



Board of Peace Officer Standards and Training

1600 University Avenue, Suite 200, Saint Paul, MN 55104

(651) 643-3060 | www.mn.gov/post

Board Meeting Agenda

Thursday, October 23, 2025, at 10:00 a.m.

This meeting will be held at the MN POST Board, 1600 University Ave, Ste 200, St. Paul, MN 55104

1. Call to Order.
2. Approval of the Agenda **ACTION**
3. Approval of Minutes from 8/28/25 Meeting **ACTION**
4. Violence Free Minnesota: Nikki Engel **PRESENTATION/DISCUSSION**
5. Variance: Oshane Spence **ACTION**
6. Variance: Michael Dockery **ACTION**
7. 6700.0800 – obsolete rule **ACTION**
8. 6700.0501 (additional subpart 7 option) **ACTION**
9. Model Policy: Avoiding Racial Profiling **ACTION**
10. Model Policy: Confidential Informant **ACTION**
11. Model Policy: Eyewitness Identification **ACTION**
12. Model Policy: Public Assembly **ACTION**
13. Model Policy: Sexual Assault **ACTION**
14. Model Policy: School Resource Officer **ACTION**
15. Model Policy: Use of Force **ACTION**
16. Executive Director's Report
17. Licensure matters (closed to public)
18. Licensure Hearing – Leibel
19. Deliberations (closed to public)
20. Licensure hearing – Hacker
21. Deliberations (closed to public)
22. Adjournment.



Board of Peace Officer Standards and Training

1600 University Avenue, Suite 200, Saint Paul, MN 55104
Main: (651) 643-3060 | www.mn.gov/post/

BOARD MEETING MINUTES

August 28, 2025

10:00 a.m.

This meeting was a hybrid meeting held at the MN POST Board office.

Members Present

Chair Luke Hennen
Scott Nadeau for Andrew Evans
Bobbie Holtberg
Cassandra Bautista
Kelly Phillips
Michael Ceynowa
Nigel Perrote
Scott Kent

Staff Present

Alicia Popowski
Erik Misselt
Jessi Knowles

Members Absent

Jennifer Foster
Jim Yang
Shelly Schaefer
Stephanie Burrage
Tad Farrell
Tanya Gladney
Troy Wolbersen

Counsel Present

David Cullen, A.G. Office

Other

Tom Draper

1. Call to order: Chair Hennen called the meeting to order on August 28, 2025 at 10:03 A.M.
2. Approval of the agenda: Chair Hennen asked for a motion to approve the agenda.
 - MOTION: Mr. Kent made a motion to approve the agenda. Ms. Holtberg seconded the motion. The motion passed via unanimous voice vote.
3. Approval of the Board meeting minutes on July 24, 2025: Chair Hennen asked for a motion to approve the July 24, 2025 minutes.
 - MOTION: Ms. Bautista made a motion to amend the agenda to add her name to “Members Present” as it was missed in error. Ms. Phillips seconded the motion. The motion carried via unanimous voice vote.

4. **Variance request – Alvin C. V. Batiller Jr.:** Ms. Popowski presented Mr. Batiller’s variance request. Mr. Batiller was not present for the meeting. Mr. Batiller has a foreign degree and is seeking a variance from the board to recognize the university he attended as a school- thus validating his degree. Mr. Batiller is seeking the variance so he may enroll in the ICPOET program with HTC.
- **MOTION:** Ms. Holtberg made a motion for the Board to grant the petitioner’s request for a variance because the statutory criteria for a discretionary variance has been met and that the variance of Minnesota Rule 6700.0100, subp. 20, be granted until licensure. Ms. Phillips seconded the motion. Motion passed via unanimous voice vote.
5. **Variance request –Le Thi Kim Anh:** Ms. Popowski presented Mr. Anh’s variance request. Mr. Anh was not present for the meeting. Mr. Anh has a foreign degree and is seeking a variance from the board to recognize the university he attended as a school- thus validating his degree. Mr. Anh is seeking the variance so he may enroll in the ICPOET program with HTC.
- **MOTION:** Ms. Holtberg made a motion for the Board to grant the petitioner’s request for a variance because the statutory criteria for a discretionary variance has been met and that the variance of Minnesota Rule 6700.0100, subp. 20, be granted until licensure. Ms. Phillips seconded the motion. Motion passed via unanimous voice vote.
6. **Variance request – Mustafa Adawe:** Ms. Popowski presented Mr. Adawe’s variance request. Mr. Adawe was not present for the meeting. Mr. Adawe has a foreign degree and is seeking a variance from the board to recognize the university he attended as a school- thus validating his degree. Mr. Adawe is seeking the variance so he may enroll in the ICPOET program with HTC.
- **MOTION:** Ms. Holtberg made a motion for the Board to grant the petitioner’s request for a variance because the statutory criteria for a discretionary variance has been met and that the variance of Minnesota Rule 6700.0100, subp. 20, be granted until licensure. Ms. Phillips seconded the motion. Motion passed via unanimous voice vote.
7. **Variance request – Joseph Washington:** Ms. Popowski presented Mr. Washington’s variance request. Mr. Washington was not present for the meeting. Mr. Washington has a foreign degree and is seeking a variance from the board to recognize the university he attended as a school- thus validating his degree. Mr. Washington is seeking the variance so he may enroll in the ICPOET program with HTC.
- **MOTION:** Ms. Holtberg made a motion for the Board to grant the petitioner’s request for a variance because the statutory criteria for a discretionary variance has been met and that the variance of Minnesota Rule 6700.0100, subp. 20, be granted until licensure. Ms. Phillips seconded the motion. Discussion lead to Ms. Holtberg rescinding her motion.
 - **MOTION:** Mr. Kent makes the motion for the board to deny the petitioner’s request for a variance of Minnesota Rule 6700.0100 subp. 20, because the statutory criteria has not been met, specifically a hardship has not been identified. Ms. Phillips seconded the motion. Motion passes via unanimous voice vote.

8. **Variance request – Alex Howard:** Ms. Popowski presented Mr. Howard’s variance request. Mr. Howard is present for the meeting. Mr. Howard has a degree from a school that is nationally accredited and is seeking a variance from the board to recognize the college he attended as a school. Mr. Howard is seeking the variance so he may enroll in the ICPOET program with HTC.
- **MOTION:** Ms. Holtberg made a motion for the Board to grant the petitioner’s request for a variance because the statutory criteria for a discretionary variance has been met and that the variance of Minnesota Rule 6700.0100, subp. 20, be granted until licensure. Ms. Phillips seconded the motion. Motion passed with 7 yes votes, 1 no vote.
9. **Variance request – Zane Razeqi:** Ms. Popowski presented Mr. Razeqi’s variance request. Mr. Razeqi was present for the meeting. Mr. Razeqi has a degree from a college that is nationally accredited and is seeking a variance from the board to recognize the college he attended as a school. Mr. Razeqi is seeking the variance so he may enroll in the ICPOET program with HTC.
- **MOTION:** Ms. Holtberg made a motion for the Board to grant the petitioner’s request for a variance because the statutory criteria for a discretionary variance has been met and that the variance of Minnesota Rule 6700.0100, subp. 20, be granted until licensure. Ms. Phillips seconded the motion. Motion passed with 7 yes votes, 1 no vote.
10. **Variance request – Michael Dockery:** Ms. Popowski presented Mr. Dockery’s variance request. Mr. Dockery was not present for the meeting. Mr. Dockery is requesting a variance 6700.0501 Subp 7. He is 5 months short of the reciprocity requirements for nondegree holders.
- **MOTION:** Mr. Kent made a motion for the Board to deny the petitioner’s request for a variance of Minnesota Rule 6700.0501 because the statutory criteria for a discretionary variance has not been met, specifically the five-year requirement along with schooling. Ms. Holtberg seconded the motion. Motion passed via unanimous voice vote.
11. **Adjournment:** The meeting adjourned at 10:38 A.M.

Office of the Revisor of Statutes

Office of the Revisor of Statutes

2024 Minnesota Statutes

[Authenticate](#)  PDF**257.541 CUSTODY AND PARENTING TIME WITH CHILDREN BORN OUTSIDE OF MARRIAGE.**

Subdivision 1. **Mother's right to custody.** The biological mother of a child born to a mother who was not married to the child's father when the child was born and was not married to the child's father when the child was conceived has sole custody of the child until paternity has been established under sections [257.51](#) to [257.74](#), or until custody is determined in a separate proceeding under section [518.156](#).

Subd. 2. **Father's right to parenting time and custody.** (a) If paternity has been acknowledged under section [257.34](#) and paternity has been established under sections [257.51](#) to [257.74](#), the father's rights of parenting time or custody are determined under sections [518.17](#) and [518.175](#).

(b) If paternity has not been acknowledged under section [257.34](#) and paternity has been established under sections [257.51](#) to [257.74](#), the biological father may petition for rights of parenting time or custody in the paternity proceeding or in a separate proceeding under section [518.156](#).

Subd. 3. **Father's right to parenting time and custody; recognition of paternity.** If paternity has been recognized under section [257.75](#), the father may petition for rights of parenting time or custody in an independent action under section [518.156](#). The proceeding must be treated as an initial determination of custody under section [518.17](#). The provisions of chapter 518 apply with respect to the granting of custody and parenting time. An action to determine custody and parenting time may be commenced pursuant to chapter 518 without an adjudication of parentage. These proceedings may not be combined with any proceeding under chapter 518B.

