report for duty cleanly shaved, or having mustache or goatees neatly trimmed.

E. Jewelry

Ear rings, necklaces, chains, bracelets, and similar jewelry can become safety issues in the performance of the duties of police officer and therefore need to have prior approval by the Chief of Police before being worn on duty. Facial piercings, other than ears, are strictly prohibited while on duty. Rings and other bands worn around fingers may be worn on duty unless deemed a safety issue by the Chief of Police.

F. Tattoos

Tattoo, body art, drawings, or other permanent markings on the body shall be covered at all times while on duty unless approval has been given by the Chief of Police.

CHAPTER 5

GENERAL OPERATION

500.01	Departmental Purchases	500.10	Squad Computers/MDC's
500.02	Use of Gas Card	500.11	Display of City or Department
500.03	Supervision of Part Time Officers	500.12	Uniforms, Logos or Emblems
500.04	Radio Frequency Use		Dissemination of Department
500.05	Ride-Alongs	500.13	Functions and Activity
500.06	Ambulance / Fire Department Calls	500.14	On Call Response
500.07	Cell Phone Use	500.15	Response to Calls For Service
500.08	Internet and Computer Use / Social Networking	500.16	On Duty
500.09	Email Use		Training
			Audio, Video Recordings, and
			Photographs

500.01 **DEPARTMENTAL PURCHASES**

All departmental purchases must receive prior approval from the Chief of Police. Exceptions to this policy are purchases of gasoline for the squad cars which shall fall under general operation 500.02

500.02 **FUELING THE SQUAD CAR**

The following is a guideline for fueling squad cars.

- A. Officers shall fill the squad car at the designated gas station for the month. The monthly list will be posted in the squad room and Chief's Office for reference.
- B. Officers should note in their log when they fuel the squad and where.
- C. Officers will fill the squad at the end of their shift if the tank is under a half a tank.

500.03 **SUPERVISION OF PART TIME LICENSED OFFICERS**

In accordance with Minnesota Rules, Chapter 6700.1101 through 6700.1130, Part-time Peace Officer Licensed is to be supervised, when on duty.

- A. Part-time Officers are considered, on duty, when hired by the department, to fulfill a role as outlined in Section 700.02 sub 1-4 of this policy.
- B. Part-time Officers will be assigned to duty by the Chief of Police.
- C. Part-time Officers will be supervised by the Full Time Officer assigned to the same shift.
- D. In the event, no full time officer is assigned to that same shift, Chief of Police will be the supervisor for the part-time officer. This information is available for the officers involved, through the posted work schedule. If Chief of Police is unavailable to

supervise the part-time officer, the Chief of Police, or his designee, will notify the part-time officer who the supervisor will be and how to contact that supervisor.

- E. A part-time officer will have the ability to contact a supervisor by phone, radio, through dispatch, or in person.
- F. At the end of the part-time officer's shift the part-time officer will contact dispatch and notify them that he/she has completed the shift and are no longer on active duty status.

500.04

RADIO FREQUENCY USE

Please note that the use of the radio is being monitored by the Stearns County Communications Center, individual citizens with Police Scanners as well as the local newspaper. Your actions on the radio, just as your actions in job performance are being monitored by members of the community.

A. Use

Officers shall maintain radio contact with dispatch and make themselves available to answer calls at all times. In event that the officer is going to enter locations of poor radio reception, the officer shall notify dispatch of an alternative means of contact such as a cell phone or land line phone available at the location.

B. Radio Transmission

Officers shall keep all radio transmissions brief and limited to the information necessary to conduct official business. Officers should break or disengage from radio traffic after several seconds of transmission to allow for emergency radio traffic. Officers shall not engage in any inappropriate conversation or non work related transmissions on the radio. Officers shall not transmit any sensitive data or personal information through the radio unless it is absolutely necessary for the performance of work duty. Officers shall consider switching to an alternative radio channel or encrypted channel to transmit sensitive, private, or personal data when able.

C. Care and Maintenance of Equipment

It shall be the responsibility of each individual assigned to a radio to keep the equipment in good working order and functioning properly at all times. In the event the equipment is not working properly, it shall be the responsibility of the assigned person to report the problem to the City Administrator in addition to taking corrective action.

500.05

RIDE-ALONGS

In an effort to limit exposure to liability claims, injury, and possible violations of data privacy provisions, the Paynesville Police Department shall not allow "ride-alongs." This policy shall not prevent or preclude the routine transport of prisoners, juveniles, and other conveyance of persons encountered in the officer's normal duties. Licensed police officers from other jurisdictions requesting ride-alongs shall provide documentation from their CLEO demonstrating that they are covered under their employing agencies insurance and liability policies. This policy shall not preclude or prevent the transporting of other City of Paynesville employees. The Chief of Police

shall have the authority to authorize ride alongs when deemed appropriate. Any person granted permission of a ride along must sign a waiver that explains potential hazards the person may face while riding as well as a release of all liability for the City of Paynesville and its insurance provider.

500.06 **AMBULANCE AND/OR FIRE DEPARTMENT CALLS**

The following is a guideline concerning ambulance and/or fire department calls answered by full-time officers for the City of Paynesville, who are members of the volunteer ambulance and/or fire department organizations.

- A. Any Full-time officer for the City of Paynesville may become a member of the volunteer ambulance squad and/or fire department.
- B. Officers will be limited to taking ambulance and/or fire department calls only when they are in Off Duty status.
- C. Officers will not be permitted to take any non-emergency transfers while On Call or On Duty.

Note - This guideline is not meant to impose any restrictions upon a request for assistance, by either the ambulance and/or fire department, from the Paynesville Police Department.

500.07 **CELL PHONE USE**

Officers of the Paynesville Police Department will be provided city cell phones which are to be used for work purposes and may be used for personal use. Officers are required to carry their city issued cell phones at all times and be available for calls relating to work with the understanding that the phones may also be used for personal use during those times. Officers may carry personal cell phones while on duty, but should limit their use to emergencies and limited calls from family members. In all cases, the officer is responsible for any damage caused to his/her personal cell phone while in the performance of his/her duty. Officers must conform to cell phone policy set by the city council, see City SOP. Officers should refrain from long conversations on their cell phone. Officers should refrain from texting and internet use on their cell phones on duty unless it is work related. Officers should refrain from texting or using their mobile device while driving in accordance with state statute. Officers should refrain from using their cell phones while driving vehicles on duty unless it is for official business and is necessary to remain in motion to complete official business.

500.08 **INTERNET AND COMPUTER USE AND SOCIAL NETWORKING**

I. POLICY

Officers are encouraged to utilize city computers, software, the internet, and the like in the normal scope of their duties. Officers are allowed to use the internet for personal use on a limited basis during lunch or break periods. Officers will not spend an excessive amount of time on the internet for personal use while on duty. Excessive time shall be considered any amount of time above and in excess of any accumulated lunch or break periods allowed by police contract.

Officers shall be diligent in spending the majority of their work shift performing official business.

A. Purpose

The purpose of this directive is to safeguard Paynesville Police Department computers, software and network server from unauthorized access and vulnerability to viruses. Employee use of the internet and computers must be able to withstand public scrutiny without embarrassment to the City of Paynesville and the Police Department.

B. Prohibited Uses

Use of the city or department computers for the following uses are prohibited:

- a. Illegal activities as defined by ordinance or statute
- b. Gambling, wagering, betting, or selling (except sales conducted for official police business)
- c. Harassment and illegal discrimination
- d. Fund raising for any purpose unless authorized by the Chief of Police or City Administrator
- e. Commercial activities, e.g. personal for-profit
- f. Promotion of political or religious position, or activities
- g. Non-city employee use
- h. Self-employment business promotion or transaction
- i. Gaming, music, movies, television, or similar programs requiring downloaded material or software.
- j. Pornographic websites or websites that contain full or partial nudity (exception being access specifically mandated by a case investigation)
- k. City and or department computers shall not be used for downloading of any non-police related websites. No outside software shall be installed on city or department computers without permission from the Chief of Police.

C. Monitoring

The City of Paynesville maintains the right to monitor any and all activity of an officer's internet activity, as permitted by law.

D. Privacy Issues

Officers should understand that data the agency maintains electronically is government data subject to classification and access under the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13. Officers should understand that electronic data and any activity on the internet is not completely secure and may be recorded or stored elsewhere to be retrieved and viewed by others at a later date.

E. Reporting

Officers or employees of the city or police department shall report misuse of internet or computers to the Chief of Police.

Employees who have questions about appropriate use of city or department computer equipment or what is considered appropriate use of the internet are encouraged to speak with the Chief of Police.

500.09 **EMAIL/PROHIBITED USE/MANAGEMENT**

A. Prohibited Use

- a. The Office e-mail system shall not be used for personal purposes unless that use is authorized by the Chief of Police.
- b. Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive and harassing or any other inappropriate messages on the email system is prohibited, will constitute just cause for discipline, and will result in discipline, up to and including termination of employment
- c. E-mail 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.
- d. It is a violation of this policy to transmit a message under another user's name or e-mail 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.

B. Management

Because the email system is not designed for long term retention of messages, email that the officer desires to save or that becomes part of an official record should be printed and/or stored in another data base. Officers are solely responsible for the management of their mailboxes. Officers should be aware that messages sent via email may be subject to the City's record retention schedule. Officers are responsible for keeping any emails that require retention.

500.10 **SQUAD COMPUTERS/MDC's**

I. POLICY

It is the policy of this Department to provide, maintain, and operate Mobile Data Computers (MDC) for the purpose of reporting, transmitting or receiving radio calls/messages to and from Dispatch, providing operational status, assignments, assignment disposition, inquiries, information, and a communications link between officers and the Department. The purpose of this policy is to establish guidelines and procedures for electronic call dispatching, data communication between field officers, and for minimizing radio traffic via the use of Mobile Data Computers.

II. PROCEDURE

A. General Use by Operators

- a. Training: Prior to using the MDC unit, officers will be trained how to use the equipment by the Chief of Police or Field Training Officer. Officers will be required to take and pass required tests to use and operate MNCJIS and NCIC inquiries prior to operating the MDC system.

- b. Logging On: If their assigned patrol vehicle is so equipped, Officers will log onto the MDC system prior to leaving the police station to assume patrol duties.
 - 1. It is the officer's responsibility to immediately advise Dispatch if they do not have an MDC, if their MDC unit is not working (prior to assuming field duties), or if the MDC becomes inoperable during their shift.
 - 2. It is the officer's responsibility to notify the Chief of Police (personal contact, voice, or electronic mail via the City's e-mail system) of any MDC malfunction. This notification shall occur no later than the end of the officer's work shift.
- c. MDC Physical Security: The MDC unit is to be locked in the docking station at all times. The Chief of Police will ensure that MDC's have been removed, or turned off in any vehicle sent out for repair, maintenance, etc.
- d. Officer Safety: Operators shall never compromise their safety to operate the MDC unit, i.e., allowing citizens/suspects/prisoners to stand near the vehicle while using the MDC or using the MDC while a person is approaching.
- e. Driving Safety: Operators shall not operate the MDC while the vehicle they are driving is in motion unless needed for running of license plates or reception or communications related to calls for service. Non-emergency communications or chatting is highly discouraged while the vehicle is in motion. Officers are not to add comments to CAD entries while the vehicle is in motion.
- f. Damage/Loss: Officers shall not make attempts to alter or repair the MDC. Operators shall immediately report to their supervisor any loss or damage to the MDC. If an MDC unit becomes inoperable while in use, the officer shall return to voice communication over their assigned radio to transact business.

B. Dispatching Calls For Service

- a. Emergency calls for service will be voice dispatched and sent to the officers in the field via their assigned vehicle's MDC's. All other priorities may be dispatched using the MDC unit only.
- b. Communications personnel will assign MDC equipped units to calls through the unit assignment procedure in the CAD system.
- c. Officers receiving calls will make the appropriate keystrokes to advise Communications personnel when they are en route to a call and when they arrive at the scene. They may also confirm via radio.
- d. Officers will use the appropriate keystrokes and disposition categories on the MDC when clearing a call.

- e. In hazardous situations, officers will use voice transmissions.

C. Messages and Transmissions

- a. Work-related Transmissions: The MDC is restricted to messages of a job-related nature only.
- b. MNCJIS Certification: Department employees who are certified by the State in the operation of a portals terminal can access the MNCJIS Network via the State Inquiry section for vehicle registration, driver license information, NCIC Wanted Person and stolen item files; however, these queries are to be done only for official law enforcement purposes.
- c. Official Use Only: Messages and transmissions are for official use only, and must be made with a professional demeanor. MDC messages are public records and must be made available upon request.
 - 1. The MDC use shall be limited to only those messages that enable operators to conduct Department business.
 - 2. All MDC messages are subject to periodic review.
- d. ATL's: All attempt to locate (ATL) messages received and dispatched personnel may also be sent over the MDC system to on-duty officers equipped with MDC's.
- e. Information for Communications: Officers with MDC's will send data needing computer entry (missing persons, ATL's, stolen vehicles, etc.) to dispatch personnel over the MDC system, so accurate data will be entered into the appropriate system (MNCJIS, NCIC, etc.) as soon as possible. These types of requests should be noted in CAD call narrative.

D. NCIC/MNCJIS Privacy and Security

- a. The Paynesville Police Department shall abide by the MNCJIS rules, regulations, and NCIC guidelines. The Department is subject to audits by the Department of Public Safety (DPS), and/or the FBI for compliance.
- b. Federal and State regulations are established to ensure privacy and security of information entered, inquired upon, and retrieved from the MNCJIS system. The release of this information to any unauthorized person is a violation of Federal Privacy and Security Rules.
- c. Queries into MNCJIS are limited to official law enforcement purposes only. Officers operating vehicles equipped with an MDC will run their own State inquiries, such as, registration, driver license, wanted person and stolen item (vehicles, articles, etc.) checks unless a potentially hazardous situation exists which prevents such an action.
- d. The MDC shall be kept secure at all times. Access shall be restricted to authorized personnel only. Only those employees who have met the established requirement of the system security agreement with DPS will be allowed access (physical or visual) to the system video screen or unit.

- e. Employees shall not make inquiries for information on a subject or property unless the person or property is in custody, under observation, or the information is needed to further an investigation.
- f. The review or release of information from the MNCJIS system is authorized only for an official Departmental purpose and will be used solely for that purpose. Under no circumstances will any information be disseminated to a secondary party or be released for personal reasons.
- g. Officers are responsible for ensuring that the MDC screen is clear of confidential or sensitive information when a prisoner is in the vehicle to avoid the release of such information. MDC information shall be considered confidential and operators shall secure their vehicle and MDC to preclude unauthorized use or tampering. Operators shall also clear the State Inquiry screen of MNCJIS information when their unit is unattended.

E. Prohibited Operations

- a. Smoking in MDC equipped vehicles is prohibited.
- b. The MDC shall not be used while the vehicle is in motion with exceptions listed under section 500.10 II(A)(e) above.
- c. MDC's shall only be used for the manufacturer's intended purposes. Because of the fragile nature of the equipment, the MDC and docking station shall not be used as a writing pad, a table, etc.
- d. Loading of any software into the MDC unit without permission from the Chief of Police is prohibited.
- e. Altering the software configuration of an MDC in any way, including screen savers, button configuration, or any other software function without authorization from the Chief of Police is prohibited.
- f. Beverages will not be placed on the vehicle dashboard, on the equipment console, near the MDC or the MDC keyboard. Only beverages with secure lids will be allowed in vehicles equipped with MDC's.

500.11

DISPLAY OF CITY OR DEPARTMENT UNIFORMS, LOGOS OR EMBLEMS

No officer shall offer, sell, or display any city or department uniform, logo, emblem or other item belonging to the city of Paynesville to any member of the public, website, advertisement, social networking site, public or private event, while on or off duty in a non-official capacity without permission from the Chief of Police.

500.12

DISSEMINATION OF DEPARTMENT FUNCTIONS AND ACTIVITY

No officer shall disseminate activities and functions of the Paynesville Police Department to the general public in person or through social media outlets without permission from the Chief of Police.

500.13

ON CALL/RESPONSE

A. On call

Officers of the Paynesville Police Department, when in On Call status, shall be available to respond to the scene of any call for service within 15 minutes of receiving notification. This time is calculated from the time the officer receives the call until the time the officer has obtained the squad car and is en route to the call. Officers shall respond in full uniform with full required on duty uniform equipment (SEE 400.19) and with a squad car.

Officers shall make themselves available by department cell phone, personal cell phone, land line, or both when in on call status and shall notify dispatch when they place themselves into on call status.

B. Response

Officers shall respond to all law enforcement or related call for service that requires a police response in the City of Paynesville. Officers will not respond to calls outside of Paynesville when in On Call status unless approved by the Chief of Police. If an officer should have questions on whether they should respond, they should call the Chief of Police. Officers shall abide by all laws and statutes during the response to any call in On Call status.

Officers shall contact the Chief of Police for clarification if there is any question on response to any incident.

C. Use of Prescription Medication/Alcoholic Beverages/On call

Officers in on call status are responsible for response to emergency and non emergency calls and therefore shall not consume any alcoholic beverage or use prescription medications consistent with the department conduct policy 900.01 until the officer is off duty and no longer in On Call status.

500.14

RESPONSE TO CALLS FOR SERVICE ON DUTY

A. Purpose and Scope

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

B. Response to Emergency Calls

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

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

C. Response to Non-Emergency Calls

- a. Normal responses to calls will include all appropriate lighting as required by law.
- b. Under tactical considerations, when investigating criminal or suspected criminal violations, or as otherwise appropriate and reasonable, an officer may be temporarily exempt from regular, non-emergency lighting standards for vehicles and watercraft (Minn.Stat.§169.541).
- c. However, absent extreme circumstances an officer may not operate a vehicle without regular, non-emergency lighting, as required by law, on:
 - 1. An interstate highway or freeway.
 - 2. At speeds greater than what is reasonably safe under the conditions.

D. Requesting Emergency Assistance

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

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

- a. The unit number
- b. The location
- c. The reason for the request and type of emergency
- d. The number of units required

E. Number of Units Participating

Normally, only those units reasonably necessary should respond to an emergency as an emergency call response. The senior officer on duty or a supervisor should monitor all emergency responses and reduce or enhance the response as warranted.

F. Initiating Emergency Call Response

- a. If an officer believes an emergency call response to any call is appropriate, the officer shall immediately notify the Communications Center. Emergency responses of more than one unit should include, if circumstances reasonably permit, coordination of the response of the second responding unit by the

Communications Center to avoid unanticipated intersecting of response routes.

- b. An emergency call response of more than one unit should initiate notification by the Communications Center to the senior officer on duty or a supervisor of the response. The senior officer on duty or supervisor will make a determination regarding the appropriateness of the response and reduce or enhance the response as warranted.

G. Responsibilities of Responding Officers

- a. Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. During a response to an emergency call officers may (Minn. Stat. § 169.03):
 - 1. Proceed cautiously past a red or stop signal or stop sign but only after slowing down as may be necessary for safe operation.
 - 2. Exceed any speed limits, provided this does not endanger life or property.
 - 3. Disregard regulations governing direction of movement or turning in specified directions as authorized by law.
 - 4. Disregard regulations governing parking or standing when using a warning lamp. Failure of Emergency Equipment
- b. The decision to continue an emergency call response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify the Communications Center. An officer shall also discontinue an emergency call response when directed by a supervisor or as otherwise appropriate.
- c. 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.

H. Failure of Emergency Equipment

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

500.15

TRAINING:

Officers are required to take annual training as directed by the Chief of Police. Officers are required to complete the post mandated trainings yearly, including firearms qualification. Officers must submit a training request to the Chief of Police for all training. Officer must have approval before taking any training. Officers will submit a completed training form after training is complete detailing the exact cost of the training. Officers are responsible for insuring they have the proper number of Continuing Education Credits to renew their licenses. Officers are also required to complete the following courses on an annual basis:

- A. HazMat Awareness Training**
- B. Use of Force Training**
- C. Bloodborne Pathogens**
- D. Any additional required OSHA training**

500.16

AUDIO, VIDEO RECORDINGS, AND PHOTOGRAPHS:

Members of the Paynesville Police Department shall use department equipment to make audio and visual recordings or to take photographs to accomplish the following objectives:

- A.** To enhance officer safety;
- B.** To document statements and events during the course of an incident;
- C.** To enhance law enforcement's ability to document and review statements and actions for both internal reporting requirements and for Courtroom preparation and presentation;
- D.** To preserve visual and audio information for use in current and future investigations;
- E.** To provide impartial measurement for self-critique and field evaluation during officer training; and
- F.** enhance the public trust by preserving factual representations of officer/citizen interaction in the form of video and audio recordings.

Under no circumstances shall audio or visual images made while on duty by a department member be used for personal purposes or posted on websites or used in any type of social media.

Personal, audio and visual equipment, such as personal cell phones, cameras, tape recorders or video equipment, shall not be used by members of the Police Department to make audio or visual records while on duty, except in an emergency situation, such as the failure of departmental audio or visual recording devices occurring during an event.

In the event of a situation where the use of personal, audio or visual equipment is necessary, the officer making use of such equipment shall immediately report that use to the Chief of the Paynesville Police Department.

Audio or visual recording devices shall not be activated to make audio or visual recordings of fellow department members without their knowledge or to transmit in a clandestine manner audio or visual material of other officers or members of the public to another location.

CHAPTER 6

POST MANDATED USE OF FORCE

- 600.01 Use of Force and Deadly Force
- 600.02 Use of Chemical Agent
- 600.03 Use of Electronic Incapacitation Device (TASER)
- 600.04 Use of Impact Device
- 600.05 Handcuffing Policy
- 600.06 Arrests
- 600.07 Crisis Response, Conflict Management, Cultural Diversity

600.01 USE OF FORCE AND DEADLY FORCE

I. PURPOSE

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

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

MN STAT 626.8475 DUTY TO INTERCEDE AND REPORT;

MN STAT 609.06 AUTHORIZED USE OF FORCE;

MN STAT 609.065 JUSTIFIABLE TAKING OF LIFE; and

MN STAT 609.066 AUTHORIZED USE OF FORCE BY PEACE OFFICERS.

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

II. POLICY

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

III. DEFINITIONS

- A. *Bodily Harm:*** means physical pain or injury, illness, or any impairment of physical condition.
- 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. *Force:*** intentional bodily contact with another that causes pain or injury or is likely to cause pain or injury, intentionally placing another in fear of such bodily contact, or restricting another's freedom of movement in a manner likely to cause pain or injury.
- D. *Less Lethal 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.
- 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. 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.

- F. *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.
- G. *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.
- H. *Approved 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 devices.
- I. *Impact Devices:*** objects designed to be used to apply force to the person of another by coming into physical contact with that person.
- J. *Chemical Agent:*** CN/Chloracetophenone, OC/Oleoresin Capsicum, CS/Orthochlorobenzalmalononitrile or combinations of these chemical agents.
- K. *Conducted Electrical Weapon (CEW):*** a device designed and intended by the manufacturer to be used, to temporarily immobilize another person or gain compliance by means of electric pulse or current.

IV. PROCEDURE

A. Force Considerations

In determining what force is reasonable under the circumstances, an officer should consider:

- a. the severity of the crime at issue;
- b. whether the suspect poses an immediate threat to the safety of the officer or others;

- c. whether the suspect is actively resisting arrest or attempting to evade arrest by flight; and
- d. other relevant information the officer reasonably believes to be true at the time.