History: [1983 c 308 s 3](#); [1987 c 403 art 3 s 96](#); [1990 c 574 s 3](#); [1Sp1993 c 1 art 6 s 34](#); [2000 c 444 art 2 s 6](#)

Official Publication of the State of Minnesota
Revisor of Statutes

Office of the Revisor of Statutes

Office of the Revisor of Statutes

2024 Minnesota Statutes

Authenticate  PDF

609.26 DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS.

Subdivision 1. **Prohibited acts.** Whoever intentionally does any of the following acts may be charged with a felony and, upon conviction, may be sentenced as provided in subdivision 6:

(1) conceals a minor child from the child's parent where the action manifests an intent substantially to deprive that parent of parental rights or conceals a minor child from another person having the right to parenting time or custody where the action manifests an intent to substantially deprive that person of rights to parenting time or custody;

(2) takes, obtains, retains, or fails to return a minor child in violation of a court order which has transferred legal custody under chapter 260, 260B, or 260C to the commissioner of human services, a child-placing agency, or the local social services agency;

(3) takes, obtains, retains, or fails to return a minor child from or to the parent in violation of a court order, where the action manifests an intent substantially to deprive that parent of rights to parenting time or custody;

(4) takes, obtains, retains, or fails to return a minor child from or to a parent after commencement of an action relating to child parenting time or custody but prior to the issuance of an order determining custody or parenting time rights, where the action manifests an intent substantially to deprive that parent of parental rights;

(5) retains a child in this state with the knowledge that the child was removed from another state in violation of any of the above provisions;

(6) refuses to return a minor child to a parent or lawful custodian and is at least 18 years old and more than 24 months older than the child;

(7) causes or contributes to a child being a habitual truant as defined in section 260C.007, subdivision 19, and is at least 18 years old and more than 24 months older than the child;

(8) causes or contributes to a child being a runaway as defined in section 260C.007, subdivision 28, and is at least 18 years old and more than 24 months older than the child; or

(9) is at least 18 years old and resides with a minor under the age of 16 without the consent of the minor's parent or lawful custodian.

Subd. 2. **Defenses.** It is an affirmative defense if a person charged under subdivision 1 proves that:

(1) the person reasonably believed the action taken was necessary to protect the child from physical or sexual assault or substantial emotional harm;

(2) the person reasonably believed the action taken was necessary to protect the person taking the action from physical or sexual assault;

(3) the action taken is consented to by the parent, stepparent, or legal custodian seeking prosecution, but consent to custody or specific parenting time is not consent to the action of failing to return or concealing a minor child; or

(4) the action taken is otherwise authorized by a court order issued prior to the violation of subdivision 1.

The defenses provided in this subdivision are in addition to and do not limit other defenses available under this chapter or chapter 611.

Subd. 2a. **Original intent clarified.** To the extent that it states that subdivision 2 creates affirmative defenses to a charge under this section, subdivision 2 clarifies the original intent of the legislature in enacting Laws 1984, chapter 484, section 2, and does not change the substance of this section. Subdivision 2 does not modify or alter any convictions entered under this section before August 1, 1988.

Subd. 3. **Venue.** A person who violates this section may be prosecuted and tried either in the county in which the child was taken, concealed, or detained or in the county of lawful residence of the child.

Subd. 4. **Return of child; costs.** A child who has been concealed, obtained, or retained in violation of this section shall be returned to the person having lawful custody of the child or shall be taken into custody pursuant to section [260C.175, subdivision 1](#), clause (2), item (ii). In addition to any sentence imposed, the court may assess any expense incurred in returning the child against any person convicted of violating this section. The court may direct the appropriate county welfare agency to provide counseling services to a child who has been returned pursuant to this subdivision.

Subd. 5. **Dismissal of charge.** A felony charge brought under this section shall be dismissed if:

(a) the person voluntarily returns the child within 48 hours after taking, detaining, or failing to return the child in violation of this section; or

(b)(1) the person taking the action and the child have not left the state of Minnesota; and (2) within a period of seven days after taking the action, (i) a motion or proceeding under chapter 518, 518A, 518B, 518C, or 518D is commenced by the person taking the action, or (ii) the attorney representing the person taking the action has consented to service of process by the party whose rights are being deprived, for any motion or action pursuant to chapter 518, 518A, 518B, 518C, or 518D.

Clause (a) does not apply if the person returns the child as a result of being located by law enforcement authorities.

This subdivision does not prohibit the filing of felony charges or an offense report before the expiration of the 48 hours.

Subd. 6. **Penalty.** (a) Except as otherwise provided in paragraph (b) and subdivision 5, whoever violates this section may be sentenced as follows:

(1) to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both; or

(2) to imprisonment for not more than four years or to payment of a fine of not more than \$8,000, or both, if the court finds that:

(i) the defendant committed the violation while possessing a dangerous weapon or caused substantial bodily harm to effect the taking;

(ii) the defendant abused or neglected the child during the concealment, detention, or removal of the child;

(iii) the defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause the parent or lawful custodian to discontinue criminal prosecution;

(iv) the defendant demanded payment in exchange for return of the child or demanded to be relieved of the financial or legal obligation to support the child in exchange for return of the child; or

(v) the defendant has previously been convicted under this section or a similar statute of another jurisdiction.

(b) A violation of subdivision 1, clause (7), is a gross misdemeanor. The county attorney shall prosecute violations of subdivision 1, clause (7).

Subd. 7. **Reporting of deprivation of parental rights.** Any violation of this section shall be reported pursuant to section [260E.11, subdivision 2](#).

History: [1963 c 753 art 1 s 609,26](#); [1967 c 570 s 1](#); [1979 c 263 s 1](#); [1984 c 484 s 2](#); [1984 c 654 art 5 s 58](#); [1985 c 227 s 1,2](#); [1986 c 444](#); [1986 c 445 s 1,2](#); [1986 c 463 s 4,5](#); [1987 c 246 s 1-3](#); [1988 c 523 s 1](#); [1989 c 290 art 7 s 3,4](#); [1991 c 285 s 10](#); [1994 c 631 s 31](#); [1994 c 636 art 2 s 25,26](#); [1999 c 86 art 1 s 78](#); [1999 c 139 art 4 s 2](#); [2000 c 444 art 2 s 45,46](#); [2001 c 178 art 1 s 44](#); [2002 c 379 art 1 s 105](#); [2005 c 164 s 29](#); [1Sp2005 c 7 s 28](#); [1Sp2020 c 2 art 8 s 137](#)

Official Publication of the State of Minnesota
Revisor of Statutes



Board of Peace Officer Standards and Training

1600 University Avenue, Suite 200, Saint Paul, MN 55104

(651) 643-3060 | www.mn.gov/post

l09 a p

Variance Petition Summary

Date of Board Meeting: October 23, 2025

Petitioner: Oshane Spence

Basis for Variance Request: Mr. Spence would like to enroll in a law enforcement certificate program. To reduce the amount of course work he has to complete, Mr. Spence is requesting the board acknowledge the university he received his 4-year degree from as a "school" under rule 6700.0100, subpart 20.

Rule Citation:

6700.0100, subdivision 20. School. "School" means a postsecondary institution which is accredited by one of the six regional accrediting associations and authorized to award academic degrees including, but not limited to, Associate of Arts (A.A.) degrees, Associate of Science (A.S.) degrees, Bachelor of Arts (B.A.) degrees, and Bachelor of Science (B.S.) degrees.

Summary of Request (also see actual request attached): Mr. Spence is petitioning the board for a variance to acknowledge the University of the West Indies (Jamaica), which is not regionally accredited, as a "school" under rule 6700.0100, subpart 20. Mr. Spence would like to enroll in a law enforcement certificate program and this variance request, if granted, would allow him to do so without having to complete another degree from a regionally accredited institution. Mr. Spence completed a Bachelor of Science degree in Political Science in 2019 from the University of the West Indies. Mr. Spence had his transcripts evaluated by World Education Services (WES) which determined his degree was equivalent to a bachelor's degree issued by a regionally accredited university.

Previous Board Action on Similar Requests:

- 2022 – The POST Board granted three variance requests to recognize a foreign education facility as a school under 6700.0100, subpart 20.
- 2023 – The POST Board granted a variance to recognize a foreign education facility as a school under 6700.0100, subpart 20.
- 2024 – The POST Board granted two variances to recognize a foreign education facility as a school under 6700.0100, subpart 20.
- 2025 – The POST Board granted eight variances to recognize a foreign education facility as a school under 6700.0100, subpart 20. The board also denied one variance request to recognize a foreign education facility as a school under 6700.0100, subpart 20.

Board Review of Variance Request:

- The Board may ask questions or request additional information from the petitioner.

- The Board cannot waive statutory requirements.
- The Board may attach any conditions to the granting of a variance needed to protect public health and safety.

1. Would the application of the rule, as applied to the circumstances of the petitioner, serve any of the purposes of the rule?

- If yes, go to bullet number 2 below.
- If no, this is a **mandatory** variance and must be granted. To grant the variance:
 - a. identify any conditions to the granting of the variance needed to ensure the variance protects the public health and safety;
 - b. determine how long should the variance be in effect; and
 - c. make a motion.

Sample motion to GRANT a mandatory variance: *I make a motion for the Board to approve the petitioner's request for a variance because application of the Minnesota Rule 6700.____, as applied to the circumstances of the petitioner, would not serve any purpose of the rule. I move that the variance be granted until ____ with the following conditions*

2. If this is a **discretionary variance, the Board may grant it *only* if the board determines that all three of the following statements are true:**

- a. the application of the rule to the petitioner would result in hardship or injustice;
- b. a variance from the rule would be consistent with public interest; and
- c. a variance from the rule would not negatively impact the substantial legal or economic rights of any person or entity.