B. Use of Deadly Force

- a. 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;
 - 1. To protect the peace officer or another from death or great bodily harm, provided that the threat:
 - i. can be articulated with specificity by the law enforcement officer;
 - 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
 - 2. 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.
- b. An officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (1a), items (i) to (iii).
- c. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.
- d. In cases where deadly force is authorized, less than lethal measures must be considered first by the officer.

C. Use of Less Lethal Force

It is the policy of this agency to accord officers discretion in the use of less lethal force to the extent permitted by Minnesota Statute. When de-escalation techniques are not effective or appropriate, an officer is authorized to use reasonable force

when the officer perceives it is necessary given the circumstances known to the officer at the time in:

- 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.

D. General Rules Governing Use of Force

- a. All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.
- b. In addition, training shall be provided on a regular and periodic basis and designed to
 - 1. Provide techniques for the use of and reinforce the importance of de-escalation
 - 2. Simulate actual shooting situations and conditions; and
 - 3. Enhance officers' discretion and judgement in using other than deadly force in accordance with this policy
- c. 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.
- d. Before being authorized to carry an approved device or chemical agent all officers shall receive training and instruction in the use of the device or agent including training as it relates to its use in deadly force and/or less lethal force situations. Such training and instruction shall continue on an annual basis.
- e. Officers will carry and use only approved devices or chemical agents unless circumstances exist which pose an immediate threat to the safety of the officer or the public requiring the use of a non-approved device or object to counter such a threat.
- f. With agency approval officers may modify, alter or cause to be altered an approved device in his or her possession or control.

- g. 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.
- h. Protracted force encounters jeopardize the safety of the public, law enforcement personnel and the person being arrested or captured. Accordingly, an officer should use discretion to determine reasonable force options to bring a subject under control. This policy should not be construed to require officers to first attempt using types and degrees of force that reasonably appear to be inadequate to accomplish the intended objective.
- i. An officer may announce their intention to use reasonable force.
- j. The use of force shall be discontinued by the officer once the resistance ceases or the subject is under control. 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.

E. Use of Certain Types of Force

- a. 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:
 - 1. Chokeholds,
 - 2. Tying all of a person's limbs together behind a person's back to render the person immobile, or;
 - 3. Securing a person in any way that results in transporting the person face down in a vehicle.
- b. Less than lethal measures must be considered by the officer prior to applying these measures.

F. De-Escalation

- a. 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.
- b. Whenever possible and when such delay will not compromise the safety of another or the officer and will not result in the destruction of evidence, escape

of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

G. 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.

H. 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

I. Reporting Requirements

All uses of force shall be documented and investigated pursuant to this agency's policies

J. Record Keeping Requirements

- a. The CLEO will maintain records of the agency's compliance with use of force training requirements.

600.02 USE OF CHEMICAL AGENT

The following is a guideline regarding the use of, reporting procedure, and first aid treatment, when using a chemical agent.

A. Use of Chemical Agent:

- a. Use of chemical agent is authorized under the same guidelines as the State Statute 609.06, "Authorized Use of Force".
- b. Whenever chemical agent is used, it will be reported on the arrest report or general report.
- c. Use of chemical agent should eliminate, or at least reduce the need for physical force in overcoming a suspect's resistance. This in turn should reduce unnecessary injuries to officers and suspects.
- d. Chemical agents may be a combination of 1% Orthochlorobenzalmalononitrile (CS) and Oleoresin Capsicum (OC) or any percent up to 10% of (OC).

B. Procedure for Use:

- a. Always discharge the container by holding it in the upright position. This will ensure that the irritant and not the propelling gas is projected.
- b. The irritant is sprayed out of the container in a stream type pattern of liquid. Thus this stream is somewhat resistant to wind blow-back.
- c. The maximum effective range of the stream is 15-20 feet.
- d. Since the irritant is designed to cause blurring of vision and skin irritation, the only effective target area is the face. Directing the burst at any other part of the body, or at the clothing, will result in little, if any, disabling effect.
- e. Usually a one or two-second burst, directed into the face, will be sufficient. Continuous spraying, i.e., over-exposure, may cause serious or permanent injury. Once the subject has been exposed don't rush: give the irritant a chance to work. After the suspect is incapacitated, restrain the suspect with handcuffs and provide for the first-aid:
 1. See that the exposed areas are washed with soap and water. This will remove all skin oils and dirt which could trap the irritant.
 2. Flush the exposed area with copious amounts of cool water for at least 3 or 4 minutes.
 3. Keep the contaminated area exposed to fresh air, thus allowing the irritants to escape. Do not bandage.
 4. If the suspect is wearing contact lenses at the time of exposure, they must be removed to achieve proper first aid.
 5. First aid measures should be given as soon as possible after the exposure, and in no case should a period of more than 30 minutes lapse between the exposure and first aid. The officer applying the irritant will be responsible for seeing that these first aid measures are followed.
- f. Once the irritant is applied, it stays active and causes disabling effect for a period of 15 to 20 minutes.

C. Notification when used:

- a. In all cases when mace is used, included in your offense report:
 1. The time the irritant was applied. Notify Dispatch when irritant has been applied, when safe to do so.
 2. Your justification for doing so, i.e. resisting arrest.
 3. The type of first aid given.
 4. The time it was given.
- b. This must be done in order to protect the officer against any civil action or claim indicating that you acted negligently.

- c. To individual officers, chemical agent devices are an excellent non-lethal weapon. However, there are some restrictions in their use. They are listed as follows:

D. Conditions Warranting Use:

- a. Only under conditions which represent an extreme hazard (immediate threat or serious injury or death) should the spray be applied into the face or eyes at a distance of less than two feet. Application under this distance may cause serious or permanent eye damage.
- b. Do not direct a prolonged discharge, at any effective distance into the face of an already incapacitated person.
- c. Do not use the chemical agent on a person who is already restrained or in lawful custody; i.e., jail, unless it is an emergency situation. Under no circumstances is the chemical agent to be applied as a punitive measure.
- d. Chemical agent should not be discharged in the immediate vicinity of infants. Their respiratory system is especially sensitive to the irritating vapors caused by the irritant. Serious injury could result.

E. Cautions in Using:

- a. There are few exceptions where these devices may not subdue the suspect. In many such cases the irritant does not strike the facial area and is, therefore, ineffective.
- b. In other cases the person is intoxicated to the point of being anesthetized or, being under the influence of certain drugs, too tranquilized to be affected by the irritant formulation. These persons still experience profuse tearing, but are completely oblivious to the tearing and burning sensation.
- c. It is important to note that while many psychotics are subdued by this formula, not all psychotics will so react.
- d. Although it is seldom, there are certain individuals who are not affected by the chemical agent in any form.
- e. Remember, you can become just as disabled by the spray as the person for whom it is intended; you too can become seriously injured. Use the chemical agent with discretion and within the confines of sound judgment as set forth in the Use of Force policy 600.01. The chemical agent is to work for you, not against you.
- f. Any theft or loss of the canister must be immediately reported. If a canister becomes empty, turn it in and you will be issued a new one.
- g. Mace canisters have a shelf life, and officers shall replace the canister when the date on the canister has expired.

- h. It is not recommended to discharge chemical agent in or around the vicinity of a TASER or other electronic incapacitation device. It is recommended to use either chemical agent or an electronic incapacitation device but not both unless no other option to gain control of the subject is possible.

600.03 USE OF CONDUCTED ELECTRICAL WEAPON (TASER)

- 1. X-26, X-26p and X-2 (hereafter referred to as Taser)

I. POLICY

The Taser is an intermediary tool that falls between the use of verbal commands and impact weapons. The department expects officers to use the Taser in a professional manner and relies upon the officer's discretion for upholding this policy. It must be understood by all officers that the use of the Taser in a manner outside the parameters of this policy could result in disciplinary action against the officer by the department. The same could occur through the misuse of any other weapon(s) that the officer carries.

II. DEFINITION

The Taser is a hand held, laser aimed, battery-operated, less than lethal, conducted energy weapon. Voltage is applied to a subject by two darts connected to conducting wires propelled from a charged cartridge of compressed nitrogen or from direct contact. The unit uses an Electro-Muscular Disruptive System, which overrides the central nervous system resulting in temporary, involuntary muscle contractions. The contractions will incapacitate a subject so they can be placed under the control of law enforcement officers.

For the purpose of this policy, the Taser is considered a less than lethal impact weapon likely to have less lasting effects on a subject than an impact weapon. The Taser is considered an approved Conducted Electrical Weapon (CEW) for use by trained members of the Paynesville Police Department.

For the purpose of this policy, soft tissue areas are considered to be the eyes, neck, nipple, and groin/genital areas.

A. Purpose

The purpose of this policy is to allow training and provide guidelines for the use of the Taser. The Taser has been determined to be an extremely effective, less than lethal/minimal impact instrument for gaining compliance for uncooperative subjects. Further, this policy is to allow officers to utilize lightweight Conducted

Electrical Weapon (CEW) that will allow officers to effectively incapacitate violent suspects with little risk of inflicting or receiving injury.

B. Application

- a. The Taser may be used in situations where force is justified to control aggressive and or combative/noncompliant subjects, thereby reducing the likelihood of injury to officers and subjects.
- b. The most effective range is between 7 to 15 feet. The maximum range is 35 feet.
- c. The Taser may be deployed by direct touch when the physical confrontations are in progress. (X26 or X26p only)

C. Safety Conditions

- a. The deploying officer shall inform other officers of the presence and/or planned use of the Taser as tactically prudent and practical, so the Taser shot is not mistaken for a gun shot.
- b. The Taser will cycle for a period of 5 seconds, but may be turned off sooner. Officers may continually depress the trigger if necessary to restrain a suspect. Once the suspect is restrained the officer should immediately turn the Taser off.
- c. Officers should move in, restrain and control the subject as soon as possible.
- d. The Taser should not be used when the subject is in danger of falling from a significant height.
- e. The Taser should not be used when a subject is in water where drowning is a possibility.
- f. Used darts are considered a biohazard and must be handled appropriately. This includes the use of gloves and designated biohazard evidentiary containers by department personnel.
- g. Officers are to make every effort to avoid dart placement in the face, soft tissue areas.

- h. Officers must not overlook the aspect of injury that may result in falling from a standing position after deployment of the Taser.
- i. When the Taser is used, the officer shall contact EMS to respond to the scene. The officer will offer medical treatment to the subject. The officer is authorized to remove the darts unless it is in a soft tissue area. If in a soft tissue area, the suspect should be transported to the hospital to have the darts removed.

D. Restricted Uses

- a. The Taser shall not be used on subjects exhibiting compliant or passive resistive behavior.
- b. The Taser shall not be used on a restrained or controlled subject unless the actions of the subject pose a potential threat of bodily harm to themselves or any other person. The Taser may be displayed to gain compliance of a restrained subject.
- c. The Taser shall not be used when the presence of flammable fumes, liquids or gases are known or likely. The Taser is not to be used if a Chemical Agent has been used.
- d. The Taser should not be used on women known to be pregnant unless all other means short of lethal force have been used.
- e. The Taser shall not be used on minors unless the actions of the subject present an immediate threat of death, great bodily harm or substantial physical struggle that could result in injury to themselves or any other person including the deploying officer.
- f. The Taser shall not be displayed in any public area for demonstration or display purposes, other than to gain compliance of a subject except under the following circumstances:
 - 1. The use is specifically approved by the Chief of Police or;
 - 2. The use is part of an official instruction course conducted by a certified Taser training instructor.

E. Documentation

- a. Depending on the penetration and location of the darts and the sex of the subject, officers must make every reasonable effort to have any dart impact areas on the subject's person photographed. If the subject is of the opposite sex of the officer taking the photographs, same sex arrangements must be made.
- b. Officers are required to fully document the Taser use and results in a narrative report in accordance with the department's use of force policy.
- c. Officers must also complete a Taser Use Report Form for the department's case file and Taser International case file.
- d. Officers shall log the expended cartridge into evidence. Officers shall have the Taser instructor download the data from the Taser. A copy of the information will go into the case file as well as the training officers Taser Use file. Officers will also have any audio and video recordings from a Taser Cam download at the same time.

F. Training and Care

- a. All officers that carry and deploy the Taser must be trained by the Certified Taser Instructor. Officers will be required to go through the initial 6 hour training course with this department before they will be allowed to carry or deploy the Taser, unless the Taser Instructor approves the refresher course. Officers will be required to be tased before a Taser is issued to them. If the officer has been tased by another agency, the Taser Instructor may allow the officer to opt out of this requirement.
- b. Certified Taser Users must be re-certified on an annual basis in order to carry and deploy the Taser. Officers who fail to re-certify will not be allowed to carry or deploy the Taser.
- c. Officers will turn in their assigned Taser to the training officer once every 4 months for updates and downloading of data.

The Taser may be used on aggressive animals to subdue them or to stop an aggressive attack by the animal.

600.04 IMPACT DEVICE

Impact devices are authorized under the use of force continuum. Impact devices may be

used only after receiving proper instruction from a certified use of force instructor. Officers may carry an approved impact device.

600.05 HANDCUFFING POLICY

A. Use of Handcuffs/Restraint Devices

Officers should in the course of performance of their official duties use handcuffs during the arrest and detention of prisoners. Officers should consider handcuffing all prisoners in the back but may exercise discretion. When practicable, handcuffs shall be double-locked to prevent tightening that may cause undue discomfort or injury to the hands or wrists.

Officers should avoid handcuffing any person under the age of 14 unless the subject would be considered a danger to themselves or others or has been taken into custody for a felony level offense. Officers should avoid handcuffing pregnant females in labor by the arms or legs unless such action is necessary for the arrestee, officer, or both.

Officers may use discretion including the circumstances leading to an arrest, age, sex and health of the subject, whether the person has a hearing or speaking disability which may require the use of their hands, or whether there is another disability or injury. It is not the purpose of this policy to place an officer in danger or at risk by limiting the discretion of that officer to use reasonable force necessary to avoid harm to themselves or others.

B. Temporary Handcuffing of Detainees

Officers may use discretion in the temporary handcuffing of subjects during situations that may not result in arrest but might require restraint for the purposes of officer safety or temporary detention. Handcuffing may only be used in any situation where appropriate use of force is necessary for officer or public safety and may only be done for as long as is reasonably necessary to maintain officer or public safety.

C. Improper Handcuffing

Officers should never use handcuffs or restraint devices for the purpose of punishment or a show of force. Officers should never apply handcuffs or restraint devices in a manner other than the devices intended purpose to intentionally cause pain and discomfort. Officers should make reasonable efforts to make sure all handcuffs and restraint devices are applied in a manner which will not intentionally inflict unreasonable pain or discomfort.

D. Approval of Handcuffs/Restraint Devices

Only restraint devices approved by the Chief of Police may be used during the course of official duties. When practicable, handcuffs shall be double-locked to prevent tightening that may cause undue discomfort or injury to the hands or wrists.

600.06 ARRESTS

- A. In making arrests, members shall strictly observe the laws of arrest and use the following procedures:
1. When arrests are made in certain danger areas, the arresting officer will remove the arrested person from the scene as soon as possible.
 2. Only necessary restraint to insure safe custody and the safety of the officer shall be employed.
 3. The arresting officer is responsible for the safety and protection of the arrested person while in custody.
 4. Officers shall not mistreat persons who are in their custody. Officers shall handle such person in accordance with law and departmental procedures.
 5. He shall notify the transporting officers, if not the arresting officer, of any injury, apparent illness or other conditions which indicate the arrested person may need special care.

No officer should make an arrest when they have full knowledge that the arrest is in violation of Paynesville Police Department policy, Minnesota or Federal statutes.

600.07 CRISIS RESPONSE, CONFLICT MANAGEMENT, CULTURAL DIVERSITY

- A. Officers of the Paynesville Police Department will be trained in Crisis Response, Conflict Management, and Cultural Diversity on an annual basis and will do so in accordance with Minnesota State Statute 629.8469.
- B. Officers will attend an in-person training on conflict management and cultural diversity at least once during the licensure period.

CHAPTER 7

POST MANDATED EMERGENCY VEHICLE OPERATION/VEHICLE PURSUITS

- 700.01 Emergency Vehicle Operation
- 700.02 High Speed Driving
- 700.03 Ramming of Pursued Vehicles
- 700.04 Roadblocks
- 700.05 Vehicle Pursuits
- 700.06 Take Home Vehicle Policy

700.01 EMERGENCY VEHICLE OPERATION

Personnel will, under normal conditions, operate police vehicles in the same manner as required for the public. Violations of motor vehicle laws, when not authorized by emergency conditions or careless, abusive use of police vehicular equipment, will result in disciplinary action.

Vehicles shall not be driven when they are in unsafe mechanical condition. Officers shall inspect their assigned vehicle before each shift and report any damage or mechanical failure to the Chief. Any damage or mechanical failures that affect the safety and/or integrity of the vehicle or hinder an officer's ability to perform shall be remedied as soon as practicable.

700.02 HIGH SPEED DRIVING

As outlined in Minnesota State Statute 169.03:

- A. The driver of any authorized emergency vehicle, when responding to an emergency call, upon approaching a red or stop signal or any stop sign shall slow down as necessary for safety but may proceed cautiously past such red or stop sign or signal after sounding siren and displaying red lights.
- B. The driver of any authorized emergency vehicle, when responding to any emergency call, may enter against the run of traffic on any one-way street, or highway where there is authorized division of traffic, to facilitate traveling to the area in which an emergency has been reported; and the provisions of this section shall not affect any cause of action arising prior to its passage.
- C. An authorized emergency vehicle, when at the scene of a reported emergency, may park or stand, notwithstanding any law or ordinance to the contrary.
- D. No driver of any authorized emergency vehicle shall assume any special privilege under this chapter except when such vehicle is operated in response to any emergency call or in the immediate pursuit of an actual or suspected violator of the law.

700.03

RAMMING OF PURSUED VEHICLES

In the course of pursuit, deliberate contact between vehicles or forcing the pursued vehicle into parked cars, ditches, or any other obstacle, boxing in, heading off, ramming, or driving alongside the pursued vehicle while it is in motion shall be prohibited, unless such actions are specifically authorized by the Chief of Police. Such actions may be approved only when the use of deadly force would be authorized. Reckless or hazardous driving maneuvers shall not be duplicated by any pursuing vehicle.

700.04

ROADBLOCKS

The use of roadblocks must be authorized by the Chief of Police or delegate in the Chief's absence. The use of a roadblock must be directly associated with the seriousness of the crime for which the suspect is wanted. The roadblock must be clearly visible and provide adequate warning to allow vehicles to come to a safe stop. The roadway shall not be completely blocked unless the use of deadly force would be authorized.

700.05

VEHICULAR PURSUITS

I. POLICY

It is the policy of the Paynesville Police Department to protect lives while enforcing the law and to guide its officers in the safe and reasonable performance of their duties. To accomplish these goals, the following policy is provided to control and regulate emergency vehicle operations. When engaged in emergency vehicle operations in the performance of official duties, drivers of authorized emergency vehicles are granted exemptions from certain traffic laws by state statute. These exemptions are provided to help protect lives, not to place them at undue risk.

II. DEFINITIONS

A. Pursuit: A multi-stage process by which a peace officer initiates a vehicular stop and a driver resists the signal or order to stop, increases speed, takes evasive action and/or refuses to stop the vehicle. Once the driver refuses to obey the peace officer's signal or order, this pursuit policy and procedure will determine the officer's and agency's actions.

B. Termination of a Pursuit: A pursuit shall terminate when the pursuing officer(s) turn off the emergency equipment, resume routine vehicle operation and informs dispatch, or when the suspect vehicle stops.

C. Divided Highway: Any highway that is separated into two or more roadways by:

- a. a physical barrier, or
- b. 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.

III. PROCEDURE

A. Pursuit Considerations: *The initial decision to engage in a pursuit shall rest primarily with the officer who has initiated the stop after considering the elements of this policy.*

a. Pursuit is justified when:

1. a vehicle operator fails to stop after being given a visual or audible signal to stop by a peace officer; and
2. there is reasonable expectation of a successful apprehension of the suspect.

b. Other factors to be considered:

1. the crime for which the suspect is wanted (the need to apprehend immediately), and the risk to the community created by the pursuit (traffic, area of pursuit, environmental factors, and weather conditions);
2. the risks created by the pursuit, which shall include ongoing reconsideration as those risks may change during a pursuit;
3. whether the dangers created by the pursuit exceed the danger posed by allowing the suspect to escape;
4. interests of public safety; and
5. all other relevant factors.

A supervisor may override an officer's decision to continue pursuit of a suspect at any time during the pursuit.

B. Procedures & Tactics for an Officer Engaging in a Pursuit

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.

- c. The pursuing vehicle shall be known as the primary unit, which will be the unit closest to the fleeing vehicle and the secondary unit, which shall remain at a safe distance behind the primary unit but close enough to provide support and communicate with dispatch. Backup units as needed shall operate at a safe distance to provide support.

C. Responsibilities of the Primary Unit

- a. The driver of the primary unit shall notify dispatch of the pursuit and shall provide at least the following critical information to dispatch:
 - 1. unit identification;
 - 2. offense for which the suspect is being pursued;
 - 3. suspect vehicle description including license number if reasonably possible;
 - 4. location, direction and speed of both vehicles;
 - 5. description of occupant(s) and if suspect is known to the officer; and
 - 6. any other important information about the suspect vehicle or environment (for example, the suspect is traveling without lights, or the officer has lost sight of the vehicle).
- b. Based on the known information the supervisor shall make the decision to either take further appropriate action or terminate the pursuit.
- c. No officer will intentionally make vehicle-to-vehicle contact unless this action is in conformance with the Use of Force (600.01) and Ramming a Pursued Vehicle policy (700.03).
- d. Roadblocks must conform to the Use of Force (600.01) and Roadblock policy (700.04).
- e. Only law enforcement vehicles with emergency lights and siren will be used as pursuit vehicles.

D. Supervision of Pursuit Activities

- a. When an officer with the Paynesville Police Department engages in a pursuit, the officer will request dispatch notify the Chief of Police immediately. The Chief of Police, if able, will monitor the pursuit and determine whether the pursuit should continue or be terminated. This does not preclude the initiating officer to terminating the pursuit based on their observations. If the Chief of Police is not available, his designee should be contacted – who shall have the same decision-making authority as the Chief of Police.
- b. Options to keep in mind during a pursuit include, but are not limited to:

1. parallel pursuits
 2. channeling techniques
 3. creating a compelling path
- c. Officers involved in a pursuit shall have a post-pursuit debrief with the Chief of Police.

E. Dispatch Responsibilities

Dispatch shall coordinate critical information as timely and accurately as is reasonably possible.

F. Factors Influencing the Termination of a Pursuit:

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

- a. The conditions of the pursuit become 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.

G. Interjurisdictional Pursuit

- 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 the Paynesville Police Department's jurisdiction, officers will notify the Chief of Police of the pursuit and their intent to assist with it.
 - 1.** The on-duty officer(s) shall notify the Chief of Police, or the Chief's designee, of the pursuit and their intent to assist. Where it is unsafe for the officer to notify the Chief of Police, the officer shall request assistance from dispatch in notifying the Chief;
 - 2.** the dispatcher shall update the critical information to the officers or other authorized individuals.
 - 3.** when a pursuit nears the Paynesville Police Department's jurisdiction, officer's should position themselves in such a way to try and prevent the pursuit from entering into the residential areas of the community.
 - 4.** the controlling pursuit authority shall determine if the pursuit is in conformance with policy and shall provide appropriate direction to their units.