Sample motion to GRANT a discretionary variance: *I make a motion for the Board to grant the petitioner's request for a variance because the statutory criteria for a discretionary variance have been met. I move that the variance of Minnesota Rule 6700.____ be granted until ____ with the following conditions*

Sample motion to DENY a discretionary variance: *I make a motion for the Board to deny the petitioner's request for a variance of Minnesota Rule 6700.____ because the statutory criteria for a discretionary variance have not been met. Specifically, [identify all that apply]:*

- a. the application of the rule to the petitioner would not result in hardship or injustice;
- b. a variance from the rule would not be consistent with public interest; and/or
- c. a variance from the rule would prejudice the legal or economic rights of a person.



Board of Peace Officer Standards and Training

1600 University Avenue, Suite 200, Saint Paul, MN 55104

(651) 643-3060 | www.mn.gov/post

Variance Petition Summary

Date of Board Meeting: October 23, 2025

Petitioner: Michael Dockery

Basis for Variance Request: Mr. Dockery would like to take the reciprocity examination, but his post-secondary degree was not issued by a regionally accredited university. As a result, he does not qualify to take the examination. Mr. Dockery is requesting a variance on the definition of a “school” under administrative rule 6700.0100, subpart 20.

Rule Citation:

6700.0100, subpart 20. School. "School" means a postsecondary institution which is accredited by one of the six regional accrediting associations and authorized to award academic degrees including, but not limited to, Associate of Arts (A.A.) degrees, Associate of Science (A.S.) degrees, Bachelor of Arts (B.A.) degrees, and Bachelor of Science (B.S.) degrees.

Summary of Request (also see actual request attached): Mr. Dockery would like to take the reciprocity examination under rule 6700.0501, subpart 7. Mr. Dockery does not currently qualify to take the reciprocity examination because he has fewer than 5 years of experience as a police officer and he lacks a degree from a regionally accredited university. Mr. Dockery is requesting a variance on the definition of “school” to include Lincoln College of Technology, which is nationally accredited. Mr. Dockery was awarded an Automotive Associate of Applied Science degree from Lincoln College of Technology in 2006. If the board were to grant Mr. Dockery’s variance request, he would qualify to take the reciprocity examination under the 3 years of experience with a degree requirement.

Previous Board Action on Similar Requests:

- 2024 – The board denied two variance requests in which the petitioner asked to have their nationally accredited college recognized as a “school” under 6700.0100, subpart 20.
- 2025 – The board granted three variance requests in which the petitioner asked to have their nationally accredited university recognized as a “school” under 6700.0100, subpart 20.

Board Review of Variance Request:

- The Board may ask questions or request additional information from the petitioner.
- The Board cannot waive statutory requirements.
- The Board may attach any conditions to the granting of a variance needed to protect public health and safety.

1. Would the application of the rule, as applied to the circumstances of the petitioner, serve any of the purposes of the rule?

- If yes, go to bullet number 2 below.
- If no, this is a **mandatory** variance and must be granted. To grant the variance:
 - a. identify any conditions to the granting of the variance needed to ensure the variance protects the public health and safety;
 - b. determine how long should the variance be in effect; and
 - c. make a motion.

Sample motion to GRANT a mandatory variance: *I make a motion for the Board to approve the petitioner's request for a variance because application of the Minnesota Rule 6700.____, as applied to the circumstances of the petitioner, would not serve any purpose of the rule. I move that the variance be granted until ____ with the following conditions*

2. If this is a **discretionary variance, the Board may grant it *only* if the board determines that all three of the following statements are true:**

- a. the application of the rule to the petitioner would result in hardship or injustice;
- b. a variance from the rule would be consistent with public interest; and
- c. a variance from the rule would not negatively impact the substantial legal or economic rights of any person or entity.

Sample motion to GRANT a discretionary variance: *I make a motion for the Board to grant the petitioner's request for a variance because the statutory criteria for a discretionary variance have been met. I move that the variance of Minnesota Rule 6700.____ be granted until ____ with the following conditions*

Sample motion to DENY a discretionary variance: *I make a motion for the Board to deny the petitioner's request for a variance of Minnesota Rule 6700.____ because the statutory criteria for a discretionary variance have not been met. Specifically, [identify all that apply]:*

- a. *the application of the rule to the petitioner would not result in hardship or injustice;*
- b. *a variance from the rule would not be consistent with public interest; and/or*
- c. *a variance from the rule would prejudice the legal or economic rights of a person.*

6700.0800 LICENSING OF PEACE OFFICERS.

Subpart 1. **Board appointees; notification.** The chief law enforcement officer shall notify the board of the appointment of any person to the position of peace officer before the first day of the appointee's employment. Notification shall be made on a form provided by the board, and it shall include the appointee's full name, sex, date of birth, the effective date of the appointment, and an affirmation that the appointee has met all selection standards as prescribed in part 6700.0700. The appointee may not exercise peace officer powers until the notification form is received and approved by the board.

Subp. 2. **Application procedures.** If the appointee is not already a licensed peace officer, but is eligible to be licensed, the appointee shall apply to be licensed at the time of appointment. Application shall be made on a form provided by the board, and both the applicant and the chief law enforcement officer shall affirm that the applicant is eligible to be licensed. The applicant shall also submit the licensing fee as prescribed in subpart 4.

Subp. 3. **License certificate.** The executive director shall issue a license certificate to an applicant who has complied with the requirements in subpart 2 and part 6700.0700, subpart 1, and whose affirmations are consistent with the board's records. The period of initial licensure is determined by the original date the license was issued. The license shall be due for renewal on June 30 of the third calendar year after the year the license was issued, regardless of the month and day of initial licensure.

Subp. 4. **Licensing fee.** The licensing fee is \$90. The license will be valid through June 30 of the third year following receipt.

~~Subp. 5. **Surrender of license certificate.** Licenses shall remain the property of the board. The license certificate and any renewal certificates shall be surrendered to the board if suspended or revoked.~~

6700.0501 RECIPROCITY LICENSING EXAMINATION.

Subpart 1. **Scope.** For the purposes of this part, the terms defined have the meanings given to them.

Subp. 2. **Basic peace officer ~~police~~ education.** "Basic peace officer ~~police~~ education" means:

A. a basic course recognized by a state council, state commission, state board, or state agency which leads to licensing or basic certification as a law enforcement officer where the appointing authority is located; or

B. a basic course sponsored by the federal government for its law enforcement officers, including but not limited to, the basic Drug Enforcement Administration's agent school, the Federal Bureau of Investigation's basic agent school, or the Federal Law Enforcement Training Centers' Uniformed Police Training Center's ~~uniformed patrol~~ course or Criminal Investigator Training Program ~~basic investigators course~~.

Subp. 3. **Law enforcement officer.** "Law enforcement officer" means: ~~a person appointed or employed as a peace officer in another state, or a federal law enforcement employee, who has full powers of arrest, authority to carry a firearm, and is classified in a law enforcement position by the office of personnel management, not including any time served in the United States armed services.~~

A. a person appointed or employed as a federal tribal law enforcement officer or a certified or licensed law enforcement officer in another state; or

B. a federal law enforcement employee, who has full powers of arrest, authority to carry a firearm, and is classified in a law enforcement position by the Office of Personnel Management, not including any time served in the United States armed services.

Subp. 4. [Repealed, 30 SR 903]

Subp. 5. **Postsecondary degree.** "Postsecondary degree" means an academic ~~title~~ degree awarded by a postsecondary institution which is accredited by a ~~member of one of the six regional accrediting associations~~ federally recognized accrediting agency or recognized as meeting accreditation by a current member of the National Association of Credential Evaluation Services (NACES). The post-secondary institution must be authorized to award degrees. ~~and authorized to award degrees, including, but not limited to, Associate of Arts (A.A.) degrees, Associate of Science (A.S.) degrees, Bachelor of Arts (B.A.) degrees, and Bachelor of Science (B.S.) degrees.~~

Subp. 6. ~~**Years of experience.** "Years of experience" means the total number of years the applicant has been employed as a law enforcement officer since completing the basic police education course.~~ **Full-time.** An individual is considered employed full-time as a law enforcement officer if they are working, at a minimum, an average of 35 service hours per week.

Subp. 7. ~~**Qualifications.** A person who has completed a postsecondary degree, who has had three years of employment as a law enforcement officer after completing basic police education, who has served as a law enforcement officer during the past six years, and who has not had a peace officer license, certificate, or the federal equivalent suspended or revoked shall qualify for the reciprocity examination; or a person who has five years of employment as a law enforcement officer after completing basic police education, who has served as a law enforcement officer during the past six years, and who has not had a peace officer license, certificate, or the federal equivalent suspended or revoked shall qualify for the reciprocity examination.~~ **Peace officer reciprocity.** An individual qualifies for the reciprocity examination if they:

A. (Pending)

B. (Pending)

Subp. 8. **Military reciprocity.** Military personnel are eligible to take the reciprocity exam if they meet the requirements in Minnesota Statute 626.8517.

Subp. 8_9. **Eligibility.** The eligibility for a person to take the reciprocity examination shall be void one year after qualifying for the examination. In order to reestablish eligibility, the person shall comply with subpart 7 and part 6700.0600. Reciprocity applications are valid for one year from the date they are approved by the Board. If the applicant does not take the examination within that year, they must reapply and comply with subparts 7 or 8 and part 6700.0600.