H. Air Support

Once contact is made with air support and air support has the suspect vehicle in sight, the primary pursuit unit shall reduce the level of pursuit to that of support or backup unit.

I. Care and Consideration of Victims

- a.** 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.
- b.** The primary pursuit unit will be responsible for ensuring assistance is provided to people who may have been injured during the course of a pursuit. The primary pursuit unit will not delegate the responsibility to render the assistance to a backup unit. If the officer is alone, they will provide a description and direction of travel to other responding units.

J. Pursuit Summary Report

- a.** The primary officer and the supervisor shall file a pursuit summary report.
- b.** To ensure compliance with MN 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 incident.
- c.** As required in MN STAT 626.5532, the report must contain the following elements:
 - 1.** the reason(s) for, and the circumstances surrounding the incident;
 - 2.** the alleged offense;
 - 3.** the length of the pursuit including time and distance;
 - 4.** the outcome of the pursuit;
 - 5.** any injuries or property damage resulting from the incident;
 - 6.** any pending criminal charges against the driver; and
 - 7.** any other information deemed relevant by the commissioner.

K. 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.

700.06 Take-Home Squad Car

Purpose and Scope:

This policy establishes guidelines to ensure the proper use of take-home vehicles. It is the policy of the City of Paynesville to assign police vehicles to certain positions within the Police Department as identified by the Chief of Police for use pursuant to the following guidelines and procedures.

Policy Statement:

Take-Home vehicles shall be authorized on a case-by-case basis to employees who have specific law enforcement duties by the Chief of

Police, and if abused, this privilege may be immediately revoked. Employees who are allowed this privilege are required to strictly abide by all guidelines listed in this policy and those set forth by the Chief of Police. Take-home vehicle use authorization is at the discretion of the Chief of Police and is subject to change at any time for any reason.

Definitions:

Take-Home Vehicle: A take-home vehicle is a City of Paynesville Police Department-owned automobile that is authorized by the Chief of Police to be taken home and operated by officers under the conditions allowed in this policy. A take-home vehicle may also be an automobile owned by another governmental agency that has been provided to the Department.

Employee: Sworn Minnesota law enforcement officer employed full-time by the City of Paynesville Police Department.

Home: Residence within the geographical limits of the City of Paynesville and Paynesville Township, Minnesota.

General Criteria:

The City of Paynesville Police Department's take-home vehicle is a privilege extended to authorized, designated personnel of the department. Before the employee is authorized or eligible for a take-home vehicle, he/she must meet criteria that includes, as determined by the Chief of Police, but is not limited to:

- A. Employee's position includes a primary emergency response function
- B. Employee works in an operational division, section or unit which requires the use of a vehicle for the employee to perform the required duties of his or her position and the required vehicle is specifically the vehicle assigned by the Chief of Police (i.e. K-9)
- C. Employee is directly assigned to take-home vehicle use by the Chief of Police
- D. Employee's position requires immediate emergency response to a crime scene or incident creating immediate and substantial threat to human life during non-scheduled work hours.
- E. The Employee resides within the city limits of Paynesville or Paynesville Township.

Procedures:

- A. Vehicles shall only be used for work-related purposes and shall not be used for personal errands or transports, unless the Chief of

Police gives authorization, except in an emergency. Emergencies shall be reported within twenty-four (24) hours to the Chief of Police.

- B. Officers shall not transport non-departmental personnel in the vehicles unless it's in an official capacity or without authorization from the Chief of Police
- C. Only the employee shall operate the take-home-vehicle.
- D. Any officer on light-duty or suspension is not authorized a take-home vehicle.
- E. Take-home vehicles shall be properly maintained and kept clean at all times.
- F. The fact that an employee is driving a take home vehicle in commuting to and from work is not a basis for determining that commuting time is hours of work
- G. Unattended vehicles shall always be kept locked with keys removed at all times. Seat belts must be used as required by City and departmental policy and state law.
- H. All firearms, weapons and computers will be removed from the interior of the vehicle and properly secured in the residence when the vehicle is not attended, unless the vehicle is parked in a locked garage.
- I. Employees on or off duty, who intend to consume or possess, or who have consumed any amount of alcoholic beverage **shall never** drive any City owned vehicles. Employees may possess alcohol in the vehicle if it is for law enforcement purpose, i.e. a seizure or evidence in a case.
- J. Vehicles will not be used when off-duty except:
 - a. When the employee 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.
 - b. When the employee has received permission from the Chief of Police
 - c. When the employee is participating in an off-duty activity in which the use of the vehicle is required and has received permission from the Chief of Police to do so.
- K. Employees will comply with all other department policies related to the use of police vehicles.

CHAPTER 8

POST MANDATED ALLEGATIONS OF MISCONDUCT

800.01 ALLEGATIONS OF MISCONDUCT AND COMPLAINT INVESTIGATION

I. POLICY

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

II. DEFINITIONS

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

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

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

III. PROCEDURE

A. Initiating Complaint

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

grounds for disciplinary action under any of the Peace Officer Standards and Training Board's regulatory provisions.

- c. Upon receiving a complaint against a member within the agency, the CLEO receiving the complaint shall immediately have the complainant complete a Citizens Complaint Form (CCF) and assign an administrative case number. The complaint will not be considered filed until the complainant signs the CCF.
- d. If the person making a complaint sets forth specific believable facts supporting an allegation of misconduct but wishes to remain anonymous, the CLEO receiving the complaint may, with sole discretion, permit the complainant to remain anonymous. In this instance the CLEO shall sign the complaint as the complainant. If the CLEO has reason to believe the complaint is unfounded, the CLEO shall have the authority to require an anonymous complainant to identify himself/herself. If that complainant refuses to do so, the CLEO may refuse to accept a complaint and shall advise the anonymous person of that fact.
- e. After a CCF is filed, the CLEO shall sign the document keeping a copy for the agency and providing a copy to the complainant. The CLEO will forward a copy of the document to the respondent only after it is determined that the complaint does not allege a criminal violation and the notification will not impede a criminal investigation.
- f. 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.
- g. Any complaint made against a Chief of Police shall initially be made to the City Administrator or Mayor. Upon receiving a complaint the receiving authority shall immediately have the complainant complete a Citizens Complaint Form (CCF) and assign an administrative case number. The complaint will not be considered until the complainant signs the CCF.
- h. The City Administrator or Mayor should refer investigations of alleged misconduct against a CLEO to an outside law enforcement agency or criminal justice agency.

B. The Investigation of a Complaint

- a. Upon receipt of the Citizen Complaint Form (CCF), the CLEO shall make an initial determination as to whether the facts alleged require a formal investigation. If, upon review of the CCF, the CLEO determines the facts in the CCF establish a *prima facie* claim of misconduct warranting a formal

investigation, then an investigation shall commence as set forth herein. Should the facts not create a *prima facie* basis of misconduct, then a formal investigation is not required, and entered as either “not sustained” or “exonerated.” The complainant and the respondent shall be notified of the decision and the basis for determination. The complainant may supply additional information within thirty (30) days of the initial determination and ask the CLE to reverse the decision and order a formal investigation.

- b. If the CLEO determines a formal investigation is required an appropriate person will be assigned to investigate the complaint. When the CLEO believes an external investigation is appropriate and when the CLEO is the subject of the complaint, the investigation will be assigned to an external agency.
- c. The CLEO may suspend a respondent with pay at any time during the investigation of a complaint. Where the allegations of the complaint relate to a member’s honesty, integrity, or would otherwise subject the member to a *Brady-Giglio* disclosure, the member shall be placed on paid-leave pending the outcome of the investigation.
- d. As soon as possible after being assigned the investigation the investigator shall inform the complainant of his or her name, business phone number and the status of the complaint.
- e. The investigator shall thoroughly investigate all allegations contained in the complaint and any other potential misconduct discovered in the course of the investigation. If the investigation reveals potential misconduct by another agency member the investigator shall report that fact to the CLEO or, in the case of a complaint against a CLEO, the appropriate City Administrator or Mayor.
- f. All agency members shall cooperate with the investigation. When the respondent is a licensed peace officer the investigation shall comply with the requirements of MN STAT 626.89 and acts amendatory thereto.
- g. The investigator shall prepare a report which will contain all relevant information organized into the following three (3) sections.
 - 1. **Allegations:** an itemized summary of the acts of misconduct alleged in the complaint. Reference shall be made to those rules, procedures, orders, statutes, or constitutional provisions that would be violated if the allegations are taken as true.
 - 2. **Investigation:** a chronological summary of the investigation including all pertinent facts obtained through interviews with the complainant, accused agency member and all available witnesses. Written statements,

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

3. **Conclusions:** the investigator's findings, conclusions as to whether any misconduct occurred and the underlying reasons for the finds and conclusions.
- h. The investigation shall be completed within thirty (30) days of the filing of the complaint unless the CLEO determines there is good cause to grant an extension to the investigation time. The complainant and respondent shall be informed of any extension.
- i. A complaint received through the Minnesota Board of Peace Officer Standards and Training will be handled pursuant to this policy; the Board will be advised of the status of the complaint within 30 days.

C. Additional Investigation, Review and Disposition

- a. Upon completion of the investigation the investigator shall submit the report, case file and all investigative notes to the CLEO. The CLEO may require additional investigation or make one of the following decisions: "exonerated," "not sustained," or "sustained."
- b. The CLEO may postpone making a decision until any related criminal charges are resolved. The complainant and respondent shall be informed of this decision.
- c. If the decision is "exonerated" or "not sustained" the CLEO shall immediately notify the complainant and the respondent of the decision.
- d. If the complaint is "sustained" the CLEO will:
 1. issue findings of fact including a summary of the acts constituting misconduct and the specific statutes, policies, regulations and procedures violated; and
 2. take appropriate remedial and/or disciplinary action; and
 3. immediately contact the City and County Attorney to advise of the sustained complaint related to Brady-Giglio and the nature of the complaint; and
 4. where the complaint results in a need to make current and/or future *Brady-Giglio* notifications, consult with the City and County Attorney regarding whether to initiate a review of cases involving the officer.
- e. Prior to the implementation of remedial and/or disciplinary action the respondent will be provided with a copy of the findings of fact. The CLEO and/or appropriate person shall review the findings of fact with the respondent and explain the reasons for the remedial and/or disciplinary action.

- f. The investigation may be re-opened by the CLEO at any time if substantial new evidence is discovered concerning the complaint.
- g. When a “sustained” disposition is final the respondent may appeal the disposition pursuant to the rules and law governing the accused member’s employment.

D. Maintenance and Disclosure of Data

- a. Disclosure to the public, complainant and respondent of data collected, created or received by the agency in connection with this policy and procedure shall be governed by the provisions of the MN Government Data Practices Act. Retention of data collected or maintained in connection with this policy shall be retained in accordance with the agency’s “Record Retention Schedule.”
- b. All data collected, created or received by the agency in connection with this policy and procedure shall be maintained in accordance with the agency’s “Record Retention Schedule.”
- c. The placement of the disposition report or other data in an employee’s personnel file shall 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.

CHAPTER 9

POST MANDATED PROFESSIONAL CONDUCT OF OFFICERS (CONDUCT UNBECOMING)

- 900.01 Conduct Policy
- 900.02 Conduct That May Result in Discipline
- 900.03 Conduct Unbecoming (POST MANDATED)

900.01 CONDUCT POLICY

A. Purpose and Scope

The purpose of this policy is to provide officers of the Paynesville Police Department with guidelines for their conduct in order that they may participate in meeting the goals of this department in serving the community. This policy incorporates the elements of the Peace Officer Standards and Training Board Model Policy regarding the professional conduct of peace officers. However, this policy shall apply to all officers of this department (including volunteer, part-time, auxiliary and employees). This policy shall not be construed to increase or establish an employee's civil or criminal liability nor shall it be construed to create or establish a higher standard of safety or care (Minn. Stat. § 626.8457).

A violation of any portion of this policy may only serve as the basis for internal disciplinary and/or administrative action. The rights of officers under this policy are in addition to collective bargaining agreements or any other applicable law (see generally Minn. R. Ch. 6700.1500).

The Paynesville Police Department shall report annually to POST data regarding the investigation and disposition of cases involving alleged misconduct of officers (Minn. Stat. § 626.8457 Subd. 3).

B. Conduct Policy

The continued employment of every officer of the Paynesville Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure of any officer to meet the guidelines set forth in this policy, whether on-duty or off-duty, may be cause for disciplinary action (see generally Minn. R. Ch. 6700.2000 to Minn. R. Ch. 6700.2600).

An officer's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may materially affect or arise from the officer's ability to perform official duties, that it may be indicative of unfitness for his/her position or that brings discredit or harm to the professional image or reputation of the Paynesville Police Department, its members, the City of Paynesville or the law enforcement profession.

Any disciplinary actions against officers arising from violations of this policy shall be investigated in accordance with Personnel Complaint and Misconduct Procedure Policy and the Peace Officer Discipline Procedures Act (Minn. Stat. § 626.89).

C. Lawful Orders

Officers shall comply with lawful directives and orders from any supervisor or person in position of authority absent a reasonable and bona fide excuse.

An Officer who believes any written or verbal order to be in conflict with another order or unlawful shall:

- a. Immediately inform the supervisor issuing the order of the conflict or error of the order.
- b. Provide details explaining the grounds for the belief of the conflict or error of the order.
- c. Request clarification, guidance and direction regarding following the order.
- d. Request the order in writing should the conflict or error be unresolved.
- e. Respectfully inform the supervisor if he/she intends to disobey what he/she reasonably believes to be an unlawful order.

An officer's election to disobey an order he/she believes to be unlawful is not a bar to discipline should the order be determined as lawful.

900.02 Conduct That May Result In Discipline

The following causes for disciplinary action constitute a portion of the disciplinary standards of the Paynesville Police Department. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient service in the Paynesville Police Department.

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

Any of the following actions may be deemed sufficient cause for the discipline, discharge, suspension, demotion or removal of any officer:

- a. Failure to abide by the standards of ethical conduct for employees, including fraud in securing appointment or hire.
- b. Activity that is incompatible with an officer's conditions of employment established by law or that violates a provision of any agreement or contract.
- c. Violation of any rule, order, requirement or the failure to follow instructions contained in Paynesville Police Department or City of Paynesville manuals.
- d. Willful disobedience to any legal order properly issued by any superior officer of the Paynesville Police Department.
- e. Willful neglect of duty, including failure or refusal to perform a known mandatory, non-discretionary, ministerial duty of the Paynesville Police Department or employment within the time or in the manner required by law to

perform (Minn. Stat. § 609.43 (1)).

- f. Making public any active investigation other data classified as not public of the Paynesville Police Department to any unauthorized person.
- g. Unreasonable and unwarranted violence to a person encountered or person under arrest.
- h. Under pretense or color of official authority intentionally and unlawfully injures another in the other's person, property or rights (Minn. Stat. § 609.43 (3)).
- i. Use of obscene, profane or derogatory language while on-duty or in uniform while in public.
- j. Unauthorized attendance while on-duty at official legislative or political sessions or functions.
- k. Willful and inexcusable destruction or loss of Paynesville Police Department or City of Paynesville property.
- l. Violations of federal, state, local or administrative laws that are willful or inexcusable or involve moral turpitude, including violations of Minn. R. Ch. 6700.1600.
- m. Commits any act in an official capacity knowing it is excess of authority or forbidden by law (Minn. Stat. § 609.43 (2))
- n. Any on-duty or off-duty conduct that any employee knows or reasonably should know is unbecoming a member of the Paynesville Police Department or that is contrary to good order, efficiency or morale, disgraceful or that tends to reflect unfavorably upon the Paynesville Police Department or its members.

D. Attendance

- a. Leaving the job to which assigned during duty hours without reasonable excuse and proper permission and approval.
- b. Tardiness on scheduled day(s) of work.
- c. Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.
- d. Failure to notify the Paynesville Police Department within 24 hours of any change in residence address, home phone number or emergency contact information.
- e. Unauthorized absence from duty or abuse of leave privileges.

E. General Conduct

- a. Any failure or refusal of an officer to properly perform the function and duties of an assigned position.
- b. Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily injury on another.
- c. Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment without first notifying the Chief of Police of such action.
- d. Solicitations, speeches or distribution of campaign literature for or against any

political candidate or position while on-duty, on Paynesville Police Department or City of Paynesville property or while in any way representing him/herself as a member of the Paynesville Police Department, except as expressly authorized by the Chief of Police.

- e. Engaging in political activities during assigned working hours except as expressly authorized by the Chief of Police.
- f. Failure to maintain required and current licenses (e.g. driver's license, POST license) and certifications (e.g. first aid).
- g. Establishing an inappropriate social relationship with a known victim, witness, suspect or defendant of a Paynesville Police Department case while such case is being investigated or prosecuted as a result of such investigation.
- h. Using Paynesville Police Department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.
- i. Engaging in horseplay resulting in injury or property damage or the reasonable possibility thereof.
- j. Unauthorized possession of, loss of or damage to Paynesville Police Department property or the property of others, or endangering it through unreasonable carelessness or maliciousness.
- k. Failure of any officer to promptly and fully report activities on his/her part or the part of any other officer where such activities may result in criminal prosecution or discipline.
- l. Failure of any officer to promptly and fully report activities that have resulted in official contact by any other law enforcement agency.
- m. Using or disclosing one's status as an officer with the Paynesville Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-Paynesville Police Department business or activity.
- n. The use of any not public data obtained or accessed as a result of employment with the Paynesville Police Department for personal or financial gain or without the express authorization of the Chief of Police may result in discipline.
- o. Seeking restraining orders against individuals encountered in the line of duty without the express permission of the Chief of Police.
- p. Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- q. Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

F. Discrimination, Oppression, Harassment, or Favoritism

- a. Discriminate against, oppress or provide favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, national origin, ancestry, marital status, physical or mental disability or medical condition or intentionally deny or impede another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.
- b. Discourteous, disrespectful or discriminatory treatment toward any member of the public or any member of Paynesville Police Department or City of Paynesville.
- c. Intentionally subjecting another to sexual harassment.

- d. Racial profiling (Minn. Stat. § 626.8471 Subd. 2).

G. Intoxicants

- a. Reporting for work or being at work following the use of intoxicants where such use may impair the employee's ability to perform assigned duties or where there is an immediate suspicion of ineffectiveness during public contact resulting from the use of intoxicants.
- b. Unauthorized possession or use of, or attempting to bring intoxicants to the work site, except as authorized in the performance of an official assignment. An employee who is authorized to consume intoxicants is not permitted to do so to such a degree that it may impair on-duty performance.
- c. Reporting for work or being at work following the use of a "controlled substance" or any drug (whether legally prescribed or otherwise) where such use may impair the officer's ability to perform assigned duties without prior notification of a supervisor.
- d. Unauthorized possession, use of or attempting to bring a controlled substance or other illegal drug to any work site.
- e. Rules governing Intoxicants apply to hours when an officer is in On Call status.

H. Performance

- a. Sleeping during on-duty time or assignments without permission.
- b. Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned.
- c. Unsatisfactory work performance, including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without a reasonable and bona fide excuse.
- d. Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- e. Disobedience or insubordination to constituted authorities, including refusal or deliberate failure to carry out or follow lawful directives and orders from any supervisor or person in a position of authority.
- f. The wrongful or unlawful exercise of authority on the part of any officer for malicious purpose, personal gain, willful deceit or any other improper purpose.
- g. Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Paynesville Police Department or subverts the good order, efficiency and discipline of the Paynesville Police Department or that would tend to discredit any member thereof.
- h. The falsification of any work-related records, the making of misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any Paynesville Police Department record, public record, book, paper or electronic document (Minn. Stat. § 609.43 (4)).
- i. Wrongfully loaning, selling, allowing unauthorized use, giving away or appropriating any Paynesville Police Department badge, uniform, identification

card or property for personal use, personal gain or any other improper or unauthorized use or purpose.

- j.** Carrying, while on the premises of the workplace, any firearm or other deadly weapon that is not required for the performance of the officer's current job duties or authorized by his/her appointing authority.
- k.** The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the officer's duties (lawful subpoena fees and authorized work permits excepted).
- l.** Any knowing or negligent violation of the provisions of the Paynesville Police Department manual, operating procedures or other written directive of an authorized supervisor. The Paynesville Police Department shall provide this manual to all officers. Officers shall familiarize themselves with and be responsible for compliance with this manual and each of the policies contained herein.
- m.** Work-related dishonesty, failure to disclose, being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm or destroy the reputation, authority or official standing of the Paynesville Police Department or members thereof, misrepresenting material facts, including upon or within any application, examination form or other official document, report or form, or during the course of any investigation, including failure to participate in any Paynesville Police Department related investigation or business.
- n.** Violating a law related to employment or any misdemeanor or felony statute involvement in any criminal, dishonest, infamous or disgraceful conduct adversely affecting the employee/employer relationship, whether on-duty or off-duty, including associating with, or joining a criminal gang, organized crime and/or criminal syndicate, security threat group or persons who engage in serious violations of state or federal laws when an officer knew or reasonably should have known of the criminal nature of the organization, except as specifically directed and authorized by the Paynesville Police Department.
- o.** Attempted or actual theft of Paynesville Police Department property, misappropriation or misuse of public funds, property, personnel or services or the property of others or the unauthorized removal or possession of Paynesville Police Department property or the property of another person.
- p.** Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved Paynesville Police Department practices or procedures.
- q.** Offer or acceptance of a bribe or gratuity.
- r.** Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- s.** Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions: while on Paynesville Police Department premises; at any worksite; while on-duty or while in uniform; while using any Paynesville Police Department equipment or system. 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.

I. Safety

- a. Failure to observe posted rules, signs and written or oral safety instructions while on-duty and/or within Paynesville Police Department facilities or to use required protective clothing or equipment.
- b. Knowingly failing to report any on-the-job or work-related accident or injury within 24 hours.
- c. Substantiated officer record of unsafe or improper driving habits or actions in the course of employment.
- d. Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- e. Any personal action contributing to involvement in a preventable traffic collision, or other unsafe or improper driving habits or actions in the course of employment.
- f. Violating Paynesville Police Department safety standards or safe working practices.

J. Security

- a. Unauthorized, intentional release of designated confidential, private, non-public or protected non-public data, including DVS records. Officer will take appropriate steps to prevent the release of protected information to the public

K. Supervisor's Responsibilities

If an officer's conduct is a cause of action for discipline, the Chief of Police shall inform the officer promptly and specifically of the improper conduct.

The Chief of Police is required to follow all policies and procedures and may be subject to discipline for:

- a. Failure to take appropriate action to ensure that officers adhere to the policies and procedures of the Paynesville Police Department and that the actions of all personnel comply with all laws.
- b. Failure of a supervisor to report in a timely manner any known misconduct of an officer to his/her immediate supervisor or Chief of Police or to document such misconduct appropriately or as required by policy.
- c. The unequal or disparate exercise of authority on the part of a supervisor toward any officer for malicious or other improper purpose.

900.03 CONDUCT UNBECOMING A PEACE OFFICER

I. POLICY

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

II. PROCEDURE

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

A. Principal One

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

a. Rationale

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

b. Rules

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

B. Principal Two

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

a. Rationale

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

b. Rules

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

C. Principal Three

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

a. Rationale

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

b. Rules

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

D. Principal Four

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

- a. Rationale:** A peace officer's ability to perform his or her duties is dependent upon the respect and confidence communities have for the officer and law enforcement officers in general. Peace officers must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public.
- b. Rules**
1. Peace officers shall not consume alcoholic beverages or chemical substances while on duty except as permitted in the performance of official duties, and under no circumstances while in uniform, except as provided for in c).
 2. Peace officers shall not consume alcoholic beverages to the extent the officer would be rendered unfit for the officer's next scheduled shift. A peace officer shall not report for work with the odor of an alcoholic beverage on the officer's breath.
 3. Peace officers shall not use narcotics, hallucinogens, or other controlled substances except when legally prescribed. When medications are prescribed, the officer shall inquire of the prescribing physician whether the medication will impair the officer in the performance of the officer's duties. The officer shall immediately notify the officer's supervisor if a prescribed medication is likely to impair the officer's performance during the officer's next scheduled shift.
 4. Peace officers, whether on or off duty, shall not engage in any conduct which the officer knows, or should reasonably know, constitutes sexual harassment as defined under Minnesota law, including but not limited to; making unwelcome sexual advances, requesting sexual favors, engaging in sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature.
 5. Peace officers shall not commit any acts which constitute sexual assault or indecent exposure as defined under Minnesota law. Sexual assault does not include a frisk or other search done in accordance with proper police procedures.
 6. Peace officers shall not commit any acts which, as defined under Minnesota law, constitute (1) domestic abuse, or (2) the violation of a court order restraining the officer from committing an act of domestic abuse or harassment, having contact with the petitioner, or excluding the peace officer from the petitioner's home or workplace.
 7. Peace officers, in the course of performing their duties, shall not engage in any sexual contact or conduct constituting lewd behavior including but not limited to, showering or receiving a massage in the nude, exposing themselves, or making physical contact with the nude or partially nude body of any person, except as pursuant to a written policy of the agency.
 8. Peace officers shall avoid regular personal associations with persons who are known to engage in criminal activity where such associations will undermine the public trust and confidence in the officer or agency. This rule does not prohibit those associations that are necessary to the performance of official duties or where such associations are unavoidable because of the officer's personal or family relationships.

E. Principal Five

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

a. Rationale: Peace officers are the most visible form of local government. Therefore, peace officers must make a positive impression when interacting with the public and each other.

b. Rules

1. Peace officers shall exercise reasonable courtesy in their dealings with the public, other officers, superiors and subordinates.
2. No peace officer shall ridicule, mock, deride, taunt, belittle, willfully embarrass, humiliate, or shame any person to do anything reasonably calculated to incite a person to violence.
 - i. Peace officers shall promptly advise any inquiring citizen of the agency's complaint procedure and shall follow the established agency policy for processing complaints.

F. Principal Six

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

a. Rationale

For a community to have faith in its peace officers, officers must avoid conduct that does or could cast doubt upon the impartiality of the individual officer or the agency.

b. Rules

1. Peace officers shall not use their official position, identification cards or badges for: (1) personal or financial gain for themselves or another person; (2) obtaining privileges not otherwise available to them except in the performance of duty; and (3) avoiding consequences of unlawful or prohibited actions.
2. Peace officers shall not lend to another person their identification cards or badges or permit these items to be photographed or reproduced without approval of the chief law enforcement officer.
3. Peace officers shall refuse favors or gratuities which could reasonably be interpreted as capable of influencing official acts or judgments.
4. Unless required for the performance of official duties, peace officers shall not, while on duty, be present at establishments that have the primary purpose of providing sexually oriented adult entertainment. This rule does not prohibit officers from conducting walk-throughs of such establishments as part of their regularly assigned duties.
5. Peace officers shall:
 - i. not authorize the use of their names, photographs or titles in a manner that identifies the officer as an employee of this agency in connection

with advertisements for any product, commodity or commercial enterprise;

- ii. maintain a neutral position with regard to the merits of any labor dispute, political protest, or other public demonstration while acting in an official capacity;
- iii. not make endorsements of political candidates while on duty or while wearing the agency's official uniform.

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

G. Principal Seven

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

a. **Rationale:** For the public to maintain its faith in the integrity and impartiality of peace officers and their agencies officers must avoid taking or influencing official actions where those actions would or could conflict with the officer's appropriate responsibilities.

b. Rules

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

H. Principal Eight

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

a. Rationale

Peace officers are entrusted with vast amounts of private and personal information or access thereto. Peace officers must maintain the confidentiality of such information to protect the privacy of the subjects of that information and to

maintain public faith in the officer's and agency's commitment to preserving such confidences.

b. Rules

1. Peace officers shall not knowingly violate any legal restriction for the release or dissemination of information.
2. Peace officers shall not, except in the course of official duties or as required by law, publicly disclose information likely to endanger or embarrass victims, witnesses or complainants.
3. Peace officers shall not divulge the identity of persons giving confidential information except as required by law or agency policy.

III. APPLICATION

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

CHAPTER 10

POST MANDATED RESPONSE TO REPORTS OF MISSING AND ENDANGERED PERSONS

- 1000.01 Missing and Endangered Persons
- 1000.02 Amber Alerts

1000.01 MISSING AND ENDANGERED PERSONS

I. POLICY

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

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

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

II. DEFINITIONS

A. *Missing*

Has the meaning given it in MN STAT 299C,52, subd. 1 (d), “The status of a person after a law enforcement agency has received a report of a missing person, has conducted a preliminary investigation, and determined that the person cannot be located”.

B. *Endangered*

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

- a. the person is missing as a result of a confirmed abduction or under circumstances that indicate that the person’s disappearance was not voluntary;
- b. the person is missing under known dangerous circumstances;
- c. the person is missing more than 30 days;

- d. the person is under the age of 21 and at least one other factor in this paragraph is applicable;
- e. there is evidence the person is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person's health if the person does not receive the needed care or medication;
- f. the person does not have a pattern of running away or disappearing;
- g. the person is mentally impaired;
- h. there is evidence that the person may have been abducted by a noncustodial parent;
- i. the person has been the subject of past threats or acts of violence;
- j. there is evidence the person is lost in the wilderness, backcountry, or outdoors where survival is precarious and immediate and effective investigation and search and rescue efforts are critical; or
- k. any other factor that the law enforcement agency deems to indicate that the person may be at risk of physical injury or death, including a determination by another law enforcement agency that the person is missing and endangered.

C. *Child*

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

D. *NCIC*

Means The National Crime Information Center.

E. *CJIS*

Means The Criminal Justice Information System.

F. *DNA*

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

III. PROCEDURES

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

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

A. Initial Response

- a. As required by MN STAT 299C.53, subd. 1(a), Law Enforcement shall accept, without delay, any report of a missing person. Law enforcement shall not refuse to accept a missing person report on the basis that:
 - 1. the missing person is an adult;

2. the circumstances do not indicate foul play;
 3. the person has been missing for a short amount of time;
 4. the person has been missing for a long amount of time;
 5. there is no indication that the missing person was in the jurisdiction served by the law enforcement agency at the time of the disappearance;
 6. the circumstances suggest that the disappearance may be voluntary;
 7. the reporting person does not have personal knowledge of the facts;
 8. the reporting person cannot provide all of the information requested by the law enforcement agency;
 9. the reporting person lacks a familial or other relationship with the missing person; or
 10. for any other reason, except in cases where the law enforcement agency has direct knowledge that the person is, in fact, not missing, and the whereabouts and welfare of the person are known at the time the report is filed.
- b. Dispatch an officer, to the scene, to conduct a preliminary investigation to determine whether the person is missing, and if missing, whether the person is endangered.
 - c. Obtain interpretive services if necessary.
 - d. Interview the person who made the initial report, and if the person is a child, the child's parent(s) or guardian(s).
 - e. Determine when, where, and by whom the missing person was last seen.
 - f. Interview the individual(s) who last had contact with the person.
 - g. Obtain a detailed description of the missing person, abductor, vehicles, etc. and ask for recent photo of missing person.
 - h. Immediately enter the complete descriptive and critical information, regarding the missing and endangered person, into the appropriate category of the NCIC Missing Person File.
 1. As required by 42 U.S.C. 5779(a) (Suzanne's Law) law enforcement shall immediately enter missing children less than 21 years of age into the NCIC.
 2. As required by MN STAT 299C.53, subd. 1(b), if the person is determined to be missing and endangered, the agency shall immediately enter identifying and descriptive information about the person into the NCIC.
 - i. Enter complete descriptive information regarding suspects/vehicle in the NCIC system.
 - j. Request investigative and supervisory assistance.
 - k. Update additional responding personnel.
 - l. Communicate known details promptly and as appropriate to other patrol units, local law enforcement agencies, and surrounding law enforcement agencies. If necessary, use The International Justice & Public Safety Network (NLETS), the Minnesota Crime Alert Network, and MNJIS KOPS Alert to alert state, regional and federal law enforcement agencies.
 - m. Notify the family of the Minnesota Missing/Unidentified Persons Clearinghouse services available.

- n. Secure the crime scene and/or last known position of the missing person and attempt to identify and interview persons in the area at the time of the incident.
- o. Obtain and protect uncontaminated missing person scent articles for possible use by search canines.
- p. Activate protocols for working with the media. (AMBER Alert, Minnesota Crime Alert Network)
- q. As required by MN STAT Chapter 299C.53, subd. 1(b), consult with the Minnesota Bureau of Criminal Apprehension if the person is determined to be an endangered missing person. Request assistance as necessary.
- r. 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; or
 - 3. jurisdictions have pre-established task forces or investigative teams.
- s. Based on the preliminary investigation, determine whether or not a physical search is required.

B. Initial Investigation

- a. Conduct a canvas of the neighborhood and of vehicles in the vicinity.
- b. Arrange for use of helpful media coverage.
- c. Maintain records of telephone communications/messages.
- d. Ensure that everyone at the scene is identified and interviewed separately.
- e. Search the home, building or other area/location where the incident took place and conduct a search including all surrounding areas. Obtain consent or a search warrant if necessary.
- f. Assign an investigator or officer whose duties will include coordination of the investigation.

C. Investigation

- a. Begin setting up the Command Post/Operation Base away from the person's residence. Know the specific responsibilities of the Command Post Supervisor, Media Specialist, Search Coordinator, Investigative Coordinator, Communication Officer, Support Unit Coordinator, and two liaison officers (one at the command post and one at the victim's residence). The role of the liaison at the home will include facilitating support and advocacy for the family.
- b. Establish the ability to "trap and trace" all incoming calls. Consider setting up a separate telephone line or cellular telephone for agency use and follow up on all leads.
- c. Compile a list of known sex offenders in the region.
- d. In cases of infant abduction, investigate claims of home births made in the area.

- e. In cases involving children, obtain child protective agency records for reports of child abuse.
- f. Review records for previous incidents related to the missing person and prior police activity in the area, including prowlers, indecent exposure, attempted abductions, etc.
- g. Obtain the missing person's medical and dental records, fingerprints and DNA when practical or within 30 days.
- h. Create a Missing Persons' Profile with detailed information obtained from interviews and records from family and friends describing the missing person's health, relationships, personality, problems, life experiences, plans, equipment, etc.
- i. Update the NCIC file, as necessary with any additional information, regarding the missing person, suspect(s) and vehicle(s).
- j. Interview delivery personnel, employees of gas, water, electric and cable companies, taxi drivers, post office personnel, sanitation workers, etc.
- k. For persons' under the age of 21, contact the National Center for Missing and Exploited Children (NCMEC) for photo dissemination and other case assistance.
- l. Determine if outside help is needed and utilize local, state and federal resources related to specialized investigative needs, including:
 - 1. Available Search and Rescue (SAR) resources
 - 2. Investigative Resources
 - 3. Interpretive Services
 - 4. Telephone Services (traps, traces, triangulation, etc.)
 - 5. Media Assistance (Local and National)
- m. Secure electronic communication information such as the missing person's cell phone number, email address(s) and social networking site information.
- n. Appoint an officer who shall be responsible to communicate with the family/reporting party or their designee and who will be the primary point of contact for the family/reporting party or designee. Provide contact information and the family information packet (if available) to the family/reporting party or designee.
- o. Provide general information to the family/reporting party or designee about the handling of the missing person case or about intended efforts in the case to the extent that the law enforcement agency determines that disclosure would not adversely affect the ability to locate or protect the missing person or to apprehend or prosecute any person(s) criminally in the disappearance.

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

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

1. DNA 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. Other specific identifying information.

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

D. Prolonged Investigation

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

E. Recovery/Case Closure

- a. **Alive**
 1. Verify that the located person is the reported missing person.
 2. If appropriate, arrange for a comprehensive physical examination of the victim.
 3. Conduct a careful interview of the person, document the results of the interview, and involve all appropriate agencies.

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

b. Deceased

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

1000.02 AMBER ALERTS

A. Purpose and Scope

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).

B. Child Abduction 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.

Employees shall follow the requirements of the Bureau of Criminal Apprehension (BCA) and implement an AMBER Alert if both of the following criteria are met:

- 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 activated if there is no information to distribute. In cases where the AMBER Alert criteria are not met, the Minnesota Crime Alert Network can be activated to notify the public and request information on the case.

C. Alert Responsibilities

An employee receiving an abduction report should notify the Chief of Police or acting supervisor, as soon as practicable. The Chief of Police or acting supervisor will then determine whether to activate an AMBER Alert or inform the media and other outside resources of the child abduction.

D. Procedure

In the event of a confirmed child abduction, whether an AMBER Alert is activated, the following procedures designed to alert the media should be followed.

- a. The Chief of Police or supervisor will prepare an initial press release that includes all available information that might aid in locating the child, such as:
 - 1. The child's identity, age and description.
 - 2. Photograph if available.
 - 3. The suspect's identity, age and description, if known.
 - 4. Pertinent vehicle description.
 - 5. Detail regarding location of incident, direction of travel, potential destinations, if known.
 - 6. Whether there is reason to believe the suspect has a relationship to the victim.
 - 7. Name and phone number of the Chief of Police or other authorized individual to handle media liaison.
 - 8. A telephone number for the BCA to call to get further information.
 - 9. A telephone number for the public to call with leads/information.
- b. The Chief of Police or supervisor will notify the Communications Center at the BCA (800-832-6446). After the information is checked, an AMBER Alert will be issued and the Minnesota Emergency Alert System (EAS) will be activated.
- c. Fax the press release to the local television and radio stations.

- d.** The individual responsible for making notifications shall also consider the following resources as the circumstances dictate:
 - 1.** Minnesota State Patrol (MSP).
 - 2.** Federal Bureau of Investigation (FBI local office).
 - 3.** Prompt entry of information into the U. S. Department of Justice NCIC Missing and Unidentified Person System (MUPS).
 - 4.** National Center for Missing and Exploited Children (800-843-5678).
 - 5.** Office Internet sites, communications and resources.

- e.** As additional information pertinent to the case becomes available, it shall be forwarded to the BCA.
- f.** The officer or supervisor investigating the abduction or other individual responsible for making notifications shall prepare and forward to the previously described locations, additional information regarding the search and investigation.
- g.** Upon closure of the child abduction, the Chief of Police or supervisor shall immediately notify the BCA with the pertinent information.

CHAPTER 11

POST MANDATED DOMESTIC ABUSE

1100.01 DOMESTIC ABUSE POLICY

I. POLICY

It is the policy of the Paynesville Police Department to recognize domestic abuse as a serious problem in today's society. This agency's policy is to protect victims of domestic abuse by making an arrest whenever it is authorized and by ensuring its peace officers understand the laws governing this area.

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

II. DEFINITIONS

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

A. *Domestic Abuse*

Has the meaning given it in MN STAT 518B.01, subd. 2(a), which states: "Domestic abuse" means the following, if committed against a family or household member by a family or household member:

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

B. *Domestic Abuse Program*

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

C. *Child*

A person under the age of 18.

D. *Family or Household Member*

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

and a woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.

E. *Domestic Call*

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

F. *Qualified domestic violence-related offense (QDVRO)*

has the meaning given it in Minn. Stat. 609.02, subd. 16 and includes a violation of or an attempt to violate a domestic abuse order for protection; first or second degree murder; first through fifth degree assault; domestic assault; female genital mutilation; domestic assault by strangulation; first through fourth degree criminal sexual conduct; malicious punishment of a child; threats of violence; violation of harassment restraining order; stalking; interference with an emergency call; nonconsensual dissemination of private sexual images; and violation of domestic abuse no contact order; and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

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

G. *Order for Protection (OFP)*

is an order issued under Minn. Stat. 518B.01 by a judge in civil court upon the request of the petitioner. Any family or household member of the abuser (called a respondent) may ask the court for an OFP. The relief granted to the petitioner may include an order for the respondent to stop domestic abuse, no direct or indirect contact with petitioner, temporary custody of minor children, temporary financial support, and/or counseling for the respondent. Other forms of relief are also available. Violating an OFP is a crime.

H. *Domestic Abuse No Contact Order (DANCO)*

is an order issued under Minn. Stat. 629.75 by a judge in criminal court limiting contact between a defendant and a victim of domestic abuse. DANCOs may be issued as pretrial condition of release and/or as a probationary condition of sentence.

I. *Harassment Restraining Order (HRO)*

is an order issued under Minn. Stat. 609.748 by a judge in civil court when a petitioner requests a court order preventing another person from having contact with him/her. These orders generally prohibit all contact of any kind (including, but not limited to, phone calls, letters, e-mail, social media and contact through a third party) and may limit the respondent's ability to come within a certain distance of the petitioner's home, work or school. This type of order can be issued no matter what the relationship between the individuals involved. Violating an HRO is a crime.

J. *Harassment*

has the meaning given to it in Minn. Stat. 609.748, subd. 1(a): a single incident of physical or sexual assault or repeated incidents of intrusive or unwanted acts, words or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target.

K. Stalking

has the meaning given to it in Minn. Stat. 609.749, subd. 1: engaging in conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated, and causes this reaction on the part of the victim regardless of the relationship between the actor and victim.

III. PROCEDURE

A. Dispatching the Calls

a. Receiving the Domestic Call

Upon receiving a domestic call the dispatcher should assign the call a high priority. The officer should request a second unit be assigned to the call as well, if one has not already been assigned. 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 peace officers as much of the following information as possible:

1. the nature of the incident,
2. the address of the incident, including apartment number, if applicable,
3. the telephone numbers where the caller can be reached,
4. whether weapons are involved or present in the dwelling,
5. whether someone is injured and the nature of the injury,
6. information about the suspect including whether the suspect is present, description, direction of flight, mode of travel, etc.,
7. the relationship between the caller and the suspect,
8. whether there has been prior calls involving these individuals,
9. whether there is an order for protection, harassment restraining order (HRO) or criminal pre-trial or probationary no contact order (NCO)¹,
10. whether children are present at the scene, and
11. whether there are non-English speaking people, or people with mobility impairments or hearing impairments at the scene.

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

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

If the responding peace officers are some distance away, and the dispatcher cannot remain on the telephone with the call/victim, the dispatcher should attempt to call back

¹ When a pre-trial no contact order is issued in connection with a pending domestic abuse prosecution or when a probationary no contact order is issued as a condition of probation after conviction for a domestic abuse offense, these orders are now designated as a Domestic Abuse No Contact Orders. Violation of such an order is a misdemeanor according to MN STAT 518B.01, subd. 22.

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

B. Responding to the calls

a. Driving to the Scene

The officers will respond directly and without unreasonable delay to the scene.

b. 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. 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.

c. Entry

1. 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.
2. 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.
3. 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.

d. First Aid

After securing the scene, the responding peace officers shall provide the necessary first aid.

C. Arrest Decisions

a. Making Arrests

After securing the scene and providing any first aid, the peace officers will conduct an assessment of the lethality of the situation based on the totality of the circumstances and begin a criminal investigation to determine if there is probable cause to believe a crime has been committed based on the evidence and not solely upon the victim's desire to make an arrest. The officers should collect relevant physical evidence including weapons which may have been used, take photographs of the scene or any injuries and take statements from the involved parties and witnesses. Some of the evidence and statements include:

1. Photos of the scene,
2. condition of clothing,
3. property damage,
4. evidence of physical injury including strangulation,
5. excited utterances of the victim and the suspect,
6. demeanor of the victim and the suspect,
7. medical records including the victim's statements to paramedics, nurses and doctors,

8. interviews of witnesses including children who may have been present,
9. evidence of any prior domestic abuse – related convictions including dates, and
10. any existing orders for protection, harassment restraining order or no contact orders.

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

b. Factors *Not* to be Considered in Making the Arrest

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

c. Predominant Aggressor and Dual Arrests

The Paynesville Police Department discourages dual arrest². 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:

1. comparative extent of any injuries inflicted,
2. fear of physical injury because of past or present threats,
3. actions taken in self-defense or to protect oneself,
4. the history of domestic abuse perpetrated by one party against the other, or
5. the existence or previous existence of an order for protection.
6. The officer shall not consider the individual's gender in making a prominent aggressor determination

d. 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.

² 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."

D. Authority and Types of Arrest

a. Warrantless Probable Cause Arrest for Fifth Degree Assault or Domestic Assault

Although the general rule is that officers may not make probable cause arrests for misdemeanors unless the offense occurs in their presence (or a citizen who saw the crime requests an arrest) domestic assault is an exception. A peace officer may arrest a person anywhere without a warrant, including at the person's residence, if the peace officer has probable cause to believe that the person has, within the preceding 72 hours, assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm any person covered by the "family or household member" definition (See II.D), even if the assault did not take place in the presence of the peace officer (MN STAT 629.341). A peace officer acting in good faith and exercising due care in making an arrest pursuant to this statute is immune from civil liability that might result from the officer's action.

NOTE: An arresting officer may not issue a citation in lieu of arrest and detention to an individual charged with assaulting the individual's spouse or other individual with whom the charged person resides (MN 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) Gross Misdemeanors: Minn. Stat. 609.224, subd. 2(a), Assault in the Fifth Degree, provides for an enhancement to a gross misdemeanor violation when the offense is against the same victim within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency in Minnesota, or any similar law of another state.

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

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

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

Domestic assault against a family or household member is also enhanceable under the same circumstances except that the prior convictions may be against any family or

household member. According to Minn. Stat. 609.2247, subd. 2., whoever assaults a family or household member by strangulation is guilty of a felony.

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) Gross Misdemeanors: A person who stalks another by committing any of the following acts is guilty of a gross misdemeanor:
 - i. 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;
 - ii. follows, monitors, or pursues another, whether in person or through any available technological or other means;
 - iii. 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;
 - iv. repeatedly makes telephone calls, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;
 - v. makes or causes the telephone of another to repeatedly or continuously ring;
 - vi. repeatedly mails or delivers or causes the delivery of letters, telegrams, messages, packages, or other objects; or
 - vii. engages in any other harassing conduct that interferes with another person or intrudes on the person's privacy or liberty.

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

b) Felony Enhancement

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

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

In addition, it is a felony to engage in a pattern of stalking conduct with respect to a single victim or one or more members of a single household which the actor knows or has reason to know would cause a reasonable person under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim. According to Minn. Stat. 609.749, subd. 5, a "pattern of stalking conduct" means two or more acts (convictions are not necessary) within a five-year period that constitute any of the following offenses: murder, manslaughter, threats of violence, fifth-degree assault, domestic assault, violation of domestic abuse orders for protection, violation of harassment restraining orders, certain trespass offenses, interference with an emergency call, obscene or harassing telephone calls, letter,

telegram, or package opening or harassment, burglary, damage to property, criminal defamation, first- to fifth-degree criminal sexual conduct, and violations of domestic abuse no contact orders.

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

c) Venue (Minn. Stat. 609.749, subp. 1b.):

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

d. 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).

e. Probable Cause Felony Arrests for Other Crimes:

At a domestic call peace officers shall consider whether other felonies have been committed including but not limited to, burglary, felony assault, threats of violence, kidnapping, false imprisonment, and witness tampering.