Subp. 9_10. **License eligibility.** Upon successful completion of the reciprocity examination, a person is eligible for a peace officer license. If the person is not licensed after three years, the person may reinstate eligibility by again demonstrating qualifications for the examination pursuant to subparts 7 or 8 and ~~must again comply with the provisions of part 6700.0600.~~

Subp. 40_11. **Applicability.** This part shall not apply to a person who holds a ~~lapsed,~~ revoked, rescinded, or currently or permanently suspended peace officer license or certificate.

Subp. 7. **Qualifications.** ~~A person who has completed a postsecondary degree, who has had three years of employment as a law enforcement officer after completing basic police education, who has served as a law enforcement officer during the past six years, and who has not had a peace officer license, certificate, or the federal equivalent suspended or revoked shall qualify for the reciprocity examination; or a person who has five years of employment as a law enforcement officer after completing basic police education, who has served as a law enforcement officer during the past six years, and who has not had a peace officer license, certificate, or the federal equivalent suspended or revoked shall qualify for the reciprocity examination.~~ **Peace Officer Reciprocity.** An individual qualifies for the reciprocity examination if they:

- A. have completed a postsecondary degree, been employed for two years full-time as a law enforcement officer after successfully completing basic peace officer education, worked as a law enforcement officer within the past four years, and have not had a peace officer license, certificate, or the federal equivalent revoked, rescinded, or currently or permanently suspended; or
- B. have been employed for four years full-time as a law enforcement officer after successfully completing basic peace officer education, worked as a law enforcement officer within the past four years, and have not had a peace officer license, certificate, or the federal equivalent revoked, rescinded, or currently or permanently suspended.

AVOIDING RACIAL PROFILING [MODEL POLICY]

POLICY

The (*name of law enforcement agency*) is commitment to impartial policing and reinforcing procedures assure the public we are providing service and enforcing laws in a fair and equitable manner to all.

DEFINITIONS

Racial Profiling: has the same meaning given to it in [MN Statute 626.8471](#), subdivision 2.

PROCEDURES

Pedestrian/vehicle stops, detentions, arrests, searches, and property seizures by peace officers shall be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the United States Constitution. Peace officers must be able to articulate specific facts, circumstances, and conclusions that support reasonable suspicion or probable cause when conducting investigations or other law enforcement related functions.

Agency personnel shall be impartial when executing their job-related duties. This means [*officers*] shall not solely consider race, ethnicity, national origin, gender, sexual orientation, or religion in establishing reasonable suspicion or probable cause. [Officers] may consider the descriptors listed above when they relate to and/or specifically link to suspected unlawful or suspicious activity to a particular individual or group of individuals. In such instances, the above-mentioned attributes may be used in the same manner as age, height, weight, or other physical characteristics about specific suspects.

To prevent the perception of bias, when interacting with suspects, victims, or other members of the community, officers shall:

- be respectful and professional,
- introduce or identify themselves to the citizen(s) and state the reason for the contact as soon as practical unless providing information will compromise officer or public safety,
- ensure detentions are compliant with state and federal law,
- attempt to answer any relevant questions the citizen may have regarding the contact including relevant referrals to other agencies when appropriate,
- provide their last name or badge number when requested, and
- explain the basis and reason for the stop, especially when reasonable suspicion does not result in a finding of criminal or unlawful behavior/conduct.

DUTY TO REPORT

[Officers] shall promptly report any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another [officer]. If a supervisor receives a report of biased-based policing, he/she shall inform the CLEO as soon as practical so the agency may, if warranted, initiate an internal investigation into the alleged conduct.

VIOLATIONS

Sustained violations of this policy will result in remedial training and/or disciplinary action up to termination. Confirmed violations of this policy must be reported to POST Board in accordance with the reporting requirements in [MN Statute 626.8457](#).

TRAINING

All agency personnel shall review this policy annually.

STATUTORY REFERENCES

- [MN STATUTE 626.8457](#) – Professional Conduct of Peace Officers
- [MN STATUTE 626.8471](#) – Avoiding Racial Profiling; Policies and Learning Objectives Required
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies

Revision approved by the POST Board on _____.

AVOIDING RACIAL PROFILING

[MODEL POLICY]

Minn. Stat. 626.8471, subd.4

POLICY

It is the policy of the (*name of law enforcement agency*) 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.

DEFINITIONS

Racial Profiling: has the meaning given to it in Minn. Stat. **MN Statute** 626.8471, **subdivision** 2.

Which states:

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

(1) The behavior of that individual; or

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

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

PROCEDURES

Pedestrian/vehicle stops, detentions, arrests, searches, and property seizures by peace officers shall be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the United States Constitution. Peace officers must be able to articulate specific facts, circumstances, and conclusions that support reasonable suspicion or probable cause when conducting investigations or other law enforcement related functions.

Agency personnel shall be impartial when executing their job-related duties. This means [officers] shall not solely consider race, ethnicity, national origin, gender, sexual orientation, or religion in establishing reasonable suspicion or probable cause. [Officers] may consider the descriptors listed above when they relate to and/or specifically link to suspected unlawful or suspicious activity to a particular individual or group of individuals. In such instances, the above-mentioned attributes may be used in the same manner as age, height, weight, or other physical characteristics about specific suspects.

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

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

~~B. In an effort to prevent the perception of biased law enforcement peace officers shall:~~

To prevent the perception of bias, when interacting with suspects, victims, or other members of the community, officers shall:

- be respectful and professional,
- introduce or identify themselves to the citizen and state the reason for the contact as soon as practical unless providing this information will compromise officer or public safety,
- ensure detentions are no longer than necessary to take the appropriate action for the known or suspected offense, ~~Ensure the detention is no longer than necessary to take appropriate action for the known or suspected offense;~~
- attempt to answer any relevant questions the citizen may have regarding the citizen/officer contact including relevant referrals to other agencies when appropriate,
- provide their last name or badge number when requested, and
- explain the basis and reason for the stop, especially when your reasonable, articulable suspicion does not result in a finding of criminal or unlawful behavior/conduct. ~~explain and/or apologize if it is determined the reasonable suspicion was unfounded (e.g. after an investigatory stop).~~

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

DUTY TO REPORT

Every member of this department [Officers] shall perform their duties in a fair and objective manner and are responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to

do so, intervene to prevent any biased-based actions by another member [officer]. If a supervisor receives a report of biased-based policing, he/she shall inform the CLEO as soon as practical so that the agency may, if warranted, initiate an internal investigation.

VIOLATIONS

Sustained violations of this policy will result in remedial training and/or disciplinary action up to termination. Alleged violations of this policy must be reported to POST Board in accordance with the reporting requirements in Minn.—Stat. MN Statute 626.8457.

TRAINING

All agency personnel shall review this policy yearly.

PB Rev 07/2022

Revision approved by the POST Board on _____.

CONFIDENTIAL INFORMANTS [MODEL POLICY]

POLICY

The purpose of this policy is to inform (*name of law enforcement agency*) personnel of how the recruitment, control, and use of confidential informants must occur.

DEFINITIONS

Compelling Public Interest: refers to a situation in which a failure to act would result or likely result in loss of life, serious injury, or have some serious negative consequence for persons, property, or public safety and therefore demand action.

Confidential Informant or CI: refers to an individual who provides information about criminal activity to a law enforcement agency. In their capacity as a CI, individuals may:

- make controlled buys or controlled sales of contraband, controlled substances, or other items that are material to a criminal investigation;
- supply information about suspected or actual criminal activities to law enforcement; or
- provide information pertinent to ongoing criminal intelligence gathering or criminal investigative efforts.

Controlled Buy: means the purchase of contraband, controlled substances, or other items that are material to a criminal investigation from a target offender that is initiated, managed, overseen or participated in by law enforcement personnel with the knowledge of a confidential informant.

Confidential Informant File: means a file maintained to document all information that pertains to a confidential informant.

Controlled Sale: means the sale of contraband, controlled substances, or other items that are material to a criminal investigation to a target offender that is initiated, managed, overseen or participated in by law enforcement personnel with the knowledge of a confidential informant.

Overseeing Agent: means the peace officer primarily responsible for the supervision and management of a confidential informant.

Target Offender: means the person suspected by law enforcement personnel to be implicated in criminal acts by the activities of a confidential informant.

PROCEDURES

INITIAL SUITABILITY DETERMINATION

An initial suitability determination and report must be completed on any individual who is being considered for a role as a CI. The report must be submitted to an individual who has proper delegated authority for determining whether a person may be a CI. The report must include sufficient detail regarding the risks and benefits of using the individual so that a sound determination may be made. The following information must be addressed in the report, when applicable:

- age, sex, and residence;
- employment status or occupation;
- affiliation with legitimate businesses and illegal or suspicious enterprises;
- extent to which potential information, associations, or other assistance could benefit a present or future investigation;
- relationship with the target of an investigation;
- motivation in providing information or assistance;
- risk of adversely affecting an existing or future investigation;
- extent to which provided information can be corroborated;
- prior record as a witness;
- criminal history, to include whether he or she is the subject of a pending investigation, is under arrest, or has been charged with a crime;
- risk to the public or as a flight risk;
- consultation with the individual's probation, parole, or supervised release agent, if any;
- consideration and documentation of the individual's diagnosis and history of mental illness, substance use disorder, traumatic brain injury, or disability;
- whether the individual has overdosed in the previous 12 months;
- relationship to anyone in law enforcement;
- risk of physical harm to the potential CI or their immediate family or relatives for cooperating with law enforcement; and
- prior or current service as a CI with this or another law enforcement organization.