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

f. Violation of Court Orders

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

1. Order for Protection

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

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

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

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

2. *Harassment Restraining Order*

A peace officer shall arrest and take into custody a person who the peace officer has probable cause to believe has violated a harassment restraining order pursuant to Minn. Stat. 609.748, subds. 4 and 5, if the officer can verify the existence of the order.

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

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

3. *Domestic Abuse No Contact Order (DANCO) (Minn. Stat. 629.75):*

A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated a DANCO, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer.

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

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

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.

E. Assistance, Staying at the Scene, Crime Victim Rights, and Services

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

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

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

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

- d. Services:** The peace officer should contact Anna Maries 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 (MN STAT 13.82, subd. 10).

F. LAP Procedure (Lethality Assessment Protocol)

a. Initiate Protocol

Officer will initiate LAP when the officer responds to a physical/intimate partner domestic dispute only. Officers do not need to initiate the protocol if the suspect and victim and not intimate partners or if no physical domestic has taken place. Officers will complete the necessary documentation and notify Anna Maries as soon as reasonably possible. Officer's should try and make the notification while still on scene; however the officer and victim's safety takes precedence over the notification.

G. Children

a. Child Victims

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

H. Reports and Forms

a. Written Report

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

1. detailed statements from the victim, suspect and witnesses;
2. description of injuries;
3. information about past abuse;
4. description of the scene;
5. primary aggressor;
6. existence of language barriers;
7. presence of elderly victims or those with disabilities; and
8. documentation of evidence.

I. 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 peace 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 peace officer shall thoroughly document all relevant information in the report and shall refer the report to the appropriate prosecutor for review and consideration of criminal charges.

Enhancements Table

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

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

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

Offense	Victim of Offense	Time Limit	Prior Conviction	Offense Level
Assault 5	Same Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of 1 st of 2 or more convictions	QDVRO	Felony
	Any Victim	w/in 3 years of conviction	QDVRO	Gross Misdemeanor
		w/in 3 years of 1 st 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 st of 2 or more convictions for Domestic Assault or Assault 5	QDVRO	Felony
Malicious Punishment	Any Victim	w/in 5 years of discharge	Assault 1-5, Domestic Assault, Malicious Punishment, Criminal Sexual Conduct 1-4, or Terroristic Threats	Felony
Violation of Order for Protection or Harassment Restraining Order	Any Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of 1 st of 2 or more convictions	QDVRO	Felony
Stalking	Any Victim	w/in 10 years of conviction	QDVRO	Felony
Interference w/ Privacy	Any Victim	None	Interference w/ Privacy or Stalking	Gross Misdemeanor

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

PB Rev 04/2013

(Updated 2/18/2021)

CHAPTER 12

POST MANDATED PREDATORY OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION

1200.01 PREDATORY OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION

I. POLICY

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

II. DEFINITIONS

A. *Predatory Offender Registration and Community Notification*

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

B. *Offender Risk Levels*

Means the level of notification is governed by the level of risk assigned by the DOC.

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

- a. Level 1 – low risk of re-offending
- b. Level 2 – moderate risk of re-offending
- c. Level 3 – high risk of re-offending

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

III. REGISTRATION PROCEDURES

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

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

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

- If the offender is already registered, complete a *Change of Information Form* included on the BCA's website at www.dps.state.mn.us/bca.
- If the offender is not registered, complete a *Predatory Offender Registration Form* included on the BCA's website at www.dps.state.mn.us/bca.
- If the offender is from another state, contact the state (information for each state is listed on the BCA's website at www.dps.state.mn.us/bca) and request a copy of the offender's original registration form, criminal complaint and sentencing documents.
- It is recommended the agency verify the address of offenders living in their community.
- If the offender is not living at the registered address, contact the BCA-POR to determine if a *Change of Information Form* was submitted. If it was not, the offender may be charged with failure to notify authorities of a change in residence. To make this charge, contact the BCA-POR to request a prosecution packet. Submit the packet to the county attorney's office to file a formal charge.

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

IV. COMMUNITY NOTIFICATION PROCEDURES

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

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

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

A. Notification Process

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

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

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

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

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

Level 3 – Information subject to disclosure, not only to safeguard facilities and protect the individuals they serve, but also to protect the community as a whole.

See attachment 3: Law Enforcement Agency Fact Sheet – Notification of Release in Minnesota.

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

B. Health Care Facility Notification

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

C. Specialized Notifications

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

1. If a local law enforcement agency learns that a person under its jurisdiction is subject to registration and desires consultation on whether or not the person is eligible for notification, the agency must contact the DOC. The DOC will review the governing law of the other state and, if comparable to Minnesota requirements, inform law enforcement that it may proceed with community notification in accordance with the level assigned by the other state.
2. If DOC determines that the governing law in the other state is not comparable, community notification by law enforcement may be made consistent with that authorized for risk level 2.
3. In the alternative, if a local law enforcement agency believes that a risk level assessment is needed, the agency may request an end-of-confinement review. The local law enforcement agency shall provide to the DOC necessary documents required to assess a person for a risk level.

b. Victim Notification

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

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

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

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

c. Homeless Notification Process

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

CHAPTER 13

POST MANDATED CRIMINAL CONDUCT ON SCHOOL BUSES

1300.01 CRIMINAL CONDUCT ON SCHOOL BUSES

I. POLICY

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

II. PROCEDURE

This agency shall:

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

Chapter 14

SEXUAL HARASSMENT

1400.01 SEXUAL HARASSMENT POLICY

It is the policy of the City of Paynesville that harassment, including but not limited to sexual harassment, and offensive behavior of employees is prohibited. An employee found to have acted in violation of this policy is subject to appropriate disciplinary action, which may include immediate termination.

- A.** "Sexual Harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:
- a.** Submission to the undesirable conduct or communication is made a term or condition, either explicitly or implicitly, or an individual's employment;
 - b.** Submission to or rejection of that conduct or communication by the individual is used as a factor in decisions effecting that individual's employment;
 - c.** That conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creates an intimidating, hostile or offensive work environment and the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action; or
 - d.** Such conduct or communication occurred because of the sex of the victim even though it is not clearly sexual in nature or an explicit sexual advance.

Conduct prohibited by this policy may include, but is not limited to, unwanted sexual comments, compliments, flirtations, clothing, body or sexual activity; unwanted and unnecessary touching, brushing against, patting or pinching; requests for sexual favors; unwelcome and repeated invitations to social engagements or other activities; display in the work place of sexually suggestive pictures, cartoons or objects; any indication or threat, express or implied, that an employee's job security, job assignment, conditions of employment, or opportunities for advancement may depend on the granting of sexual favors; conduct, whether deliberate or careless, which creates an intimidating, hostile or offensive work environment interfering with the employee's work.

The City of Paynesville also prohibits conduct which creates a hostile work environment for employees based on their national origin, race, age, sex, disability, religion, marital status, sexual preference, status with regard to public assistance, membership or activity in a local commission, or citizenship. The same reporting and investigation procedure will be used for all forms of harassment.

B. Reporting an Investigation

Any knowledge about or charges of a violation of this policy must be reported to the employee's immediate supervisor, the City Administrator, the Mayor or a Council Member. All allegations of sexual harassment or offensive behavior will be investigated promptly, fairly and completely. The investigation may be conducted by a third party designated by the City who is knowledgeable in conducting such investigations. The facts shall determine the response to each complaint. Each situation will be handled as discretely as possible. Resolutions of complaints can include, but not necessarily be limited to, an apology, direction to stop the offensive behavior, counseling or training, warning, suspension with or without pay, or termination. In the event that the sexual harassment or offensive behavior recurs, it should immediately be reported to the employee's immediate supervisor, the City Administrator, the Mayor or a Council Member.

This policy also prohibits retaliation against employees who bring sexual harassment or offensive behavior complaints or assist in investigating such complaints. However, any employee found to have knowingly or intentionally made a false complaint of a violation of this policy or found to have knowingly given false information during an investigation of such a complaint may also be subject to disciplinary action, which may include termination of employment.

Supervisors will be evaluated on their adherence to this policy, their monitoring of employees under their supervision and their resolution of complaints and problems. Retaliation or intimidation directed towards anyone who makes a complaint will not be tolerated.

Employees should understand that this policy applies to all full-time, part-time and temporary employees to each and every member and employee of the City and also includes the Mayor, the city Council, elected officials, members of the city boards, commissions, and committees, volunteer fire fighters, and other volunteer personnel, the civil defense director and any other employees not employed in a regular position.

C. Consensual Relationship

Consenting of voluntary romantic and sexual relationships between co-workers or a supervisor and employee, while not forbidden, are considered by management as unwise and having the potential for charges of sexual harassment. A charge of sexual harassment arising out of this relationship will be investigated under these policies and procedures in the same manner as any other charge.

D. Importance of Communication

Individuals are often not aware of the offensive nature of their behavior. Also, the work place is composed of individuals who have varying levels of sensitivity. Respect for co-workers and effective communication are necessary elements in achieving the goal of a work place free from harassment.

E. Types of Other discrimination and Harassment

This policy and the procedures for reporting complaints apply to all types of perceived harassment or discrimination and should be utilized for any complaints of that nature.

CHAPTER 15

POST MANDATED LIGHTING EXEMPTION OF LAW ENFORCEMENT VEHICLES

1500.01 LIGHTING EXEMPTION OF LAW ENFORCEMENT VEHICLES

I. POLICY

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

II. DEFINITIONS

For the purpose of this policy the following definitions apply:

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

III. PROCEDURE

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

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

CHAPTER 16

POST MANDATED IMPARTIAL POLICING

1600.01 IMPARTIAL POLICING

I. POLICY

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

II. DEFINITION

Racial profiling has the meaning given to it in Minnesota Statute 626.8471, Subd. 2. which states:

A. Racial Profiling

Any action initiated by law enforcement that relies upon the race, ethnicity, or national origin of an individual rather than:

- a. the behavior of that individual; or
- b. information that leads law enforcement to a particular individual who has been identified as being engaged in or having been engaged in criminal activity.

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

III. PROCEDURES

A. Policing impartially, not racial profiling, is standard procedure for this agency meaning:

- a. 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;
- b. except as provided in paragraph c., peace officers shall not consider race, ethnicity, national origin, gender, sexual orientation or religion in establishing either reasonable suspicion or probable cause; and

- c. peace officers may take into account the descriptors in paragraph **b.** 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, etc. about specific suspects.

- B.** In an effort to prevent the perception of biased law enforcement peace officers shall:
 - a. be respectful and professional;
 - b. introduce and 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;
 - c. ensure the detention is no longer than necessary to take appropriate action for the known or suspected offense;
 - d. attempt to answer any relevant questions the citizen may have regarding the citizen/officer contact including relevant referrals to other agencies when appropriate;
 - e. provide their name and badge number when requested, preferably in writing or on a business card; and
 - f. 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.

CHAPTER 17

POST MANDATED PROCESSION OF PROPERTY FOR ADMINISTRATIVE FORFEITURE

1700.01 PROCESSION OF PROPERTY/ADMINISTRATIVE FORFEITURE

I. POLICY

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

II. DEFINITIONS

A. 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.

B. Conveyance Device

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

C. Firearms/ammunition/firearm accessories

a device that projects either single or multiple projectiles at high velocity. Ammunition is a term meaning the assembly of a projectile and its propellant. Accessories include but are not limited to holsters, gun cases, fire arm optics, suppression devices, cleaning supplies, etc.

D. Forfeiture

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

E. Jewelry/Precious Metals/Precious Stones

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

F. Forfeiture/Seized Property Reviewer

an Agency employee responsible for reviewing all forfeiture cases and is the liaison between the Agency and prosecutor’s office.

G. Seizure

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

III. SEIZED PROPERTY SUBJECT TO ADMINISTRATIVE FORFEITURE

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

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

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

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

All firearms, ammunition and firearm accessories found:

- A. in a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;
- B. on or in proximity to a person from whom a felony amount of controlled substance is seized; or
- C. on the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under MN STAT Chapter 152.
- D. Seizure of property not listed above must be processed, reviewed and approved by the unit supervisor.

IV. PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

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

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

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

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

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

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

a. Cash

Peace officers shall not seize cash having an aggregate value less than \$100.00, unless pre-recorded buy funds are included in the cash seized. Cash shall be recounted and the amount verified by another employee of the Agency. The property bag and/or inventory receipt shall then be co-signed when cash is involved.

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

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

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

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

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

b. 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.

c. 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.

d. Firearms/Ammunition/Firearm Accessories

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

V. CASE FILE STATUS

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

VI. REPORT WRITING

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

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

CHAPTER 18

FIREARMS

- 1800.01 Storage of Department Firearms Off Duty
- 1800.02 Reporting Procedure When Firearms Discharged
- 1800.03 Firearms, Display Of, Line of Duty Only
- 1800.04 Firearms Qualification
- 1800.05 Supplemental Firearms Policy

1800.01 STORAGE OF DEPARTMENT FIREARMS OFF DUTY

This policy is intended to provide guidelines for safe storage of police officer's duty weapons in their home or off duty.

- A. Officers of the Paynesville Police Department who are issued City owned weapons should secure the weapon by means of a lock, cable, gun safe or other preventative device rendering it unable to fire.
- B. Officers of the Paynesville Police department who are not issued City owned weapons should take steps necessary to secure their personal firearm in a manner consistent with Minnesota Statue 609.378, *Neglect or Endangerment of a Child*.
- C. Under no circumstances shall officers issued a City-owned weapon allow any other person to handle, use, or otherwise have access to the weapon unless a situation requiring the use of deadly force becomes apparent.
- D. At least once annually, the designated firearms instructor or Chief of Police of the Paynesville Police Department shall review these guidelines and the provisions of MS 609.378 with all members of the Paynesville Police Department.

1800.02 REPORTING PROCEDURE WHEN FIREARM IS DISCHARGED

(Except at an approved range)

A. Notification and report by member involved:

- a. Whenever a member discharges their firearm either (1) accidentally, or (2) in the performance of police duty, the officer shall verbally notify the Chief of Police as soon as time and circumstances permit, but in no event later than the conclusion of his current shift. If the Chief of Police is not available, the officer shall notify the ranking officer for the Police Department or City Administrator. Officer who discharge their firearm to dispatch an injured animal do not need to make a verbal report to the chief, but are required to notify dispatch and note the discharge in the daily log.
- b. The member who discharges his firearm shall file a written report of the incident through established channels with the Chief of Police and a copy with the member's supervisor within sixteen (16) hours of the incident.
- c. If the member who discharged his firearm is hospitalized or fatally injured during the officer's shift and incapable of filing the report required in paragraph two of this subsection, the officer's supervisor is responsible for filing as complete a report as possible pending further departmental investigation.

B. Investigation by the Chief of Police:

After conducting a thorough investigation of the circumstances surrounding the discharge of firearms, the Chief of Police shall submit a detailed written report of the results of the investigation and conclusions of the Chief of Police as to whether the discharge was justified and in accordance with this order.

C. Injuries resulting from discharge of a firearm:

After completing the investigation, the Chief of Police shall submit a detailed written report to the MN Department of Health as required by statute 626.53 subd.

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1800.03 FIREARMS, DISPLAY OF, LINE OF DUTY ONLY

Sidearms are never to be displayed or taken from holsters in public except in the line of duty. Members are specifically warned against any “dry firing” of weapons at any other place besides a pistol range.

1800.04 FIREARMS QUALIFICATION

All officers shall qualify with on and off duty firearms annually with a department approved firearms course provided by a certified firearms instructor. Officers are encouraged to maintain proficiency with on duty and off duty carried firearms that have been approved by the Chief of Police.

1800.05 SUPPLEMENTAL FIREARMS POLICY

This document is intended as a supplemental policy section relating to special long arm weapons; other than departmental issued shotguns. It is also the purpose of this policy to provide the officer access to a firearm that is appropriate for a given situation, in an effort to protect the public and the officer. It is not the intent of this policy to replace any weapon currently available to the officer that is authorized by the Chief of Police. This document performs the following functions:

- A. Provides guidance for situations where special long arm rifles may be authorized to be used by Police Officers of the Department.
- B. Provides procedures for the acquisition of special long arm rifles and ammunition and related equipment.
- C. Describes the Department’s training and qualification requirements for special long arm rifles.

I. SITUATIONS WHERE SPECIAL LONG ARM WEAPONS ARE AUTHORIZED

The following situations include, but are not exclusive of the type of encounters where the use of special long arm weapons may be authorized:

- A. Barricaded suspects
- B. High risk warrants and arrests
- C. Patrol response to incidents involving firearms or other deadly weapons
- D. Tactical support of other agencies

E. Other high risk situations as required

II. ACQUISITION OF SPECIAL LONG ARM WEAPONS AND AMMUNITION

The Paynesville Police Department will be responsible for the purchase and maintenance of any special long arm rifle, which has been approved by the Chief of Police for use while on duty. Special long arm rifles for department use will fall into two separate categories.

Category I

Entry and Intermediate range weapons. These weapons will include Colt AR style rifles, Ruger Mini-14/30 or variant in .223 caliber or similar, and other rifles as approved by the Chief of Police.

Category II

Long range special purpose weapons. These weapons will include bolt action/semi-automatic high-power rifles in caliber .308 or larger, in make and model approved by the Chief of Police.

Ammunition for special long arm weapons will be provided to the individual officer by the department for practice and qualification, relating to side arm practice and qualification.

III. TRAINING AND QUALIFICATION

Training for special long arm weapons will be consistent with that relating to classroom firearm maintenance and use of deadly force. The qualification requirements for special long arm weapons will be established by the certified firearms instructor for Category I or Category II weapons.

CHAPTER 19

SQUAD CAMERA USE/EVIDENCE COLLECTION/STORAGE

1900.01 SQUAD CAMERA USE/EVIDENCE COLLECTION/STORAGE

I. POLICY

The use of the MVR system by the PPD shall provide documentation of law enforcement interaction with the public by providing evidence for the judicial system, internal review, or review by the public through a formal request made to the Chief of Police or his designee. The primary function of the MVR is for officer safety and is not meant to initiate disciplinary action against the officer, but the data collected on the MVR may be used as evidence relating to a complaint of misconduct made against a LEO by any person present at the scene of the incident when such a complaint could result in additional training, counseling, or disciplinary action in accordance with department policy.

II. PURPOSE

The purpose of this policy is to provide officers of the Paynesville Police Department (PPD) with guidelines for the use, management, access, retention, handling of evidence, degaussing, storage and retrieval of audio-visual media recorded by in-car video systems.

III. DEFINITIONS

A. *Recorder Media*

Means audio-visual signals recorded on any of several storage devices, including, but not limited to, analog tape (VHS SVHS, Hi 8mm), digital tape (DV), or other portable digital storage devices (CD, DVD, hard drive, flash card, etc.).

B. *In-Car Camera System and Mobile Video recorder (MVR)*

Any system that captures audio and video signals, that is capable of installation in a vehicle, and that includes at a minimum, a camera, microphone, recorder, and monitor.

C. *Supervisor*

The Chief of Police or any licensed peace officer within the Paynesville Police Department designated by the Chief of Police.

D. *Degaussing*

Returning any storage media to its original state so it is ready for the imprinting of new media by any of the following: overwriting, erasing, and/or destruction of analog and digital recording media

E. *Activate*

Any process which cause the MVR system to transmit or store video and/or audio data

F. *Law Enforcement Operator (LEO)*

A licensed peace officer, but on occasion may be a non-sworn representative of the agency, who would be authorized to operate MVR equipped vehicles consistent with Minnesota Statute 169.98

G. *MGDPA*

The Minnesota Government Data Practices Act, Minnesota Statute Chapter 13

IV. OBJECTIVES

- A. Enhance officer safety
- B. Enhance the public's trust by recording real-time officer-citizen interactions in the form or audio and video via the MVR
- C. Accurately document statements and events during the course of an incident
- D. Enhance an officer's ability to review statements/actions and accurately document an incident for internal reports and courtroom testimony
- E. Preserve visual and audio information for use in current and future investigations
- F. Provide a means for self-critique and field evaluation for newly hired and veteran officers
- G. Identify training needs

V. PROCEDURES

It is the responsibility of the PPD to ensure that the audio-video recording equipment is properly installed according to the manufacturer's recommendations.

A. Operational Use:

- a. The MVR should be operated, when practicable under the circumstances, in the following situations:
 - 1. When the emergency lights and siren or any combination of the two, are activated
 - 2. Traffic stops- (to include, but not limited to traffic violations, stranded motorist assistance, and all crime interdiction stops)
 - 3. Emergency responses
 - 4. Vehicle Pursuits
 - 5. Arrests
 - 6. Vehicle searches
 - 7. Physical and verbal confrontations, or use of force situations
 - 8. Prisoner Transports
 - 9. Any situation or incident that the officer, through training and experience, believes should be audibly and visually recorded.
- b. The MVR may be activated by the following means:
 - 1. Automatically when the lights are activated
 - 2. By the wireless transmitter on the officer
 - 3. Manually inside the squad car
 - 4. Wirelessly by a supervisor during developing emergency situation only. Supervisors may not activate it remotely to monitor a LEO's conversations or actions.

- c. The MVR shall be configured to minimally record for 30 seconds before the event. The pre-record time may be increased at the supervisor's discretion.
- d. When the MVR is activated to document an event, it shall not be deactivated until the event has been concluded unless:
 - 1. The incident or event is of such duration that the MVR may be deactivated to conserve recording times or,
 - 2. The LEO does not reasonably believe that the deactivation will result in the loss of critical documentary information or,
 - 3. The intention to stop the tape has been noted by the LEO either verbally or in a written notation.
- e. When the MVR is activated, the LEO shall ensure that the audio portion is also activated so all events are properly documented. The LEO may deactivate the audio portion when contact with a suspect is completed. The LEO should reactivate the audio if contact is reinitiated.
- f. In the event that more than one LEO is on scene using a MVR, it is recommended that all LEOs on scene utilize whatever recording capabilities and available.
- g. The MVR recording media shall be replaced when the recording time remaining is less than 1 hour.
- h. LEO's shall not use other electronic devices to intentionally interfere with the MVR's ability to record audio data.

B. Care and Maintenance:

- a. LEO's will periodically perform an inspection on the MVR to ensure it is performing in accordance with the manufacturer's recommendations.
- b. If a LEO determines the MVR is malfunctioning, is damaged, or has been stolen, the LEO is to note the situation in the log and notify the supervisor. An alternate squad car with a working MVR should be used if available.
- c. A supervisor who is informed of a malfunctioning MVR shall ensure that repairs are made in a timely manner.

C. Downloading, Storing and Degaussing of Media:

- a. Once an MVR media needs to be replaced, a LEO will notify a supervisor verbally or by email that the media needs to be downloaded.
- b. The LEO will remove the media from the MVR and will secure it in the evidence locker. The LEO will then obtain a blank media from the evidence locker to be used in the squad.
- c. The supervisor will download all recordings from the media to a hard drive located in the evidence locker. The supervisor will tag any specific recordings that need to be retained for criminal cases.
- d. The supervisor will then degauss the media and return it back to service.
- e. If an event requires the immediate retrieval of recorded material (e.g., serious felony, agency shooting, agency involved crash, etc) a supervisor shall be notified and respond to the scene to ensure the removal of the recorded media. The supervisor will immediately download the recording and place the recording into evidence
- f. LEO shall not erase, alter, reuse, modify, or tamper with MVR recordings. Only a supervisor may erase recorded material.