Prior to approving an individual as a CI, an individual with the proper delegated authority must review the initial suitability determination report. Any prospective or current CI must be excluded from engaging in a controlled buy or sale if the prospective or current CI:

- is receiving in-patient treatment or partial-hospitalization treatment administered by a licensed service provider for a substance use disorder or mental illness, or
- is participating in a treatment-based drug court program or treatment court; except that the prospective or current CI may provide confidential information while receiving treatment, participating in a treatment-based drug court program or treatment court.

Documentation and special consideration must be made of the risks involved in engaging a prospective or current CI in the controlled buy or sale of a controlled substance if the individual is known to have experienced, or has reported experiencing, a drug overdose in the previous 12 months. Any prospective or current CI who is known to abuse substances, or is at risk for abusing substances, should be provided referral to prevention or treatment services. Any prospective or current CI that has a physical or mental illness that impairs the ability of the individual to understand instructions and make informed decisions should be referred to a mental health professional or other appropriate medical professional, or a case manager/social worker from the county social services agency, or other substance abuse and mental health services.

Each CI's suitability must be reviewed every 6 months, at a minimum, during which time the CI's overseeing agent must submit a Continuing Suitability Report addressing the foregoing issues in this section as applicable. An initial suitability determination must be conducted on a reactivated CI regardless of the length of inactivity. Any information that may negatively affect a CI's suitability during the course of their use must be documented in the CI's file and forwarded to the appropriate authorized personnel as soon as possible. Supervisors must review informant files regularly with the overseeing agent and must attend debriefings of CIs periodically as part of the informant management process. If a supervisor is unable to attend a CI briefing, another agent or investigatory partner must attend the meeting so 2 agents/peace officers are present. When a CI is active for more than 12 consecutive months, a supervisory meeting with the CI must be conducted without the overseeing agent. CI contracts must be terminated, and the CI file placed in inactive status when the CI has not been utilized for 6 months or more.

Exigent Confidential Informants. When an individual who has been arrested is willing to immediately cooperate and perform investigative activities under the direction of an overseeing agent, the initial suitability determination may be deferred. In these cases, the individual may be utilized as a CI for a period not to exceed 12 hours from the time of arrest. An exigent confidential informant may be used if all of the conditions listed below are met:

- the individual is not excluded from utilization as a CI per the conditions described in this policy;
- there is a compelling public interest or exigent circumstances exist that demand immediate utilization of the individual as a CI and any delay would significantly and negatively affect any investigation; and
- a supervisor has reviewed and approved the individual for utilization as a CI under these circumstances.

An initial suitability determination must be conducted after the 12-hour window if the CI decides to engage in any further investigative activities.

Special Confidential Informants. Certain individuals who are being considered for use as a CI require special review and approval. In all instances, the agency's chief executive or their designee and the office of the prosecutor or county attorney should be consulted

prior to the use of these individuals as CIs. The following individuals are considered “special” confidential informants and require additional review and approval prior to taking on a CI role:

- juveniles,
- individuals obligated by legal privilege of confidentiality, and
- government officials.

A juvenile under the age of 18 may only participate in a controlled buy or sale if his or her parent(s) or guardian(s) have provided the agency or overseeing [officer] written permission. The use of a juvenile CI may only be granted by the supervising authority when there is a compelling public interest. Juveniles who are wards of the State may not be used as a CI.

The use of any special CI identified in this policy requires special review and approval by the supervising authority and the prosecutor’s/county attorney’s office.

STATUTORY REFERENCES

- [MN STATUTE 626.8476](#) – Confidential Informants
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies

Revision approved by the POST Board on ____.

CONFIDENTIAL INFORMANTS [MODEL POLICY]

POLICY

The purpose of this policy is to inform (*name of law enforcement agency*) personnel of how the recruitment, control, and use of confidential informants must occur.

DEFINITIONS

Compelling Public Interest: refers to a situation in which a failure to act would result or likely result in loss of life, serious injury, or have some serious negative consequence for persons, property, or public safety and therefore demand action.

Confidential Informant or CI: refers to an individual who provides information about criminal activity to a law enforcement agency. In their capacity as a CI, individuals may:

- make controlled buys or controlled sales of contraband, controlled substances, or other items that are material to a criminal investigation;
- supply information about suspected or actual criminal activities to law enforcement; or
- provide information pertinent to ongoing criminal intelligence gathering or criminal investigative efforts.

Controlled Buy: means the purchase of contraband, controlled substances, or other items that are material to a criminal investigation from a target offender that is initiated, managed, overseen or participated in by law enforcement personnel with the knowledge of a confidential informant.

Confidential Informant File: means a file maintained to document all information that pertains to a confidential informant.

Controlled Sale: means the sale of contraband, controlled substances, or other items that are material to a criminal investigation to a target offender that is initiated, managed, overseen or participated in by law enforcement personnel with the knowledge of a confidential informant.

Overseeing Agent: means the peace officer primarily responsible for the supervision and management of a confidential informant.

Target Offender: means the person suspected by law enforcement personnel to be implicated in criminal acts by the activities of a confidential informant.

Unreliable Informant File: means a file containing information pertaining to an individual who has failed to follow an established written confidential informant agreement and has been determined to be generally unfit to serve as a confidential informant.

Commented [AP1]: This information is apparently contained in the CI file generally, there isn't a separate file as this definition suggests. Suggestion was to cut it.

PROCEDURES

INITIAL SUITABILITY DETERMINATION

An initial suitability determination and report must be completed on any individual who is being considered for a role as a CI. The report must be submitted to an individual who has proper delegated authority for determining whether a person may be a CI. The report must include sufficient detail regarding the risks and benefits of using the individual so that a sound determination may be made. The following information must be addressed in the report, when applicable:

- age, sex, and residence;
- employment status or occupation;
- affiliation with legitimate businesses and illegal or suspicious enterprises;
- extent to which potential information, associations, or other assistance could benefit a present or future investigation;
- relationship with the target of an investigation;
- motivation in providing information or assistance;
- risk of adversely affecting an existing or future investigation;
- extent to which provided information can be corroborated;
- prior record as a witness;
- criminal history, to include whether he or she is the subject of a pending investigation, is under arrest, or has been charged with a crime;
- risk to the public or as a flight risk;
- consultation with the individual's probation, parole, or supervised release agent, if any;
- consideration and documentation of the individual's diagnosis and history of mental illness, substance use disorder, traumatic brain injury, or disability;
- whether the individual has overdosed in the previous 12 months;
- relationship to anyone in law enforcement;
- risk of physical harm to the potential CI or their immediate family or relatives for cooperating with law enforcement; and
- prior or current service as a CI with this or another law enforcement organization.

Prior to approving an individual as a CI, an individual with the proper delegated authority must review the initial suitability determination report. Any prospective or current CI must be excluded from engaging in a controlled buy or sale if the prospective or current CI:

- is receiving in-patient treatment or partial-hospitalization treatment administered by a licensed service provider for a substance use disorder or mental illness, or
- is participating in a treatment-based drug court program or treatment court; except that the prospective or current CI may provide confidential information while receiving treatment, participating in a treatment-based drug court program or treatment court.

Documentation and special consideration must be made of the risks involved in engaging a prospective or current CI in the controlled buy or sale of a controlled substance if the individual is known to have experienced, or has reported experiencing, a drug overdose in the previous 12 months. Any prospective or current CI who is known to abuse substances, or is at risk for abusing substances, should be provided referral to prevention or treatment services. Any prospective or current CI that has a physical or mental illness that impairs the ability of the individual to understand instructions and make informed decisions should be referred to a mental health professional or other appropriate medical professional, or a case manager/social worker from the county social services agency, or other substance abuse and mental health services.

Each CI's suitability must be reviewed every 6 months, at a minimum, during which time the CI's overseeing agent must submit a Continuing Suitability Report addressing the foregoing issues in this section as applicable. An initial suitability determination must be conducted on a reactivated CI regardless of the length of inactivity. Any information that may negatively affect a CI's suitability during the course of their use must be documented in the CI's file and forwarded to the appropriate authorized personnel as soon as possible. Supervisors must review informant files regularly with the overseeing agent and must attend debriefings of CIs periodically as part of the informant management process. If a supervisor is unable to attend a CI briefing, another agent or investigatory partner must attend the meeting so 2 agents are present. If a CI is active for more than 12 consecutive months, a supervisory meeting with the CI must be conducted without the overseeing agent. CI contracts must be terminated, and the CI file placed in inactive status when the CI has not been utilized for 6 months or more.

Commented [AP2]: There is and should always be a rule of 2 if a supervisor is unavailable.

Exigent Confidential Informants. When an individual who has been arrested is willing to immediately cooperate and perform investigative activities under the direction of an overseeing agent, the initial suitability determination may be deferred. In these cases, the individual may be utilized as a CI for a period not to exceed 12 hours from the time of arrest. An exigent confidential informant may be used if all of the conditions listed below are met:

- the individual is not excluded from utilization as a CI per the conditions described in this policy;
- there is a compelling public interest or exigent circumstances exist that demand immediate utilization of the individual as a CI and any delay would significantly and negatively affect any investigation; and
- a supervisor has reviewed and approved the individual for utilization as a CI under these circumstances.

An initial suitability determination must be conducted after the 12-hour window if the CI decides to engage in any further investigative activities.

Special Confidential Informants. Certain individuals who are being considered for use as a CI require special review and approval. In all instances, the agency's chief executive or their designee and the office of the prosecutor or county attorney should be consulted

prior to the use of these individuals as CIs. The following individuals are considered "special" confidential informants and require additional review and approval prior to taking on a CI role:

- juveniles,
- individuals obligated by legal privilege of confidentiality, and
- government officials.