D. Media Access

- a. All recording media, recorded images and audio recordings are the property of the PPD and subject to the provisions of the MGDPA. Dissemination outside of the PPD

is strictly prohibited except to the extent permitted under MGDPA, Peace Officer Disciplinary Procedures Act or other applicable law without written authorization of the chief of police or his/her designee

- b. Those wishing to view recordings from the MVR shall submit a written request to the supervisor, including the specific incident wishing to be viewed, the date of the incident, the officer involved and the reason for wanting to view the recording. This provision does not include court personnel, members of the PPD, and other Law Enforcement Officers. The recording must be viewed in the presence of the supervisor and shall not leave the PPD unless authorized to do so by the chief of police or his/her designee.
- c. When a recording contains evidence for a case which is being investigated by another agency, that agency shall be provided a duplicate copy of the recording with the approval of the supervisor.
- d. LEO's will have access to a copy of the recording when preparing written reports to ensure the accuracy and consistency of the events.
- e. To prevent damage, original recordings may not be viewed in any equipment other than the equipment authorized by the supervisor. Copies of the recording may be viewed on any equipment capable of playing it.
- f. When a specific recording is needed for court purposes, the LEO will have a supervisor make a copy of the recording and make it available to prosecutors.
- g. When possible, a copy of the original media shall be used for viewing by investigators, staff, training personnel and the courts, to preserve the original media.
- h. At the conclusion of the trial proceedings or as otherwise authorized by the prosecutor's office for which the media was required, copies of the recording in the LEO's possession will be placed back into evidence.
- i. An officer who is captured on or referenced in the video or audio data may review such data and use the data for any purpose relating to his/her employment.

E. Retention of Media:

- a. The MVR equipment will be used in the prosecution of those who violate the law and to provide objective information concerning police citizen contacts.
- b. Recordings containing data which must be retained in anticipation of pending civil action or are collected as part of an active investigation for the commencement or defense of a pending civil action against the PPD shall continue to be in the control of the PPD, in conjunction with the Attorney General's Office.
- c. Media recorded on an MVR shall be retained as follows:
 - 1. Events that are non-criminal in nature(No Referral For Prosecution)- 6 months
 - 2. Events where charges are filed- Until completion of court proceedings and with the approval of the prosecuting attorney it may be degaussed.
 - 3. Events with possible pending civil action- Only with the approval of the Chief of Police and Defense Attorneys may it be degaussed.

CHAPTER 20

EVIDENCE AND PROPERTY ROOM POLICY AND PROCEDURES

2000.01 EVIDENCE AND PROPERTY ROOM

I. POLICY

It is the policy of the Paynesville Police Department to operate a safe and secure evidence and property room. The department will operate the evidence and property room in a manner to ensure the integrity of the evidence and all items stored within it. The Paynesville Police Department will limit access to the permanent storage of evidence to authorized personnel only. Officers of the Paynesville Police Department will be instructed on the proper packaging of evidence in order to prevent cross contamination and loss of evidentiary value while permitting efficient storage and retrieval. Property retrieved or seized by the Paynesville Police Department will be stored in the property and evidence room, if possible, so as to protect it against loss, damage, or contamination; to maintain the property's evidentiary value; and to minimize safety hazards, while permitting efficient storage, inventory, and retrieval. Officers will document the chain of custody, location, and disposition of all property. The Paynesville Police Department will dispose of all property held according to federal and state law and will do so in a legal and timely manner. The department will conduct an annual audit of the property and evidence room, as well as, unannounced inspections to ensure compliance with all policies and procedures.

II. PURPOSE

The purpose of this policy is to ensure the safety, security, and integrity of all items placed into evidence at the Paynesville Police Department as part of a criminal investigation, lost and found, or safekeeping. The policy is also intended to ensure that all property taken in by the Paynesville Police Department is accounted for at all times. It will provide officers with guidance as it relates to the packaging, handling, and storage of the items. It shall also provide guidelines for the disposition and disposal of property in the custody of the Paynesville Police Department.

III. DEFINITIONS

A. *Property*

All items contained within the evidence locker.

B. *Evidence*

Property related to a crime that may tend to prove or disprove a person's involvement in a crime.

C. *Safekeeping*

Property having no evidentiary value that is acquired at accident or crime scenes and cannot be immediately returned to the owner, or deadly weapons as defined under MSS 609.02.

D. *Found Property*

Property having no evidentiary value which, after coming into the custody of the police department, is found to have been lost or abandoned and is not known or suspected to be connected to any criminal offense.

E. *Property for Destruction*

Property having no evidentiary value that a citizen has turned in and asked to have destroyed, or drugs and contraband that have been turned in to, or discovered by, a police officer, whose ownership is unknown and from which no criminal charges will be filed, or property in which final disposition has been made or no longer has evidentiary value and may not be returned. This includes items that, by their very possession or ownership, are deemed to be a violation of federal, state or local laws and ordinances and for which no charges will be filed even if the owner is known, i.e. drug paraphernalia, tobacco, etc.

F. *Lost and Found*

Items that either officers or citizens locate that are not illegal to possess or own and the ownership of such items are not known.

G. *Temporary Storage*

Lockers located inside the garage, but outside of the permanent storage locker.

H. *Permanent Storage*

Lockers 2-5 located in the Paynesville Police Department garage

I. *Authorized Personnel*

Individual designated by the Chief of Police as the Evidence and Property Room Manager (EPRM)

IV. OBJECTIVE

- A.** Provide a safe and secure location for property seized by the Paynesville Police Department
- B.** Provide standardized documentation for property taken into the possession of the Paynesville Police Department
- C.** Ensure the integrity of evidence seized by the department and maintain its evidentiary value

- D. Provide standardized packaging of all property taken into possession of the Paynesville Police Department
- E. Create a timeline for disposal of property logged into evidence
- F. Maintain organized and efficient storage of property logged into the evidence room

V. FACILITY / SECURITY

The Paynesville Police Department understands the need to provide a safe and secure location for the storage of evidence and other property taken into its possession. The department will establish a secure location for evidence taken into its custody. Access to the storage area will be limited to authorized personnel only. The department will provide temporary storage for evidence to be secured in until it can be transferred into permanent storage.

A. Evidence Locker Arrangement:

- a. The Paynesville Police Department evidence storage will be divided into two sections:
 - 1. Processing Room and Temporary Storage (Full Access) and
 - 2. Permanent Storage (Limited Access)
- b. The Permanent Storage will be divided into separate sections. Each section will be labeled in such a manner that the location of evidence is easily determined.

B. Access:

- a. Officers will be granted full access to the temporary storage and processing room.
- b. Officers will have access to five temporary storage lockers but will not be issued keys to access the lockers. Four lockers will be provided to secure evidence after processing and one to secure evidence until it can be processed. One key will be available to re-enter the locker.
- c. Temporary storage will be secured with a single lock with a key that cannot be duplicated. Only authorized personnel will have access to the keys for permanent storage and the temporary lockers, except as stated above.
- d. Access to permanent storage is restricted to authorized personnel only. The Chief of Police will designate one officer as the Evidence and Property Room Manager and will provide that officer with keys to access it.

- e. Officers will not be granted access to the permanent storage unless accompanied by authorized personnel.
- f. All officers, including authorized personnel, will be required to sign in before entering into permanent storage. Logs of the entry will be retained according to state statute.
- g. Unless authorized by the Chief of Police, no access will be granted to the permanent storage to anyone outside of the Paynesville Police Department.
- h. If the Chief of Police designates a different Evidence and Property Room Manager, all locks for the temporary lockers and permanent storage will be changed immediately and all other locks will be discarded. The previous Evidence and Property Room Manager will return all keys associated with temporary and permanent storage.
- i. The Chief shall conduct an inventory of keys of the evidence locker at least once a year.

VI. PROCEDURE

The Paynesville Police Department understands the need to have a consistent and uniform procedure for the handling, receiving, documenting, storing, and securing of all property taken into custody by the department. The department will establish a set of standards and procedures that will be followed in order to maintain the integrity of the evidence collected and the safety of all property located within the Evidence Locker.

A. Collection/ Preservation of Evidence:

- a. It is the responsibility of all officers to care for, control, and correctly process all evidence or property which may come into their possession in the course of their official duties.
- b. Under no circumstances shall an officer convert any property or evidence obtained in the course of their official duties to personnel use, loan it to others, or give it away.
- c. Officers will not destroy property or evidence taken into their possession, except as provided in the provisions of this policy.
- d. Upon seizing property or evidence, officers will immediately secure the property in a manner that prevents cross contamination and maintains the integrity and evidentiary value of the item or items.

- e. While in the field, Officers will secure all property in a manner that prevents access to the item or items by anyone outside of the Paynesville Police Department, or other law enforcement agencies if directed by the officer. In any case, an officer will note in his or her report the manner in which the item was secured and if anyone other than the officer had access to the item.
- f. Officers will transport all property or evidence back to the Paynesville Police Department as soon as reasonably possible. In the event an officer cannot return to the police department immediately, the officer will secure the property as previously stated.
- g. Under no circumstances, will an officer leave property or evidence collected in the field in the squad car after his or her assigned shift.
- h. Officers should refrain from seizing items with no evidentiary value, unless the seizure is necessary for the safe keeping of the item, the item will be summarily forfeited, the item is found property, or the possession of the item is deemed to be illegal.
- i. All property seized by an officer, must be entered into evidence. Temporary control is not deemed a seizure.

B. Processing and Submitting Evidence and Property:

- a. Upon returning to the police department, officers will process all property and evidence collected as soon as possible. Officer will take steps to protect the evidentiary value and integrity of the items, i.e. wearing gloves if necessary, photos, etc.
- b. Under no circumstances will officers leave property or evidence sitting out in the open and accessible to others or in a manner that could compromise the integrity of the item.
- c. Officers will package all evidence and property according to this policy. Officers will label each item with the ICR number, item number, and date. Officers should not label any item in a manner that affects its evidentiary value.
- d. If officers are unable to immediately process evidence and property in their possession, they should make sure to secure all items in the multi-use temporary locker until they are able to do so.
- e. Once the evidence and property has been properly processed and labeled, officers will obtain an Evidence Control Number (ECN) and complete all necessary documentation as set forth in this policy. ECN's can be obtained from the log located in the squad room.

- f. Officers will place evidence or property along with the evidence registration form in a single use temporary locker. If all lockers are full, officers will use the multi-use temporary locker and place the key inside the locker with the evidence. Officers are prohibited from keeping property or evidence in their desk.
- g. Officer will then notify the Evidence and Property Room Manager (EPRM) via email that property has been placed into temporary storage and needs to be transferred into permanent storage.
- h. The EPRM will transfer property from temporary storage into permanent storage, as soon as reasonably possible. The EPRM will log the items into inventory and will store the items according to this policy.
- i. Officers should note any damage to property seized on the evidence registration form

C. Packaging and Labeling:

- a. Officers will package all property and evidence so as to avoid cross contamination with other item.
- b. Officers will package property in separate containers, i.e. separate envelopes, separate sections in the heat sealed packaging, individual vials, etc. Final packaging for permanent storage will be done by the EPRM.
- c. Officers will assign each piece of evidence an evidence number. Format for the evidence number is as follows: year-last four of ICR-number of evidence (Example: 12-0000.1)
- d. Officers will not use staples when packaging evidence. Packaging tape, heat sealed containers, zip lock bags, and evidence seals should be used to secure evidence.
- e. Property and Evidence will be packaged and labeled according to the following guidelines. Deviation from the guidelines may only be authorized by the EPRM:

1. Tapes and Digital Media

Items will be labeled and placed in a case. Label shall include ICR number and nature of the audio (Interview, Surveillance Video, Squad Video, etc). Items will be placed into a manila envelope by the EPRM and the outside labeled with the ICR number.

2. **Controlled Substance and Paraphernalia**

Items should be packaged in clear plastic, heat sealable packaging. Substances should be weighed, if necessary, prior to being packaged.

- **2 people will be present when the substance is weighed.**

Items will be packaged with the original packaging included. Items should be heat sealed with a double seal at both ends. More than one item may be packaged in the same packaging, but they must be packaged in separate compartments to avoid cross contamination. Items will be labeled with an ICR number, evidence number, date, and officer initials and badge number. When practical, items will be placed into a manila envelope by the EPRM and the outside labeled with the ICR number.

3. **Syringes & Razor Blades**

Items should be placed in either a clear plastic sharps container or secured to a cardboard box. Item should then be placed into a clear plastic, heat sealable packaging. Items will be labeled with an ICR number, evidence number, date, and officer initials and badge number. When practical, items will be placed into a manila envelope by the EPRM and the outside labeled with the ICR number.

4. **Currency and Coins**

- **(2 PEOPLE REQUIRED) A Currency Count and Release Form will accompany all money entered into evidence.**

All money, including counterfeit, foreign currency, and coinage, will be packaged in a clear plastic, heat sealable packaging, separate from all other items. If the money is in a purse or wallet, it shall be removed from the purse or wallet and packaged separately. Money should be packaged based on denomination. The money will be displayed in a manner so that the sum may be easily counted without opening the packaging. The packaging will be double heat sealed on both ends. Evidence tape should then be placed over the heat sealed ends of the packaging. Items will be labeled with an ICR number, evidence number, date, and officer initials and badge number. When practical, items will be placed into a manila envelope by the EPRM and the outside labeled with the ICR number. In the event of a large amount of cash, the DPRM will transfer the money to the bank for safe keeping unless the money is deemed to be evidence.

- **Currency deposited into the bank will be paid out as a check only.**

5. **Firearms and Ammunition**

Loaded firearms will not be accepted into evidence. Remove all ammunition, magazines, clips, or other ammunition loading devices. These items should be packaged separately from the firearm. If the ammunition is to be examined for prints, it should be left in the clip or magazine until it can be processed. Unless the firearm needs additional processing, the firearm will not be submitted in a box. If the item need for additional processing, it should be secured in a box, but the box should not

be sealed. All firearms should be packaged with the chamber open and a zip-tie, if possible, secured through the chamber. An evidence tag, non-sticker, will be attached to the firearm listing the ICR number, evidence number, date, and officer initials and badge number. The DPRM will secure the firearm to cardboard and place it either a box or clear plastic packaging. The DPRM may also secure the firearm in the gun rack or a safe if one is available. The EPRM or the Chief will run an ATF Trace on all firearms taken into possession of the department.

6. Knives

Knives should be attached to cardboard, placed in a box, or secured in a protective sleeve, depending on the nature of the crime. If the knife needs additional processing for DNA or fingerprints, it should be zip-tied to a box or piece of cardboard with the blade uncovered. Special care should be given when securing the knife to avoid destruction of possible evidence on the knife. If the knife is secured to cardboard only, it should be placed in clear plastic packaging and doubled sealed on both ends. Items will be labeled with an ICR number, evidence number, date, and officer initials and badge number. When practical, items will be placed into a manila envelope or box by the EPRM and the outside labeled with the ICR number.

7. Large General Items

All items that will fit in the evidence locker, are too large for heat sealed packaging, and do not require special packaging, may be submitted by attaching a cardboard evidence tag to the item or placing it in a paper bag. For items that do not fit in the evidence locker, please consult with the DPRM. In either case, items will be labeled with an ICR number, evidence number, date, and officer initials and badge number. The EPRM will secure in additional packaging if the item requires it.

8. Bicycles

Bicycles will be placed in the police department garage, until they can be moved to cold storage. A cardboard evidence tag will be placed on the bike with the date and time of the seizure, ICR number, location of seizure, officer initials and badge number and nature of the seizure (found, stolen, etc). The evidence sheet in the bin of the EPRM verses a temporary locker.

9. Open Containers of Alcohol

Open containers of should be secured to avoid spilling the contents. Contents of the container will be poured into a clear plastic tube, so as to show the amount of content left in the container. The plastic container will have a seal placed across the lid to ensure the integrity of the contents. The container and the plastic tube will be photographed for future reference. Both items should be labeled with the date seized, ICR number, evidence

number, and officer initials and badge number. The EPRM will secure both items in a manner to avoid destruction of the evidence.

10. Cold Storage

Items that require cold storage shall be kept in the Evidence fridge only. The EPRM will be contacted immediately if any property is taken into custody that requires cold storage. The EPRM will immediately place items requiring cold storage into the evidence fridge to ensure and maintain the integrity and evidentiary value of the property. Items will be packaged in a manner that prevents damage or loss of evidentiary value. Items will be labeled with an ICR number, evidence number, date, and officer initials and badge number.

11. Biological Items

Items that contain biological evidence shall be packaged in paper bags. If possible, items should be dried before being packaged. Items will be labeled with an ICR number, evidence number, date, and officer initials and badge number. Items will also be listed as containing biological evidence. The EPRM will ensure the item is secured in an area that will prevent cross contamination with other items.

12. Items not listed or contained separately in this section

Items not listed in this section will be packaged in a manner that prevents damage or loss of evidentiary value. Items should, when practical, be packaged items in clear plastic, heat sealed packaging so the contents of the package are visible. If an item will not fit in a heat sealed package, other means may be used including paper bags. Items will be labeled with an ICR number, evidence number, date, and officer initials and badge number.

13. Vehicles

Vehicles that are seized as part of a criminal investigation (Theft of MV, Fleeing, CSC, etc.) will be secured in the Paynesville Police Department Garage or other designated location. Vehicles that are seized and subject to forfeiture by the Paynesville Police Department may be secured in either the Paynesville Police Department Garage or another designated location as directed by the Chief or his designee. Vehicles taken into evidence do not need to be labeled, but do need to be entered into evidence.

D. Storage:

- a.** All property taken into custody by the Paynesville Police Department will be stored in one of the following locations:
 - 1.** Permanent Storage

2. Police Department Garage
 3. CMCU- City's Official Bank Account
 4. Any secure location designated by the Chief of Police or EPRM
- b. Property will be stored in a manner that prevents damage and the loss of evidentiary value.
 - c. Property will be store in an organized manner to allow for easy retrieval by the EPRM. Property will categorized by section and location.
 - d. The 2 person rule must be used for any money seized by officer. The EPRM will deposit money in excess of \$100 into the city bank account. Any seized money under that amount will be at the discretion of the EPRM.
 - e. Money will not be deposited if it is deemed either evidence or a collectible, meaning the value of the money is more than the face value of the currency. Money will be secured in the Permanent Storage Safe.
 - f. Items that do not fit into the Permanent Storage may be stored in the police department garage or another secure location designated by the chief.
 - g. Explosive materials will not be stored in the Permanent Storage, except firework which are required to be separated from any other flammable item.
 - h. Toxic and Hazardous Materials are not allowed to be stored in the Permanent Storage unless an officer has prior approval from the EPRM, Chief, and County or City Attorney.
 - i. The temporary locker will be sanitized with a bleach mixture after biological evidence has been removed from it in order to prevent contamination of future evidence.

E. Documentation:

- a. The following forms will be used to document the chain of custody, disposition, and location of property seized by the Paynesville Police Department.
 1. Evidence Registration Form
 2. Currency Count and Release
 3. Destruction of Evidence
 4. Release of Property
 5. Firearms Release
- b. All property seized by an officer will be logged into evidence.

- c. Officers will complete an Evidence Registration form for each piece of property they seize. Items seized as part of the same case may be logged on the same form.
- d. Officers will assign an Evidence Control Number (ECN) for each case entered into evidence. Officers will enter the case number, date, and description of case on the ECN log, located in the processing room. If additional evidence comes in for the same case at a later date, the same ECN should be used. This number will be listed at the top of each Evidence Registration Form. Evidence will not be accepted without the ECN.
- e. Officers will sign the Evidence Registration Form and note the date and time the items were entered into temporary storage.
- f. The EPRM will note the date and time the evidence is moved from temporary storage to permanent storage, as well as its location in permanent storage.
- g. The EPRM is required to track the chain of custody of all property leaving permanent storage. The EPRM will log all evidence leaving Permanent Storage as well as who it was released to on the Evidence Registration Form.
- h. All Currency taken into the possession of the police department will have a Currency Count and Release form with it.
 - **2 PERSON RULE APPLIES TO ALL CURRENCY TAKEN IN BY OFFICERS.**
- i. Property will only be released on the authority of the EPRM or the Chief of Police.
- j. All property that is released back to the owner will require a receipt (Release of Property to Owner or Authorized Agent Form). No property is to be returned without this form.
- k. The EPRM or the Chief will run an ATF Trace on all firearms taken into possession of the department.
- l. If a firearm is being released to a relative or authorized agent of the owner, written permission is required.
- m. If the owner of the firearm is disqualified from possessing the firearm and the firearm is released to an authorized agent of the owner, the Firearm Release Form must be completed before the gun can be returned.
- n. For all property that is to be destroyed, the EPRM will complete the Destruction of Evidence Form and place in the file.

- o.** The EPRM will document the disposition of all property leaving permanent storage.
- p.** The Access log for the evidence room will include the name of the officer or officer's, date and time of entry and exit, and the reason for the entry.
- q.** If evidence is to be released back to the owner, the EPRM will get authorization to release the property, in writing, from the county/city attorney or chief of police. This authorization will be included in the file. This authorization may be done via email.

VII. DISPOSITION OF PROPERTY

The Paynesville Police Department recognizes the importance of proper, timely, and legal disposal of all property seized by the department. The department will dispose of all property according to federal and state laws, as well as local ordinances.

A. Types of Evidence Disposition:

- a.** All property taken into possession of the Paynesville Police Department will have one of the following dispositions:
 - 1.** Return to Owner or Authorized Agent of Owner (Written Permission Required)
 - 2.** Destroyed
 - 3.** Auctioned
 - 4.** Retained for Agency Use

B. Review and Authorization for Disposition:

- a.** The EPRM will conduct an annual review of all property in permanent storage to determine if property is ready for final disposition. This review will coincide with the annual audit of the evidence locker.
- b.** The EPRM will send a request to the investigating officer or prosecuting attorney to determine whether the case has final disposition or a change in the nature of the property (i.e. found property to evidence of a crime)
- c.** Under no circumstance will evidence be released without authorization of the prosecuting attorney or chief of police. In all cases, the investigating officer should be consulted to confirm that the case is closed and is not an active investigation. No evidence will be destroyed until all appeal periods have expired.
- d.** The EPRM will present a list of property to be disposed of to the Chief of Police for final authorization. The Chief of Police will determine the nature of

the disposition of the property (auction, destroy, retain). Property will always be returned to the lawful owner if possible.

C. Release of Currency:

- a. Currency seized by the Paynesville Police Department will be released to the owner only, unless a signed and notarized authorization is received from the owner stating the money may be release to another.
- b. Currency deposited into the bank for safe keeping will be paid out in check form only.
- c. Currency held for evidentiary purposes or as a collectible will be returned to the owner in its original form.
- d. A signed release is required for all money returned whether in check or cash form.

D. Unclaimed/Abandoned Property:

- a. Abandoned property will be disposed of in accordance with city ordinance, and state and federal law.
- b. Unclaimed/Abandoned Property will be sold via public auction, destroyed, or retained for department use.
- c. Property will be held for 60 days and reasonable efforts will be made to notify the owner that failure to pick up the property will result in its disposal. Notice should be given to the owner, when possible, that the owner has 30 days to reclaim the property from the date of the letter. In all cases, the reclaim period should be outside of the 60 days.
- d. Property turned in to the Paynesville Police Department as found property, will be held for 60 days. At the end of the 60 days, if the owner has not come forward, the items will be returned to the person who found the property, unless the possession of the item is illegal. If the person does not wish to have the items, the items will be disposed of according to the policy. If the owner of property that is turned is known, reasonable efforts will be made to contact them and return their property.
- e. Reasonable efforts to contact the owner may include but are not limited to phone calls, letters, emails, or posters. Officers are not required use the above mentioned options and may use whatever means possible to notify the owner. In all cases, the efforts to contact the owner and return the property should be documented.

- f. Property that is deemed to have little to no value or is only valuable to the owner, i.e. keys, glasses, etc, will be destroyed by the department. The Chief of Police will determine what items will be destroyed.
- g. In all case, the final disposition of property will be documented in the file and receipts completed for all returned items.

E. Recovered Stolen Property:

- a. Recovered Stolen Property may be returned prior to trial if:
 - 1. A photograph of the property of the property is on file and retained for use as evidence;
 - 2. Satisfactory proof of ownership has been shown by the owner;
 - 3. A declaration of ownership has been signed under the penalty of perjury; and
 - 4. A receipt for the property is obtained from the owner; and
 - 5. The prosecuting authority authorizes the return.
- b. If the value of the property returned before trial is over \$150.00, officers will instruct the owner to retain the property for at least 14 days to allow the defense attorney to examine the property.
- c. Stolen property will be returned to the owner upon conviction pursuant to Minnesota Statute§ 629.361or as amended

F. Forfeited Property:

- a. Property that is subject to forfeiture will be returned to the owner if the notice of seizure and forfeiture is not served in 60 days and an extension has not been granted.
- b. Property that is subject to forfeiture may be returned to the owner if security is provided or a bond posted. The bond or security will be made payable to the Paynesville Police Department and must be in the amount of the retail value of the property.
- c. If the property seized is a motor vehicle, the owner may surrender the title for the motor vehicle and the motor vehicle will be returned within 24 hours. No further bond or security is allowed. The department will also notify the Department of Vehicle Services and any lien holders of the surrendered title.

G. Sale of Property:

- a. All property sold by the Paynesville Police Department will be done via public auction, including but not limited to Ebay, Property Room.com, or

silent auction. The Paynesville Police Department will provide at least 10 days notice in the local paper all items that will be auction off and what auction site.

- b. Officers and their immediate family are expressly prohibited from purchasing forfeited items from the department.
- c. Officers and their immediate family may only bid on and purchase property that are deemed abandoned or unclaimed.
- d. Records will be kept of the sales of property from the evidence locker, including listing information, sale price, name of purchaser, if possible.
- e. Net proceeds from the auctions will be distributed according to applicable city policies.
- f. An owner of property sold by the Paynesville Police Department shall have 6 months from the date of sale to seek payment for the items. The owner will be entitled to a refund of the money upon application and satisfactory proof of ownership.

H. Destruction of Property:

- a. The Chief of Police and EPRM will sign off on all property that is to be destroyed.
- b. Property that is deemed to have little to no value or is only valuable to the owner, i.e. keys, glasses, etc, will be destroyed by the department. The Chief of Police will determine what items will be destroyed.
- c. Property that is deemed illegal to possess or own will be destroyed by the department.
- d. Illegal narcotics will be destroyed according to BCA recommended methods.
- e. Property that is set for destruction will be moved to the designated section.
- f. Random inspections of narcotics set for destruction should be performed prior to destruction.
- g. All property set for destruction will be destroyed in a proper and legal manner.

I. Property Held as Evidence:

- a. Property that is held as evidence in a criminal case must be held until after trial and the expiration of the associated appeals.

- b. Property may be disposed of prior to the end of the appeals period if so ordered by the court.
- c. Biological evidence relating to the identification of a defendant used to secure a conviction in a criminal case shall be retained until expiration of sentence unless earlier disposition is authorized by court order after notice to the defendant and defense counsel. No order for earlier disposition of this evidence shall be issued if the defendant or defense counsel objects.
- d. Officers should consult with the prosecuting attorney for the authority to destroy or return evidence.
- e. Property held as evidence that may legally returned to the owner will be returned in accordance with this policy.

J. Property Retained for Agency Use:

- a. Forfeited, Unclaimed, and Abandoned Property seized by officers may be retained for department use only. Property may be used for official purposes or for educational purposes only.
- b. Under no circumstances shall property be retained for personal use.

VIII. INVENTORY, AUDIT AND REVIEW

A. Inventories:

- a. Inventories of the evidence locker will be conducted in a manner to ensure all property is accounted for and the integrity is maintained.
- b. An inventory of the evidence locker will conducted under the following circumstances:
 - 1. When a new EPRM is appointed
 - 2. When a new Chief of Police is hired
 - 3. When the lock to permanent storage must be changed (Change is personnel, lost key, etc.)
 - 4. If there is any suspected unauthorized entry into the evidence locker
 - 5. Once every January
- c. Inventory will be conducted by the EPRM under the supervision of the Chief of Police or his designee.

- d. The EPRM will provide the Chief of Police with a copy of the inventory upon its completion. The inventory should not disclose the location of any of the items. The Chief of Police will retain a signed copy of the inventory as proof of the inventory.

B. Audits & Review:

- a. Audits of the evidence locker will be made at any time during the year.
- b. Unannounced audits should be conducted at least once every 2 years and will be done at the discretion of the Chief of Police.
- c. The Chief of Police will either conduct the audit or will request the audit be conducted by an outside agency.
- d. An audit of the evidence locker should be conducted prior to any inventory.
- e. Audits should include the following:
 - 1. Inspection of access logs for compliance;
 - 2. Inventory of access keys and whether locks were changed according to policy;
 - 3. Randomly selecting case files and confirming evidences locations;
 - 4. Randomly weighing narcotics to insure integrity and weight accuracy;
 - 5. Randomly selecting case files and determining proper chain of custody;
 - 6. Reviewing the cleanliness of the evidence locker and the organization of the property;
 - 7. Randomly selecting property to ensure proper packaging; and
 - 8. Reviewing property dispositions for accuracy, legality, and timeliness.
- f. A review of the Evidence Policy and Procedure should be conducted and updated every 3 years or as necessary.
- g. A copy of the audit results will be provided to and kept by the Chief of Police.
- h. Officers will conduct a yearly review of the policy to ensure all changes or additions to the policy are understood.

CHAPTER 21

DEATH INVESTIGATIONS

2100.01 DEATH INVESTIGATIONS

A. 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).

B. Investigation Considerations

Death investigation cases require certain actions be taken. Emergency Medical Services shall be called in all suspected death cases unless the officer is a state certified Emergency Medical Technician and/or the officer can determine the death is obvious (e.g., signs of lividity or rigor mortis, decapitated or decomposed). Peace officers are not authorized to pronounce death unless they are also Coroners or deputy coroners. A supervisor shall be notified in all death investigations.

C. Coroner Request

The Coroner shall be called in all sudden or unexpected deaths or deaths due to other natural causes. Officers will notify Ramsey County Medical Examiner in all death cases. After providing them with the necessary information, they will wait to handle the body until given permission to do so. Officers should have all necessary information obtained prior to calling Ramsey County.

D. Searching Dead Bodies

The Coroner or his/her assistants and authorized investigators are generally the only persons permitted to move, handle or search a body known to be dead.

An officer is permitted to make a reasonable search of an individual who it is reasonable to believe is dead, or near death, for a document or other information identifying the individual as a donor or as an individual who made a refusal (Minn. Stat. § 525A.12 (a) (1)). If a donor document is located, the Coroner shall be promptly notified.

Should exigent circumstances indicate to an officer that any other search of a known dead body is warranted prior to the arrival of the Coroner, the investigating officer shall first obtain verbal consent from the Coroner.

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 reasonably possible, a witness, preferably a relative of the deceased or a member of the household, should be requested to remain nearby the scene and available to the officer, pending the arrival of the Coroner.

The name and address of this person shall be included in the narrative of the death report. Whenever personal effects are removed from the body of the deceased by the Coroner, a receipt shall be obtained. This receipt shall be attached to the death report.

E. Death Notification

Should a human death result from a fire, the Paynesville Police Department 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 officer assigned to the incident. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification. The Coroner needs to know if notification has been made. Assigned investigators may need to talk to the next-of-kin.

The officer should not leave a surviving and/or grieving person alone, without first contacting a person to come and be with the surviving and/or grieving person. This person may be a friend, relative, neighbor, pastor, or other person to assist in the needs of the surviving and/or grieving person.

If a deceased person has been identified as a missing person, Paynesville Police Department shall attempt to locate family members and inform them of the death and the location of the deceased missing person's remains. All efforts to locate and notify family members shall be recorded in appropriate reports and properly retained (Minn. Stat. § 390.25 Subd. 2 (b)).

F. Unidentified Dead Bodies

If the identity of a dead body cannot be established after the Coroner arrives, the Coroner will issue a "John Doe" or "Jane Doe" number for the report.

G. Unidentified Dead Bodies Data Entry

As soon as reasonably possible, but no later than 30 working days after the date a death is reported to the Paynesville Police Department, all available identifying features of the unidentified body, including dental records, fingerprints, any unusual physical characteristics and a description of clothing or personal belongings found on or with the body, shall be forwarded to the Coroner for entry into the Missing Children and Missing Persons Information Clearinghouse and the

National Crime Information Center (NCIC) file (Minn. Stat. § 390.25 Subd. 2 (a)).

H. Death Investigation Reporting

All incidents involving a death shall be documented on the appropriate form.

I. Suspected Homicide

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the officer shall take steps to protect the scene and the Chief of Police shall be notified immediately to determine the possible need for the Bureau of Criminal Apprehension to respond to the scene for further immediate investigation.

If the on-scene officer, through consultation with the Chief of Police 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 the Coroner to conduct physical examinations and tests and provide a report with the costs borne by Stearns County (Minn. Stat. § 390.251).

J. Employment Related Death or Injuries

Any member of this agency who responds to and determines that a death, serious illness or serious injury has occurred as a result of an accident at or in connection with the victim's employment, may ensure that the nearest office of the Minnesota Department of Labor and Industry is notified by telephone or appropriate means with all pertinent information.

CHAPTER 23

SEARCH AND SEIZURE

2300.01 SEARCH AND SEIZURE POLICY

I. POLICY

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

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

II. 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 Paynesville Police Department officers to consider when dealing with search and seizure issues.

III. SEARCHES

The U.S. Constitution provides that a valid warrant is required in order for a search to be valid unless it falls within a limited exception. 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:

- A.** Valid consent
- B.** Incident to a lawful arrest
- C.** Legitimate community caretaking interests
- D.** Vehicle searches under certain circumstances
- E.** 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 officer is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

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

IV. 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.** Officers will strive to conduct searches with dignity and courtesy.
- B.** Officers should explain to the person being searched the reason for the search and how the search will be conducted.
- C.** Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- D.** In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- E.** When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:
 - 1.** Another officer or a supervisor should witness the search. Officers may consider conducting the search in view of a squad car video camera or other recording device to document the search.
 - 2.** The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

V. DOCUMENTATION

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

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

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

Chapter 24

Paynesville K9 Program

2400.01 K9 Use Policy and Procedure

PURPOSE:

The purpose of this policy is to designate responsibilities and implement procedures for the organization, operation, supervision, training, and utilization of the Paynesville Police Department Canine Unit. The use of canines has proven to be a valuable asset to the law enforcement community. The Paynesville Police Department maintains a canine team to support patrol operations and specialized units of this agency. The canine team is also available to assist other agencies upon request.

POLICY:

It shall be the policy of the Paynesville Police Department to utilize the canine team to search buildings, track persons, apprehend criminal suspects, locate evidence or contraband, and to assist in crowd control. The canine will also be used to enhance the understanding of the program through community events and demonstrations as authorized by the Chief of Police.

PROCEDURE:

Organizational Structure

- The overall administration of the canine unit shall be the responsibility of the Chief of Police.
- Tactical use and application during normal a regularly scheduled shift of the canine team shall be at the discretion of the individual canine officer.
- Call out, when off-duty, of the canine team will be based on the canine handler's availability and only after consultation of the Chief of Police. If another agency is requesting the assistance of the canine team and has its own canine team, call out will not be authorized unless that agency had first attempted to contact their own canine handlers

Supervision

Chief of Police

The Chief of Police shall oversee the operations of the canine division, including:

- Overall handler supervision.
- Coordinating activities with other divisions and other law enforcement agencies.
- Public relations in cooperation with the canine handler
- Selection of potential canine handlers.
- Authorization of equipment and supplies for the canine division as requested by the canine handler
- Consultation, when practical, with canine handlers prior to directing the tactical use of canine teams.

Canine Unit Coordinator/Handler

The Canine Unit Handler/Coordinator, shall be responsible for the normal duty activities of the canine team, to include:

- Non-emergency veterinary care.
- Whenever the use of a police canine causes injury to any person, including members of the department, canine handler shall evaluate the need for medical attention and ensure that the required incident reports are submitted.
- Participation in no less than 16 hours of canine training sessions per month, with other handlers when available, to be aware of the capabilities and limitations of the canine team. Canine Unit Coordinator/Handler should report to the Chief of Police any suggestions for additional training or training equipment.

Canine Unit Coordinator/Handler will also assist with, keep, and maintain the following:

- All maintenance and training records.
- Canine veterinary care records.
- Canine reports involving use of force, bites, and injuries.
- Provide annual budget requests for equipment and care of canine unit.

Guidelines for the Use of Canine

Assignment of Canine

The Paynesville Police Department canine team shall be assigned to the Patrol Division to supplement and assist the Patrol Division.

Preparations for Utilizing a Canine

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

- The individual's perceived age.
- The nature of the suspected offense.
- Any potential danger to the public and/or other officers at the scene if the canine is released.
- The degree of resistance or threatened resistance, if any, the subject has shown.
- The potential for escape or flight if the canine is not utilized.
- The potential for the suspect to injure law enforcement officers or the public if the canine is not utilized.

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

The canine handler will evaluate each situation and determine if the use of the canine is technically feasible. Generally, the decision to deploy the dog shall remain with the handler. However, a supervisor sufficiently apprised of the situation may decide not to deploy the dog.

Canine Utilization

The utilization of the departmental canine team is authorized for the following purposes:

- Building searches where the search of such by officers would create an unnecessary risk, provided that:
 - The canine officer has made reasonable efforts to determine if innocent people are present.
 - The canine officer has given a verbal warning that a canine will enter the area and will locate and may physically apprehend anyone found in the area, unless tactically unsound.
 - Adequate time is given to respond to that warning.
 - Subsequent warnings should be issued for each floor or section of a multi-level building, unless tactically unsound.
- Tracking and area searches for suspects who have fled from the scene of a crime and are actively engaged in efforts to elude capture. Canines are also available to search for other individuals such as lost children or adults.
- Apprehension of fleeing or resisting subjects:
 - This apprehension refers to a canine handler intentionally releasing or directing a canine to apprehend a criminal suspect.
 - This type of apprehension is considered use of force.
 - The decision of the canine handler to utilize a canine for this type of apprehension shall be based on Minnesota Statute 609.06, which authorizes the use of force.
- Protecting police officers and other persons from injury or death.
- Utilization for crowd control is authorized in the following circumstances:
 - To prevent serious injury to citizens or law enforcement officers.
 - To prevent a criminal act.
 - When specifically requested by a supervisor.
- General guidelines for deployment in crowd control are:
 - The on-scene supervisor shall assume authority and responsibility for all canine teams deployed.
 - Canines shall be leashed at all times, unless no other means are available to protect an individual from serious bodily harm.
 - Canines should always be used in conjunction with other department members in a coordinated effort.
- Public relations-oriented demonstrations provided that departmental approval has been given prior to demonstration.

Use of Narcotic-Detection Canines

A narcotics detection-trained canine may be used in accordance with current law under the following circumstances:

- To assist with the search for narcotics during a search warrant service.
- To obtain a search warrant by using the detection canine in support of probable cause.
- To search vehicles, buildings, bags, and any other articles as deemed necessary.
- A narcotic 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.

Guidelines for Non-Apprehension Use

Because canines have senses far superior to those of humans, they may be effectively utilized to track or search for non-criminals (e.g., lost children, individuals who may be disoriented or in need of medical attention) or even suspects wanted for minor criminal offenses. In such circumstances, it will be necessary for the handler to evaluate the conditions and ability of the canine in order to determine the feasibility of such an application.

- Absent a change in circumstances, which presents an imminent threat to law enforcement officers, the canine or the public, such applications should be conducted on-leash or under such conditions that will minimize the likelihood that the canine will bite or otherwise injure the individual.
- Throughout the deployment of the canine in such circumstances, the handler should give periodic verbal assurances that the canine will not bite or hurt the person.
- Unless otherwise directed by a supervisor, assisting personnel should take direction from the handler in order to minimize interference with the canine.
- 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.

Reporting Canine Use, Bites and Injuries

Whenever a canine is deployed and intentionally bites or otherwise causes injury to a suspect, the Chief of Police shall be promptly notified and the injuries documented in a canine use report. The deployment and injuries should be included in any related incident or arrest report.

Any unintended bite or injury caused by the canine during deployments, operations, training, and presentations, or under any other circumstances, either on or off-duty, shall be promptly reported to the Chief of Police. Unintended bites or injuries caused by the canine should be documented in a canine use report.

- Evaluation – On an annual basis, a committee composed of the Chief of Police, the City Administrator and the Canine Officer, shall evaluate all canine bite incidents for the preceding year. The committee shall determine whether any additional action or training is necessary based on the incidents.

Reporting Canine Injuries

In the event a canine is injured, the injury will be immediately reported to the Chief of Police.

Medical care for any injured canine shall follow the protocol established in this policy.

The injury will be documented on a canine use report.

Requests for the Use of the Canine Team

Paynesville Police Department personnel are encouraged to freely solicit the use of the canines. Requests for the calling out of an off-duty canine team shall first be reviewed and approved by the Canine Handler and the Chief of Police.

Requests for a canine team from outside of the Paynesville Police Department shall go through the Canine Handler and the Chief of Police. The Chief of Police must approve all requests for the canine assistance from outside agencies when the canine team is off-duty, subject to the following provisions:

- Canine teams shall not be used for any assignment that is not consistent with this policy.
- The handler has the ultimate authority to decide whether the canine should be used for any specific assignment.
- Canine teams shall not be called out while off-duty or used outside the boundaries of the City of Paynesville and Paynesville Township unless authorized by the Chief of Police.
- It shall be the responsibility of the canine handler to coordinate with outside agency personnel in order to minimize the risk of unintended injury.

Requests for Public Demonstrations

All public requests for a canine team shall be approved by the Chief of Police prior to making any commitment. Once approved, public demonstrations and requests are subject to shift coverage if the event is to be conducted during the canine handler's regularly scheduled shift. If cancelled for shift coverage, every attempt to reschedule the demonstration or event will be made.

Selection of Canine Handlers

Minimum Qualifications

The minimum qualifications for Paynesville Police Department canine handlers are as follows:

- Paynesville Police Department officer (currently off probation).
- Agree to be assigned to the position for a minimum of five years.
- Reside in a single-family residence in Paynesville or Paynesville Township, with sufficient area to provide a fenced area and/or kennel.

Canine Handler Selection

Selection of a canine handler shall be made and approved by the Chief of Police.

Canine Handler Responsibilities

Availability

The handler shall be available for call-out under conditions specified by the Chief of Police.

Care for the Canine and Equipment

The 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 handler will be responsible for the following:

- Unless required by a particular application, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- The handler shall maintain all office equipment under his/her control in a clean and serviceable condition, and when not on-duty, shall maintain the canine unit in a secure manner.
- When the handler takes a vacation or extended number of days off, the assigned canine vehicle shall be maintained at the Paynesville Police Department facility or stored inside a secured garage.
- Handlers shall permit the Chief of Police and City Administrator to jointly conduct spontaneous on-site inspections of the affected areas of their residence, as well as the canine unit, to verify that conditions and equipment conform to this policy.
- Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the Chief of Police as soon as possible.
- When off-duty, canines shall be maintained at the homes of their handlers. When a canine is kenneled at the handler's home, the gate shall be secured. When off-duty, canines may be let out of their kennels while under the direct control of their handler.
- The canine should be permitted to socialize in the home with the handler's family.
- Under no circumstances will the canine be lodged at another location unless approved by the Chief of Police.
- When off-duty, handlers shall not involve their canines in any activity or conduct unless approved by the Chief of Police.
- Whenever a canine handler anticipates taking a vacation or an extended number of days off, it may be necessary to temporarily relocate the canine. In those situations, the handler shall make the necessary arrangements with the approval of the Chief of Police.
- When the canine handler expects to be gone for a period of time away from home to exceed three days, the canine handler will notify the Chief of Police of the canine handler's absence.

Canine in Public Areas

All canines shall 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 canines are trained.

- Canines shall not be left unattended in any area to which the public may have access.
- When the canine unit is left unattended, all windows and doors shall be secured in such a manner as to prevent unauthorized access to the dog. The handler shall also ensure that the unattended unit remains habitable for the canine.

Medical Care of the Canine

Non-Emergency Medical Care

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency. Non-emergency medical care will be coordinated by the handler upon approval of the Chief of Police.

Any indication that the canine is not in good physical condition shall be reported to the Chief of Police as soon as possible.

All records of medical treatment shall be maintained in the canine handler's personnel file.

Emergency Medical Care

The handler shall notify the Chief of Police as soon as practical when emergency medical care for the canine is required.

Depending on the severity of the illness or injury, the canine shall either be treated by the designated veterinarian or transported to a designated emergency medical facility for treatment. If the handler and canine are out of the area, the handler may use the nearest available veterinarian.

Canine Unit Training

Training

Before assignment in the field, each canine team shall be trained and have graduated or be certified to meet current recognized national standards or the vendor's standards. Cross-trained dog teams, or those dog teams trained exclusively for the detection of narcotics and/or explosives, shall be trained and have graduated or be certified to meet a nationally recognized standard or vendor standards established for such detection dogs. Canine teams may not be used outside the scope of their training or certification.

The Canine Handler with consultation with the Chief of Police shall be responsible for scheduling periodic training for all office personnel in order to familiarize them with how to conduct themselves in the presence of department canines.

Continued Training

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

- Canine teams shall receive training to a current nationally recognized standard.
- Canine handlers are encouraged to engage in additional training with approval of the Chief of Police.
- To ensure that all training is consistent, no handler, trainer or outside vendor is authorized to train to a standard that is not reviewed and approved by the Chief of Police.

- All canine training shall be conducted while on-duty, unless otherwise approved by the Chief of Police.
- All canine training shall be conducted utilizing department personnel unless otherwise approved by the Chief of Police. Persons utilized in scheduled training events and certifications are excluded from this provision.

- Canine handlers shall conduct training during their regularly schedule shift and shall do so at times limit the impact on public safety.

Failure to Successfully Complete Training

Any dog team failing to graduate or obtain initial certification shall not be deployed in the field for tasks the team is not certified to perform until graduation or certification is achieved.

Training Records

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

Canine handler's shall complete a training and use log monthly for that time period and forward the log to his/her supervisor for review.

Controlled Substance Training Aids

Controlled substance training aids are required to effectively train and maintain drug detecting dogs. Controlled substances can also be an effective training aid during training sessions for law enforcement personnel and the public.

The Chief of Police, or designee at his/her discretion, may authorize an employee to seek a court order to provide for controlled substances to be maintained in the employee's possession for training purposes:

- To any duly authorized peace officer or civilian drug detection canine trainer working under the direction of a law enforcement agency.
- Provided the controlled substances are no longer needed as criminal evidence as verified by the appropriate prosecuting agency.
- Provided the person receiving the controlled substances, if required by the Drug Enforcement Administration (DEA), possesses a current and valid DEA registration that specifically authorizes the recipient to possess controlled substances while providing substance abuse training to law enforcement or the community, or while providing canine drug detection training.