A juvenile under the age of 18 may only participate in a controlled buy or sale if his or her parent(s) or guardian(s) have provided the agency or overseeing [officer] written permission. The use of a juvenile CI may only be granted by the supervising authority when there is a compelling public interest. Juveniles who are wards of the State may not be used as a CI.

The use of any special CI identified in this policy requires special review and approval by the supervising authority and the prosecutor's/county attorney's office.

STATUTORY REFERENCES

- [MN STATUTE 626.8476](#) – Confidential Informants
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies

Revision approved by the POST Board on ____.

EYEWITNESS IDENTIFICATION PROCEDURES [MODEL POLICY]

POLICY

Officers shall adhere to the procedures for conducting eyewitness identifications set forth in this policy. This policy establishes guidelines for eyewitness identification procedures involving showups, photo arrays, and line ups. Photo arrays and line-ups will be conducted by displaying the suspect and fillers sequentially using a blind or blinded administration.

PURPOSE

It is the purpose of this policy to maximize the reliability of identifications, minimize erroneous identifications, and gather evidence that conforms to contemporary eyewitness identification protocols. Erroneous eyewitness identifications have been cited as the factor most frequently associated with wrongful convictions. Therefore, in addition to eyewitness identification, all appropriate investigative steps and methods should be employed to uncover evidence that either supports or eliminates the suspect identification.

DEFINITIONS

Administrator: means the law enforcement official conducting the identification procedure.

Blind Presentation: means the administrator conducting the identification procedure does not know the suspect's identity.

Blinded Presentation: means the administrator may know the identity of the suspect but does not know which photo array member is being viewed by the eyewitness at any given time.

Confidence Statement: means a statement in the witness's own words taken immediately after an identification is made stating his or her level of certainty in the identification.

Filler: refers to a live person, or a photograph of a person, included in an identification procedure who is not considered a suspect.

Lineup: means the process of presenting live individuals to an eyewitness for the purpose of identifying or eliminating suspects.

Photo Array: is a means of presenting photographs to an eyewitness for the purpose of identifying or eliminating suspects.

Showup: means the in-person presentation of a single 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.

Sequential: means the presentation of a series of photographs or individuals to a witness one at a time.

Simultaneous: means the presentation of a series of photographs or individuals to a witness all at once.

PROCEDURES

Generally, only one identification procedure should be used per witness per suspect and investigative event. This means that multiple identification procedures regarding the same witness and suspect should not be conducted. Witnesses should be separated when identifying suspects and should not share or be aware of the responses of other witnesses. [Officers] should carefully avoid the use of statements, cues, casual comments, or information that may influence the witness's decision making in the identification process in any way. After an identification has been made, the administering [officer] shall ask the witness to provide a confidence statement and document the witness's response. Finally, the administering [officer] shall ask the witness to complete and sign an Eyewitness Identification Procedure Form. All identification procedures should be video and/or audio recorded whenever possible. If a procedure is not recorded, a written record shall be created and the reason for not recording documented. Additionally, still photographs used for the purpose of eyewitness identification shall also be documented and copies preserved with the case file documents.

The witness shall be given a copy of the following instructions prior to viewing a photo array or lineup and the administrator shall read the instructions aloud before the identification procedure.

"You will be asked to look at a series of individuals.

The perpetrator may or may not be present in the identification procedure.

It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.

I don't know whether the person being investigated is included in this series.

Sometimes a person may look different in a photograph than in real life because of different hair styles, facial hair, glasses, a hat or other changes in appearance. Keep in mind that how a photograph was taken or developed may make a person's complexion look lighter or darker than in real life.

EYEWITNESS IDENTIFICATION PROCEDURES MODEL POLICY

~~Minn. Stat. 626.8433~~

POLICY:

Officers shall adhere to the procedures for conducting eyewitness identifications set forth in this policy. ~~in order to maximize the reliability of identifications, minimize erroneous identifications, and gather evidence that conforms to contemporary eyewitness identification protocols. This policy establishes guidelines for eyewitness identification procedures involving show-ups, photo arrays, and line ups.~~ Photo arrays and line-ups will be conducted by displaying the suspect and fillers sequentially using a blind or blinded administration.

Commented [AP1]: Moved to purpose section.

PURPOSE Purpose:

It is the purpose of this policy to ~~maximize the reliability of identifications, minimize erroneous identifications, and gather evidence that conforms to contemporary eyewitness identification protocols. 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.

Commented [AP2]: Moved to policy section.

DEFINITIONS Definitions:

Administrator: ~~means~~ the law enforcement official conducting the identification procedure.

Commented [AP3]: Will be alphabetized

Blind Presentation: ~~means the administrator conducting the identification procedure does not know the suspect's identity.~~

Commented [AP4]: This definition was missing. I took this from the IACP Law Enforcement Policy Center's model policy on eyewitness identification.

Blinded Presentation: ~~means~~ the administrator may know the identity of the suspect but does not know which photo array member is being viewed by the eyewitness at any given time.

Confidence Statement: ~~means a~~ statement in the witness's own words taken immediately after an identification is made stating his or her level of certainty in the identification.

Filler: ~~refers to a~~ live person, or a photograph of a person, included in an identification procedure who is not considered a suspect.

Lineup: means the process of presenting live individuals to an eyewitness for the purpose of identifying or eliminating suspects.

Photo Array: is a means of presenting photographs to an eyewitness for the purpose of identifying or eliminating suspects.

Showup: means the in-person presentation of a single 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.

Sequential: means the presentation of a series of photographs or individuals to a witness one at a time.

Simultaneous: means the presentation of a series of photographs or individuals to a witness all at once.

PROCEDURES Procedure:

Commented [AP5]: Section rennumbers/lettered

Generally, only one identification procedure should be used per witness per suspect and investigative event. This means that multiple identification procedures regarding the same witness and suspect should not be conducted. Witnesses should be separated when identifying suspects and should not share or be aware of the responses of other witnesses. [Officers] should carefully avoid the use of statements, cues, casual comments, or information that may influence the witness's decision making in the identification process in any way. After an identification has been made, the administrating [officer] shall ask the witness to provide a confidence statement and document the witness's response. Finally, the administrating [officer] shall ask the witness to complete and sign an Eyewitness Identification Procedure Form. All identification procedures should be video and/or audio recorded whenever possible. If a procedure is not recorded, a written record shall be created and the reason for not recording documented. Additionally, still photographs used for the purpose of eyewitness identification shall also be documented and copies preserved with the case file documents.

The witness shall be given a copy of the following instructions prior to viewing a photo array or lineup and the administrator shall read the instructions aloud before the identification procedure.

"You will be asked to look at a series of individuals.

The perpetrator may or may not be present in the identification procedure.

It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.

I don't know whether the person being investigated is included in this series.

Sometimes a person may look different in a photograph than in real life because of different hair styles, facial hair, glasses, a hat or other changes in appearance. Keep in mind that how a photograph was taken or developed may make a person's complexion look lighter or darker than in real life.

You should not feel that you have to make an identification. If you do identify someone, I will ask you to describe in your own words how certain you are.

The individuals are not configured in any particular order.

If you make an identification, I will continue to show you the remaining individuals or photos in the series.

Regardless of whether you make an identification, we will continue to investigate the incident.

Since this is an ongoing investigation, you should not discuss the identification procedures or results."

SHOWUPS

Commented [AP6]: This section will be after photo arrays and lineups since it's the last preferred method.

Conducting a showup. The use of showups 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.

- Document the witness's description of the perpetrator prior to conducting the show up.
- Conduct a showup 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.
- Do not use a showup procedure if probable cause to arrest the suspect has already been established.
- If possible, avoid conducting a showup when the suspect is in a patrol car, handcuffed, or physically restrained by officers, unless safety concerns make this impractical.
- 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.
- Do not conduct the showup with more than one witness present at a time.

- Separate witnesses and do not allow communication between them before or after conducting a showup.
- If one witness identifies the suspect, use a lineup or photo array for remaining witnesses.
- Do not present the same suspect to the same witness more than once.
- Do not require showup suspects to put on clothing worn by, speak words uttered by, or perform other actions of the perpetrator.
- ~~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.~~
- ~~Ask the witness to provide a confidence statement.~~
- Remind the witness not to talk about the showup to other witnesses until police or prosecutors deem it permissible.
- ~~Videotape the identification process using an in-car camera or other recording device when feasible.~~
- Document the time and location of the showup, the officers present, the result of the procedure, and any other relevant information.

Commented [AP7]: Delete, duplicative, covered in general procedure section.

Commented [AP8]: Delete, duplicative, covered in general procedure section.

LINEUP AND PHOTO ARRAY PROCEDURES

Basic Procedures for Conducting a Line-up or Photo Array

- ~~Lineups will not typically be utilized for investigations, unless conducting a photo array is not possible.~~
- ~~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.~~
- ~~A lineup or photo array should consist of a minimum of six individuals or photographs. Use a which five fillers and one suspect.~~
- ~~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.~~
- ~~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.~~
- ~~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.~~
- ~~If there is more than one suspect, include only one in each lineup or photo array.~~
- ~~During a blind photo array presentation, no one who is aware of the suspect's identity should be present during the administration of the photo array. However, during a lineup, the suspect's attorney should be present.~~
- ~~Place suspects in different positions in each lineup or photo array, both across cases and with multiple witnesses in the same case.~~
- ~~Witnesses should not be permitted to see or be shown any photos of the suspect prior to the lineup or photo array.~~

Commented [AP9]: Moved to photo array and lineup sections

Commented [AP10]: moved

- ~~The witness shall be given a copy of the following instructions prior to viewing the line-up or photo-array and the administrator shall read the instructions aloud before the identification procedure.~~

~~You will be asked to look at a series of individuals.~~

~~The perpetrator may or may not be present in the identification procedure.~~

~~It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.~~

~~I don't know whether the person being investigated is included in this series.~~

~~Sometimes a person may look different in a photograph than in real life because of different hair styles, facial hair, glasses, a hat or other changes in appearance. Keep in mind that how a photograph was taken or developed may make a person's complexion look lighter or darker than in real life.~~

~~You should not feel that you have to make an identification. If you do identify someone, I will ask you to describe in your own words how certain you are.~~

~~The individuals are not configured in any particular order.~~

~~If you make an identification, I will continue to show you the remaining individuals or photos in the series.~~

~~Regardless of whether you make an identification, we will continue to investigate the incident.~~

~~Since this is an ongoing investigation, you should not discuss the identification procedures or results.~~

Commented [AP11]: Cut and moved

- The lineup 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.
- Multiple identification procedures should not be conducted in which the same witness views the same suspect more than once.
- Officers should scrupulously avoid the use of statements, cues, casual comments, or providing unnecessary or irrelevant information that in any manner may influence the witness's decision making process or perception.
- Following an identification, the administrator shall ask the witness to provide a confidence statement and document the witness's response.
- The administrator shall ask the witness to complete and sign an Eyewitness Identification Procedure Form.
- 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 lineups that are not recorded, agents shall take and preserve a still photograph of each individual in the lineup.

Commented [AP12]: Now part of the general procedures section

PHOTOGRAPHIC ARRAYS

Photographic arrays are the preferred method/procedure of achieving an eyewitness identification of a suspect. When a photographic array cannot be done or a different method is more reasonable under the circumstances, a/an [officers] may use a lineup or showup.

Creating a Photo Array. When using photographic arrays, [officers] should follow the basic guidelines described in this policy.

- Use contemporary photos.
- Do not mix color and black and white photos.
- Photo arrays should consist of six individuals- the suspect and five fillers.
- Use photos of the same size and basic composition.
- Never mix mug shots with other photos and ensure consistent appearance of photograph backgrounds and sizing.
- Do not include more than one photo of the same suspect.
- 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.
- 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.
- 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.
- Fillers should not be reused in arrays for different suspects shown to the same witness.
- 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.
- If there is more than one suspect, include only one in each photo array.
- Place the suspect in different positions in each photo array for each witnesses.

Conducting Presenting a the Photo Array. The primary investigative officer is responsible for ensuring the described procedures herein are followed.

- Inform the witness that the suspect may or may not be in the photo array.
- During a photo array presentation, no one who is aware of the suspect's identity should be present.
- Photo arrays should be presented by a blind administrator.

- If a blind administrator is not available, a blinded administrator may present the photo array. ~~the administrator shall ensure that a blinded presentation is conducted~~ using the following procedures.
 - 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).
 - 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.
 - The administrator should position himself or herself so that he or she cannot see inside the folders as they are viewed by the witness.
- 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.
- 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.
- 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.
- Witnesses should not be permitted to see or be shown any photos of the suspect prior to the photo array.

See attachment 1: Sequential Photo Display Form

LINEUPS

Creating the Lineup. When using a lineup, [officers] should follow the basic guidelines described in this policy.

- Live lineups shall be conducted using a blind administrator.
- Ensure that all persons in the lineup are numbered consecutively and are referred to only by number.
- Lineups should, minimally, consist of six individuals - the suspect and five fillers.
- 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.
- 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.
- 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.
- If there is more than one suspect, include only one in each lineup.

- Place the suspect in different positions in each lineup for each witnesses.

Conducting the Lineup. The primary investigating officer is responsible for ensuring the following: procedures described herein are followed.

- 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.
- 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.
- Making arrangements to have persons act as fillers.
- That the witness was informed the suspect may or may not be in the lineup prior to the live lineup.
- 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.
- 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.
- Only the suspect's attorney may be present for a lineup.
- Witnesses should not be permitted to see or be shown the suspects or their photos prior to the lineup.

References:

—— Sequential Photo Display Form

STATUTORY REFERENCES

- MN STATUTE 626.8433 – Eyewitness Identification Policies Required
- ADMINISTRATIVE RULE 6700.1615 – Required Agency Policies

Revision approved by the POST Board on _____.

Attachment 1

Sequential Photo Display Form

SEQUENTIAL PHOTO DISPLAY FORM
(Witness Side)

Dept.: _____ C.N.: _____ OFFENSE: _____ Lineup ID# _____

WITNESS: _____ DOB _____ ADMINISTRATOR: _____

DATE: _____ TIME: _____ INVESTIGATOR ASSIGNED: _____

READ TO WITNESS BEFORE PHOTO DISPLAY:

___ 1. I am about to show you a set of photos. The person who committed the crime
[or: _____] may or may not be included.

(SELECT ONE OF THESE OPTIONS AND READ.)

- ___ 2. (IA) I do not know whether the person being investigated is included **OR**
___ 2. (FE) I do not know the order of the photos.
___ 3. Even if you identify someone during this procedure, I will continue to show
you all photos in the series.
___ 4. Keep in mind that a photo may be an old one. Some things, like hair styles,
can be changed, and skin colors may look slightly different in photographs.
___ 5. You should not feel you have to make an identification. It is just as
important to clear innocent persons as it is to identify the guilty. Whether or
not you identify someone, the investigation will continue.
___ 6. You will see only one photo at a time. They are not in any particular order.
Take as much time as you need to look at each one. You should avoid
discussing this procedure or the results with any other potential witness in
the case.

Please initial here if you understand these instructions. _____

(WITNESS TO INITIAL)

TO BE COMPLETED BY WITNESS AFTER PHOTO DISPLAY:

The sequential photo lineup I was shown consisted of _____ photos.

☐ I am unable to select any photo as being the person(s) who _____.

☐ I have selected photo(s) # _____ as the person who _____.

(IF SELECTION MADE) How certain are you of your identification?

_____ Date: _____ Time: _____

Witness signature

(Have witness sign and date any photo picked and attach to this report.)

SEQUENTIAL PHOTO DISPLAY FORM

(Administrator Side)

C.N. _____ Witness: _____ Lineup ID # _____

Administrator ☐ does ☐ does not know identity of suspect.

Instructions to administrator (READ BEFORE SHOWING PHOTO DISPLAY):

A sequential photo lineup must either be presented by an *independent administrator* [IA] (a person who does *not* know the identity of the suspect) or, if unavailable, a *functional equivalent* [FE] method must be used. Functional equivalent means (1) that the administrator cannot see and does not know the order of the photos and (2) that the witness knows the administrator does not know the order. Before beginning the photo display, determine which of these two methods is used (IA or FE), select the appropriate instruction # 2 and cross out the inapplicable # 2.

Fill out the case information on the top of the form. Read instructions on reverse side to witness and have witness initial at end. Show photos one at a time. Only one photo at a time may be visible. As each photo is displayed, ask "Is this the person who [insert crime]?" If yes, ask, "How certain are you of your identification?" Even if identification is made, continue showing remaining photos. After all photos have been displayed, repeat display ONLY if witness requests it. In any repeat, ALL photos must be displayed in the same sequence, even if the witness only requests to see a particular photo or photos again.

Ask witness to complete witness portion of the form and sign it. If any selection is made, have the witness sign and date the photo (or photos) selected. The photo display used must be preserved. (Attach copy to this form.) BE CAREFUL NOT TO PROVIDE ANY FEEDBACK TO WITNESS ON EITHER IDENTIFICATION OR NON-IDENTIFICATION.

After witness has completed witness portion of the form, complete administrator portion of the form. This includes asking the certainty question, administrator observations and number of times display was shown. Departmental policy may also require a standard supplementary report.

To be completed during and after photo display:

Comments made by the witness to any photograph during the photo display (note photo #):

(If identification made) How certain are you of your identification?

Additional observations by administrator (e.g., any physical response or other comments by witness):

Sequential lineup was shown ☐ once / _____ times

Date: _____ Time: _____

Administrator's signature _____

Have witness complete front side. Attach copy of photo display used. Have witness sign and date any photo picked.

PUBLIC ASSEMBLY AND FIRST AMENDMENT ACTIVITY [MODEL POLICY]

PURPOSE

The purpose of this policy is to provide (*name of law enforcement agency*) personnel written guidelines regarding the application and operation of acceptable law enforcement actions addressing public assemblies and First Amendment activity. The (*name of law enforcement agency*) supports the individual rights of freedom of speech, expression, and peaceful assembly, which are both protected by the United States Constitution and the Minnesota State Constitution. However, neither constitution protects criminal activity or threats against citizens, businesses, or critical infrastructure.

When dealing with First Amendment activity, [officers] shall ensure their actions are within the scope of the constitutions.

- The First Amendment to the Constitution of the United States of America states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the Government for a redress of grievances."
- The Bill of Rights in Article 1 of the Minnesota Constitution addresses the rights of free speech and the liberty of the press.

POLICY

The (*name of law enforcement agency*) will uphold the constitutional rights of free speech and assembly while using the minimum use of physical force and authority reasonably required to address a crowd management or crowd control issue. The policy of the (*name of law enforcement agency*) regarding crowd management and crowd control is to apply the appropriate level of direction and control to protect life, property, and vital facilities while maintaining public peace and order during a public assembly or First Amendment activity. Agency personnel must not harass, intimidate, or discriminate against or unreasonably interfere with persons engaged in the lawful exercise of their rights. This policy concerning crowd management, crowd control, crowd dispersal, and [police] responses to violence and disorder applies to spontaneous demonstrations, crowd event situations, and planned demonstrations or crowd events regardless of the permit status of the event. This policy shall be reviewed annually by all personnel.