As an alternative, the Chief of Police or designee may request narcotics training aids while providing substance abuse training or canine drug detection training from the DEA by filling out the DEA-225 form at www.deadiversion.usdoj.gov.

Procedures

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

- All necessary controlled substance training samples shall be acquired from the Paynesville Police Department's evidence personnel or from outside agencies authorized to provide controlled substance training samples. All controlled substance

training samples shall be weighed and tested prior to dispensing to the individual canine handler.

- The weight and test results shall be recorded and maintained by the Paynesville Police Department.
- Any person receiving controlled substance training samples, pursuant to court order, shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.
- All controlled substance training samples will be inspected, weighed and tested twice a year. The results of the bi-annual inspection shall be recorded and maintained by the Chief of Police.
- All controlled substance training samples will be stored in locked metal boxes at all times, except during training. The locked metal boxes shall be secured in the trunk of the canine handler's assigned patrol unit or stored in a locked storage locker.
- The Chief of Police shall periodically inspect every controlled substance training sample for damage, loss, or tampering, and take any appropriate action.
- Any unusable controlled substance training samples shall be returned to the Evidence Room or to the dispensing agency.
- All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of training or upon demand by the dispensing agency.

Canine Unit Coordinator Responsibilities

The Canine Unit Coordinator, or his/her designee, shall supervise the Canine Program. The Canine Unit Coordinator shall be responsible for, but not limited to, the following:

- Review all canine use reports to ensure compliance with policy and to identify training issues and other needs of the program.
- Maintain liaison with the vendor kennel.
- Maintain liaison with administrative staff and functional supervisors.
- Maintain accurate records to document canine activities.
- Recommend and oversee the procurement of needed equipment and services for the unit.
- Ensure the canine team is scheduled for continuous training to maximize the capabilities of the teams.

ACCOUNTABILITY

It is the responsibility of each employee to be familiar with and adhere to this policy. It is the responsibility of all officers to ensure this policy is followed. Failure to adhere to this directive may result in disciplinary action up to and including termination.

Termination or Retirement of the Canine Unit

In the event that the City of Paynesville decides to terminate or discontinue the canine program, the canine handler will have the right to purchase the canine from the department before the canine is offered for sale to an outside agency. the canine handler may purchase the canine at a price determined to be fair by the Chief of Police and the City Administrator and approved by the City Council.

If the canine handler leaves the department for employment with another agency, the canine handler's new agency may purchase the canine and all equipment for the canine including the squad car at a price determine to be fair by the Chief of Police and the City Administrator and approved by the City Council. If the canine handler leaves the department for employment outside of law enforcement, the canine and all equipment will be retained by the police department.

If the handler is injured in the line of duty and unable to return to work as a law enforcement officer, the department will attempt to retrain the canine with another officer. If the canine is unable to be retrained with another handler, the original handler will have the right to purchase the canine at a price determine to be fair by the Chief of Police and the City Administrator and approved by the City Council.

The purchase price for the canine shall include the original purchase price of the canine along with added costs for training and may also include added costs for replacement. The total purchase cost may significantly exceed the initial purchase price.

CHAPTER 25

Investigation of Sexual Assault

I. PURPOSE

The purpose of this policy is to provide employees with guidelines for responding to reports of sexual assault. The Paynesville Police Department 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 conduct 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 Paynesville Police Department to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring its peace officers understand the laws governing this area. Sexual assault crimes are under-reported to law enforcement and the goal of this policy is in part to improve victim experience in reporting so that more people are encouraged to report.

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

Peace officers will utilize this policy in response to a sexual assault reported to this agency. The Paynesville Police Department 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 should coordinate with the parents or caregivers for the victim to participate in a specialized investigation such as a CornerHouse Interview as soon as possible
- d. Officers responding to victims with special considerations must comply with the mandated reporting requirements of Minnesota Statute Section 260E.06 and 626.557, as applicable. Officers investigating cases involving victims with special considerations should coordinate these investigations with the appropriate local human services agency where required. Any victim or witness interviews conducted with individuals having special considerations must be audio and video recorded whenever possible. All other interviews must be audio recorded whenever possible.

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

- e. 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.
- f. 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

Chapter 26

EYEWITNESS IDENTIFICATION PROCEDURES

1. 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.

2. 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.

3. Definitions

- a. **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.
- b. **Line-up:** The process of presenting live individuals to an eyewitness for the purpose of identifying or eliminating suspects.
- c. **Photo Array:** A means of presenting photographs to an eyewitness for the purpose of identifying or eliminating suspects.
- d. **Administrator:** The law enforcement official conducting the identification procedure.
- e. **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.

- f. **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.
- g. **Filler:** A live person, or a photograph of a person, included in an identification procedure who is not considered a suspect.
- h. **Sequential:** Presentation of a series of photographs or individuals to a witness one at a time.
- i. **Simultaneous:** Presentation of a series of photographs or individuals to a witness all at once.

4. Procedure

a. 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.

- i. Document the witness's description of the perpetrator prior to conducting the show up.
- ii. 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.
- iii. Do not use a show-up procedure if probable cause to arrest the suspect has already been established.
- iv. 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.
- v. 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.
- vi. Do not conduct the show-up with more than one witness present at a time.
- vii. Separate witnesses and do not allow communication between them before or after conducting a show-up.

- viii. If one witness identifies the suspect, use a line-up or photo array for remaining witnesses.
- ix. Do not present the same suspect to the same witness more than once.
- x. Do not require show-up suspects to put on clothing worn by, speak words uttered by, or perform other actions of the perpetrator.
- xi. 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.
- xii. Ask the witness to provide a confidence statement.
- xiii. Remind the witness not to talk about the show-up to other witnesses until police or prosecutors deem it permissible.
- xiv. Videotape the identification process using an in-car camera or other recording device when feasible.
- xv. Document the time and location of the show-up, the officers present, the result of the procedure, and any other relevant information.

b. Line-up and Photo Array

Basic Procedures for Conducting a Line-up or Photo Array

- i. Line-ups will not typically be utilized for investigations, unless conducting a photo array is not possible.
- ii. 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.
- iii. 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.
- iv. 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.
- v. 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.
- vi. 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.
- vii. If there is more than one suspect, include only one in each line-up or photo array.

- viii. 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.
- ix. Place suspects in different positions in each line-up or photo array, both across cases and with multiple witnesses in the same case.
- x. Witnesses should not be permitted to see or be shown any photos of the suspect prior to the line-up or photo array.
- xi. 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.
 - 1. *You will be asked to look at a series of individuals.*
 - 2. The perpetrator may or may not be present in the identification procedure.
 - 3. *It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.*
 - 4. *I don't know whether the person being investigated is included in this series.*
 - 5. *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.*
 - 6. *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.*
 - 7. *The individuals are not configured in any particular order.*
 - 8. *If you make an identification, I will continue to show you the remaining individuals or photos in the series.*
 - 9. *Regardless of whether you make an identification, we will continue to investigate the incident.*
 - 10. *Since this is an ongoing investigation, you should not discuss the identification procedures or results*

- xii. 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.
- xiii. Multiple identification procedures should not be conducted in which the same witness views the same suspect more than once.
- xiv. 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.
- xv. Following an identification, the administrator shall ask the witness to provide a confidence statement and document the witness's response.
- xvi. The administrator shall ask the witness to complete and sign an Eyewitness Identification Procedure Form.
- xvii. 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.

c. Photographic Arrays

- i. 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.

- ii. 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.

d. Line-ups

- i. 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.
- ii. 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.

Paynesville Police Department

Chapter 27: Use of Body-Worn Cameras Policy

Purpose

The primary purpose of using Paynesville Police Department-issued body-worn-cameras (BWCs), worn by Paynesville Police Department peace officers, is to capture evidence arising from police-citizen encounters. This policy sets forth guidelines governing the use of BWCs and administering the data that results. Compliance with these guidelines is mandatory, but it is recognized that officers must also attend to other primary duties and the safety of all concerned, sometimes in circumstances that are tense, uncertain, and rapidly evolving.

Policy

The Paynesville Police Department may provide Paynesville Police Department peace officers with portable recording systems for use during the performance of their duties. The use of portable recording systems is intended to enhance the mission of the Department by accurately capturing contacts between Department peace officers and the public. It is the policy of this department to authorize and require the use of department-issued BWCs as set forth below, and to administer BWC data as provided by law.

Scope

This policy governs the use of BWCs in the course of official duties. It does not apply to the use of squad-based (dash-cam) recording systems. The chief or chief's designee may supersede this policy by providing specific instructions for BWC use to individual officers, or providing specific instructions pertaining to particular events or classes of events, including but not limited to political rallies and demonstrations. The chief or designee may also provide specific instructions or standard operating procedures for BWC use to officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

Definitions

The following phrases and words have special meanings as used in this policy:

- A. **Body-Worn Cameras (BWCs):** A portable recording device issued by the Paynesville Police Department worn by a Paynesville Police Department peace officer that is capable of both video and audio recording of the Paynesville Police Department peace officer's activities and interactions with others or collecting digital multimedia evidence as part of an investigation and as provided in Minn. Stat. 13.825
- B. **MGDPA or Data Practices Act** refers to the Minnesota Government Data Practices Act, Minn. Stat. § 13.01, et seq.
- C. **Records Retention Schedule** refers to the General Records Retention Schedule for Minnesota Cities.

- D. **Law enforcement-related information** means information captured or available for capture by use of a BWC that has evidentiary value because it documents events with respect to a stop, arrest, search, citation, or charging decision.
- E. **Evidentiary value** means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer.
- F. **General citizen contact** means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a wrecker, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.
- G. **Adversarial** means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.
- H. **Unintentionally recorded footage** is a video recording that results from an officer's inadvertence or neglect in operating the officer's BWC, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage include, but are not limited to, recordings made in station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business, personal nature with the expectation that the conversation was not being recorded.
- I. **Official duties**, for purposes of this policy, means that the officer is on duty and performing authorized law enforcement services on behalf of this agency.

Objectives

The Paynesville Police Department has adopted the use of BWC to accomplish the following objectives:

- A. To enhance officer safety;
- B. To document statements and events during the course of an incident, in addition to using an audio recorder when appropriate;
- C. To enhance the officer's ability to document and review statements and actions for both internal reporting requirements and for courtroom preparation and presentation;
- D. To preserve visual and audio information for use in current and future investigations;

- E. To provide a tool for self-critique and field evaluation during officer training and to assist with on-going training and evaluation;
- F. To enhance the public trust by preserving factual representation of officer-citizen interactions in the form of recorded media; and
- G. To assist with the defense of civil actions against officer and the City.

Coordinator

The Chief of Police or the authorized designee should designate a coordinator responsible for complying with the following certain legal requirements of portable recording systems under Minn. Stat. § 626.8473 and Minn. Stat. § 13.825):

- A. Establishing an inventory of portable recording systems including:
 - 1. Total number of devices owned or maintained by the Paynesville Police Department peace officers
 - 2. Daily record of the total number deployed and used by members
 - 3. Total amount of recorded audio and video data collected by the devices and maintained by the Paynesville Police Department.
- B. Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9.
- C. Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Paynesville Police Department that expands the type or scope of surveillance capabilities of the Paynesville Police Department's portable recording systems.
- D. Retaining this policy, together with the Records Retention Schedule.

Paynesville Police Department Peace Officer- No Privacy Expectation

All recordings made by Paynesville Police Department peace officers on any BWC at any time or while acting in an official capacity shall remain the property of the Department. Paynesville Police Department and Paynesville Police Department peace officers shall have no expectation of privacy or ownership interest in the content of these recordings.

Use and Documentation

- A. Officers may use only department-issued BWCs in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.
- B. Officers who have been issued BWCs shall operate and use them consistent with this policy. Officers shall conduct a function test of their issued BWCs at the beginning of each shift to make sure the devices are operating properly. Officers noting a malfunction during testing or at any other time shall promptly report the malfunction to the officer's

supervisor and shall document the report in writing. Supervisors shall take prompt action to address malfunctions and document the steps taken in writing.

- C. Officers should wear their issued BWCs at the location on their body and in the manner specified in training.
- D. Officers must document BWC use and non-use as follows:
 - 1. Whenever an officer makes a recording, the existence of the recording shall be documented in an incident report
 - 2. Whenever an officer fails to record an activity that is required to be recorded under this policy, or fails to record for the entire duration of the activity, the officer must document the circumstances and reasons for not recording in an incident report. Supervisors shall review these reports and initiate any corrective action deemed necessary.
- E. The department will maintain the following records and documents relating to BWC use, which are classified as public data:
 - 1. The total number of BWCs owned or maintained by the agency;
 - 2. A daily record of the total number of BWCs actually deployed and used by officers;
 - 3. The total amount of recorded BWC data collected and maintained; and
 - 4. This policy, together with the Records Retention Schedule.
- F. Officers will each be issued a BWC for use during their normal course of work. Officer may not use the camera for any activity outside of their work shifts unless authorized by the Chief of Police.

General Guidelines for Recording

- A. Officers shall activate their BWCs when anticipating that they will be involved in, become involved in, or witness other officers of this agency involved in a pursuit, *Terry* stop of a motorist or pedestrian, search, seizure, arrest, use of force, adversarial contact, and during other activities likely to yield information having evidentiary value. However, officers need not activate their cameras when it would be unsafe, impossible, or impractical to do so, but such instances of not recording when otherwise required must be documented as specified in the Use and Documentation guidelines, part (D)(2) (above).
- B. Officers have discretion to record or not record general citizen contacts.
- C. Officers have no affirmative duty to inform people that a BWC is being operated or that the individuals are being recorded.

- D. Once activated, the BWC should continue recording until the conclusion of the incident or encounter, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value. The officer having charge of a scene shall likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. If the recording is discontinued while an investigation, response, or incident is ongoing, officers shall state the reasons for ceasing the recording on camera before deactivating their BWC. If circumstances change, officers shall reactivate their cameras as required by this policy to capture information having evidentiary value.
- E. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy.
- F. Notwithstanding any other provision in this policy, officers shall not use their BWCs to record other agency personnel during non-enforcement related activities, such as during pre- and post-shift time in locker rooms, during meal breaks, or during other private conversations, unless recording is authorized as part of an administrative or criminal investigation.

Special Guidelines for Recording

Officers may, in the exercise of sound discretion, determine:

- A. To use their BWCs to record any police-citizen encounter if there is reason to believe the recording would potentially yield information having evidentiary value, unless such recording is otherwise expressly prohibited.
- B. To use their BWCs to take recorded statements from persons believed to be victims of and witnesses to crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.

In addition,

- C. Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. When responding to an apparent mental health crisis or event, BWCs shall be activated as necessary to document any use of force and the basis for it, and any other information having evidentiary value, but need not be activated when doing so would serve only to record symptoms or behaviors believed to be attributable to the mental health issue.
- D. Officers shall use their BWCs and In-Squad video system to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health care facilities, juvenile detention centers, and jails, but otherwise should not record in these facilities unless the officer anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use-of-force incident.

Downloading and Labeling Data

- A. Each officer using a BWC is responsible for transferring or assuring the proper transfer of the data from his or her camera to the cloud-based server by the end of that officer's shift. However, if the officer is involved in a shooting, in-custody death, or other law enforcement activity resulting in death or great bodily harm, a supervisor or investigator shall take custody of the officer's BWC and assume responsibility for transferring the data from it.
- B. Officers shall label the BWC data files at the time of capture or transfer to storage, and should consult with a supervisor if in doubt as to the appropriate labeling. If this cannot be accomplished at the time of transfer, then the officer will label the file on the officer's next shift. Officers should assign as many of the following labels as are applicable to each file:
 1. **Evidence—criminal:** The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision.
 2. **Evidence—force:** Whether or not enforcement action was taken, or an arrest resulted, the event involved the application of force by an officer of this agency of sufficient degree or under circumstances triggering a requirement for supervisory review.
 3. **Evidence—property:** Whether or not enforcement action was taken, or an arrest resulted, an officer seized property from an individual or directed an individual to dispossess property.
 4. **Evidence—administrative:** The incident involved an adversarial encounter or resulted in a complaint against the officer.
 5. **Evidence—other:** The recording has potential evidentiary value for reasons identified by the officer at the time of labeling.
 6. **Training:** The event was such that it may have value for training.
 7. **Not evidence:** The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general citizen contacts and unintentionally recorded footage are not evidence.
- C. In addition, officers shall flag each file as appropriate to indicate that it contains information about data subjects who may have rights under the MGDPA limiting disclosure of information about them. These individuals include:
 1. Victims and alleged victims of criminal sexual conduct and sex trafficking.

2. Victims of child abuse or neglect.
 3. Vulnerable adults who are victims of maltreatment.
 4. Undercover officers.
 5. Informants.
 6. When the video is clearly offensive to common sensitivities.
 7. Victims of and witnesses to crimes, if the victim or witness has requested not to be identified publicly.
 8. Individuals who called 911, and services subscribers whose lines were used to place a call to the 911 system.
 9. Mandated reporters.
 10. Juvenile witnesses, if the nature of the event or activity justifies protecting the identity of the witness.
 11. Juveniles who are or may be delinquent or engaged in criminal acts.
 12. Individuals who make complaints about violations with respect to the use of real property.
 13. Officers and employees who are the subject of a complaint related to the events captured on video.
 14. Other individuals whose identities the officer believes may be legally protected from public disclosure.
- D. Labeling and flagging designations may be corrected or amended based on additional information.

Administering Access to BWC Data:

- A. **Data subjects.** Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:
1. Any person or entity whose image or voice is documented in the data.
 2. The officer who collected the data.
 3. Any other officer whose voice or image is documented in the data, regardless of whether that officer is or can be identified by the recording.

B. BWC data is presumptively private. BWC recordings are classified as private data about the data subjects unless there is a specific law that provides differently. As a result:

1. BWC data pertaining to people is presumed private, as is BWC data pertaining to businesses or other entities.
2. Some BWC data is classified as confidential (see C. below).
3. Some BWC data is classified as public (see D. below).

C. Confidential data. BWC data that is collected or created as part of an active criminal investigation is confidential. This classification takes precedence over the “private” classification listed above and the “public” classifications listed below.

D. Public data. The following BWC data is public:

1. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.
2. Data that documents the use of force by a peace officer that results in substantial bodily harm.
3. Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a peace officer) who has not consented to the public release must be redacted. In addition, any data on undercover officers must be redacted.
4. Data that are public personnel data under Minn. Stat. § 13.43, subd. 2(5).

However, if another provision of the Data Practices Act classifies data as private or otherwise not public, the data retains that other classification. For instance, data that reveals protected identities under Minn. Stat. § 13.82, subd. 17 (e.g., certain victims, witnesses, and others) should not be released even if it would otherwise fit into one of the public categories listed above.

E. Access to BWC data by non-employees. Officers shall refer members of the media or public seeking access to BWC data to the Chief of Police, who shall process the request in accordance with the MGDPA and other governing laws. In particular:

1. An individual shall be provided with access and allowed to review recorded BWC data about him- or herself and other data subjects in the recording, but access shall not be granted:
 - a. If the data was collected or created as part of an active investigation.

- b. To portions of the data that the agency would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. § 13.82, subd. 17.
- 2. Unless the data is part of an active investigation, an individual data subject shall be provided with a copy of the recording upon request, but subject to the following guidelines on redaction:
 - a. Data on other individuals in the recording who do not consent to the release must be redacted.
 - b. Data that would identify undercover officers must be redacted.
 - c. Data on other officers who are not undercover, and who are on duty and engaged in the performance of official duties, may not be redacted.
- F. **Access by peace officers and law enforcement employees.** No employee may have access to the department's BWC data except for legitimate law enforcement or data administration purposes:
 - 1. Officers may access and view stored BWC video only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Officers may review video footage of an incident in which they were involved prior to preparing a report, giving a statement, or providing testimony about the incident. Officer may only review video captured on their BWC. Requests to view video recorded by other officers must be made to the Chief of Police. The Chief of Police will determine if viewing the video is appropriate.
 - 2. Agency personnel shall document their reasons for accessing stored BWC data in the manner provided within the database at the time of each access. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency to public and social media websites.
 - 3. Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public.
- G. **Other authorized disclosures of data.** Officers may display portions of BWC footage to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82, subd. 15, as may be amended from time to time. Officers should generally limit these displays in order to protect against the incidental disclosure of individual identities that are not public. Protecting against incidental disclosure could involve, for instance, showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio but not displaying video. In addition,

1. BWC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure.
2. BWC data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

Prohibited Use of Body-Worn Cameras

Officers are prohibited from using body-worn cameras for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity, unless authorized by the Chief of Police.

Officers are also prohibited from retaining BWC recordings of activities or information obtained while on-duty, unless authorized by the Chief of Police ~~whether the recording was created with office issued or personally owned recorders~~. Officers shall not make duplicate copies of BWC recordings on any department issued device or personal device ~~shall not duplicate~~ or distribute such recordings, except for authorized legitimate office business purposes. All such recordings shall be retained at the Office, unless authorized by the Chief of Police

~~Deputies are prohibited from using personally owned recording devices while on duty without the express consent of the Shift Sergeant. Any~~ Officers 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~~ Chief of Police of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

The BWC should not be activated in any court of law, unless authorized by a judge or the officers anticipates witnessing a criminal event or be involved in or witnessing an adversarial encounter or use of force incident.

Data Security Safeguards

- A. Any technology vendor that supports the department BWC program must be successfully screened by the Minnesota Bureau of Criminal Apprehension (BCA) and be in compliance with the FBI's Criminal Justice Information System (CJIS) security policy program and the BCA security policy
- B. All BWC video will be uploaded to a cloud-based server and backed up according to their policies. Officers will be provided individual passcodes to access video recorded by their issued BWC. Officers will not be given access to view other officers videos or to delete or modify any BWC videos. Officers may modify the labeling associated with the BWC video.

- C. Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access or view agency BWC data.
- D. Officers shall not intentionally edit, alter, or erase any BWC recording unless otherwise expressly authorized by the chief or the chief's designee.
- E. As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time, this agency shall obtain an independent biennial audit of its BWC program.

Agency Use of Data

- A. At least once a month, supervisors will randomly review BWC usage by each officer to whom a BWC is issued or available for use, to ensure compliance with this policy
- B. In addition, supervisors and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.
- C. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.
- D. Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis. Field training officers may utilize BWC data with trainees for the purpose of providing coaching and feedback on the trainees' performance.

Data Retention

- A. All BWC data shall be retained for a minimum period of 90 days. There are no exceptions for erroneously recorded or non-evidentiary data.
- B. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous, must be maintained for a minimum period of one year.
- C. Certain kinds of BWC data must be retained for six years:
 - 1. Data that documents the use of deadly force by a peace officer, or force of a sufficient type or degree to require a use of force report or supervisory review.
 - 2. Data documenting circumstances that have given rise to a formal complaint against an officer.

- D. Other data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period.
- E. Subject to Part F (below), all other BWC footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days.
- F. Upon written request by a BWC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.
- G. The department shall maintain an inventory of BWC recordings having evidentiary value.
- H. The department will post this policy, together with its Records Retention Schedule, on its website.

Compliance

Supervisors shall monitor for compliance with this policy. The unauthorized access to or disclosure of BWC data may constitute misconduct and subject individuals to disciplinary action and criminal penalties pursuant to Minn. Stat. § 13.09.