DEFINITIONS

Chemical Agent Munitions: refers to munitions designed to deliver chemical agents from a launcher or hand thrown.

Control Holds: refers to soft empty hand control techniques that do not involve striking.

Crowd Management: means techniques used to manage lawful public assemblies before, during, and after an event. Crowd management can be accomplished in part through coordination with event planners and group leaders, permit monitoring, and past event critiques.

Crowd Control: means techniques used to address unlawful public assemblies.

Deadly Force: has the meaning given to it in [MN Statute 609.066](#), subdivision 1.

Direct Fired Munitions: refers to less-lethal munitions designed to be fired at a specific target.

First Amendment Activities: First Amendment activities include all forms of speech and expressive conduct used to convey ideas and/or information, express grievances, or otherwise communicate with others and include both verbal and non-verbal expression. Common First Amendment activities include, but are not limited to, speeches, demonstrations, vigils, picketing, distribution of literature, displaying banners or signs, street theater, and other artistic forms of expression. All these activities involve the freedom of speech, association, and assembly and the right to petition the government, as guaranteed by the United States Constitution and the Minnesota State Constitution.

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

Great Bodily Harm: has the same meaning given to it in [MN Statute 609.02](#), subdivision 8.

Legal Observers: refers to individuals, usually representatives of civilian human rights agencies, who attend public demonstrations, protests, and other activities. The following may be indicia of a legal observer: wearing a green National Lawyers' Guild issued or authorized Legal Observer hat and/or vest (a green NLG hat and/or black vest with green labels) or wearing a blue ACLU issued or authorized legal observer vest.

Less-lethal Munitions: has the same meaning given to it in [MN Statute 609.066](#), subdivision 1.

Media: means any person who is an employee, agent, or independent contractor of any newspaper, magazine or other periodical, book publisher, news agency, wire service, radio or television station or network, cable or satellite station or network, or audio or audiovisual production company, or any entity that is in the regular business of news gathering and disseminating news or information to the public by any means, including, but not limited to, print, broadcast, photographic, mechanical, internet, or electronic distribution. For purposes of this policy, the following are indicia of being a member of the

media: visual identification as a member of the press, such as by displaying a professional or authorized press pass or wearing a professional or authorized press badge, or some distinctive clothing that identifies the wearer as a member of the press.

PROCEDURES

This policy does not preclude [officers] from taking appropriate action to direct crowd and vehicular movement; enforce ordinances and statutes; and to maintain the safety of the crowd, the general public, law enforcement personnel, and emergency personnel.

RESPONSE TO CROWD SITUATIONS

Operational Planning. For preplanned First Amendment events within this agency's jurisdiction, supervisory/command staff shall develop an operational plan. The plan shall be communicated to and should be followed by personnel involved in the operation. The operational plan, at a minimum, should include the following information:

- the event date, time, and location,
- the type of event and the groups involved (organizer information may be included, if available),
- a description of the anticipated weather conditions,
- agency personnel assignments,
- details regarding the equipment and additional resources available (including mutual support agencies), and
- any other operational information that would be prudent or helpful to involved personnel.

For unplanned First Amendment events, the first responding [officer] should assess the event without interfering with attendees. From the assessment, the [officer] shall relay the following information, if it is known, to dispatch and command staff:

- the location of the event,
- the approximate number of attendees,
- the purpose of the event,
- whether any indicators of unlawful activity are present, and
- the [officer's] predicted ability/need to continue monitoring the event.

Uniform. All [officers] responding to First Amendment assemblies must at all times, including when wearing protective gear, display their agency name and a unique personal identifier in compliance with this department's uniform policy. The chief law enforcement officer must maintain a record of any peace officer at the scene who is not in compliance with this requirement due to exigent circumstances.

Officer conduct. All peace officers responding to public assemblies must be mindful of their personal conduct and remain professional.

- [Officers] shall avoid negative verbal engagement with members of the crowd. Verbal abuse against officers does not constitute a reason for an arrest or for any use of force against such individuals.
- [Officers] must maintain professional demeanor and remain neutral in word and deed despite unlawful or anti-social behavior on the part of crowd members.
- [Officers] must not act or fail to act based on the opinions being expressed.
- [Officers] must not interfere with the rights of members of the public to observe and document police conduct via video, photographs, or other methods unless doing so interferes with on-going police activity.

Lawful assembly. Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest, or otherwise express their views and opinions through varying forms of communication including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills, leafleting, and loitering.

Unlawful assembly. According to [MN Statute 609.705](#), an assembly is considered unlawful when three or more persons assemble 1) with the intent to commit an unlawful act by force; 2) with intent to carry out any purpose in a manner that will disturb or threaten the public peace; or 3) without an unlawful purpose, but the participants so conduct themselves in a disorderly manner as to disturb or threaten the public peace. It is a misdemeanor for an individual to participate in an unlawful assembly.

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

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

- the name and rank of the person and agency giving the order,
- a declaration of “unlawful assembly” and the reason(s) for the declaration,
- information regarding egress or escape routes that may be used by individuals to disperse,
- the specific consequences that will result due to a failure to comply with the dispersal order, and
- how long individuals have to comply with the dispersal order.

Dispersal announcements must be made in a manner that will ensure that they are audible over a sufficient area. Dispersal announcements must be made from different locations when the demonstration is large and noisy. The dispersal announcements should be repeated after commencement of the dispersal operation so that individuals who were not present for the original broadcast will understand that they must leave the area. The announcements must specify adequate egress or escape routes. Whenever possible, a minimum of two escape/egress routes shall be identified and announced. Whenever possible, dispersal orders should also be given in other languages that are appropriate for the audience. Officers must recognize that not all crowd members may be fluent in the language(s) used in the dispersal order.

Crowd Dispersal. Crowd dispersal techniques should not be initiated until officers have made repeated announcements to the crowd, or are aware that repeated announcements have been made, asking members of the crowd to voluntarily disperse. The dispersal orders should have also informed individuals in the crowd of the specific consequences that will result due to a failure to disperse (i.e. arrest). Unless an immediate risk to public safety exists or significant property damage is occurring, sufficient time will be allowed for a crowd to comply with a peace officer’s commands before action is taken. If verbal announcements to disperse do not result in voluntary movement by the crowd, peace officers may utilize additional crowd dispersal tactics. Additional crowd dispersal tactics must be approved and ordered by the on-scene supervisor/incident commander before agency staff may deploy additional crowd dispersal tactics/tools. The use of these crowd dispersal tactics shall be consistent with department policy. Peace officers must use the minimal amount of officer intervention reasonably necessary to address a crowd management or control issue.

If a group or crowd subsequently participates in another assembly at a different geographical location after receiving a dispersal order, so the participants are not engaged in unlawful activity, the assembly cannot be dispersed. A secondary assembly may only be dispersed after a determination of unlawful assembly and new declarations and dispersal orders have been issued.

TACTICS AND WEAPONS TO DISPERSE OR CONTROL A NON-COMPLIANT CROWD

The purpose of this section is to provide [officers] guidance on use of force determinations when dealing with non-compliant crowds and/or crowd dispersals. Nothing in this policy prohibits an [officer] from using appropriate force in order to defend themselves or others

as outlined by this agency's Use of Force policy or MN Statute.

Contact Weapons. Contact weapons shall be used only when soft and hard empty hand controls have failed to bring the subject or situation under control, and it reasonably appears other such methods would be ineffective. Contact weapons may only be used in the manner described herein, unless the use of deadly force is warranted.

- Batons may be visibly displayed and held in a ready position during squad or platoon formations.
- When reasonably necessary for protection of the officers or to disperse individuals in the crowd pursuant to the procedures of this policy, batons or other contact weapons may be used in a pushing, pulling, or jabbing motion. Baton jabs must not be used indiscriminately against a crowd or group of persons but only against individuals who are physically aggressive or actively resisting arrest. Baton jabs should not be used in a crowd control situation against an individual who is attempting to comply but is physically unable to disperse or move because of the press of the crowd or some other fixed obstacle.
- Contact weapons may be used to defend [officers] from an actively aggressive suspect.
- Contact weapons may be used to strike an actively aggressive suspect for the purpose of rendering that person temporarily incapacitated in order to bring the situation under control. [Officers] may only strike areas of the body identified in their training that result only in incapacitation.
- Intentionally striking an individual in the head or neck with a contact weapon is only justified in the use of deadly force.
- Indiscriminately swinging or striking individuals in a crowd is prohibited.

Direct Fired Munitions. Direct fired munitions may never be used indiscriminately against a group or crowd even if some individuals are involved in violent or disruptive behavior/criminal activity. A(n) [officers] use of direct fired munitions must be in alignment with this policy.

- Except for exigent circumstances, the on-scene supervisor/incident commander must authorize the deployment of direct fired munitions.
- [Officers] using munitions must be trained and qualified in their use per department policy.
- [Officers] are authorized to deploy direct fire munitions in accordance with their training and manufacturer specifications.
- [Officers] shall not discharge direct fired munitions at a person's head, neck, throat, face, left armpit, spine, kidneys, or groin unless deadly force is justified.
- When circumstances permit, the on-scene supervisor/incident commander must attempt to accomplish the policing goal without the use of direct fired munitions as described above, and, if practical, an audible warning shall be given to a subject before deployment of the weapon.

Aerosol Chemical Agents. Aerosol chemical agents must be used during a crowd event in accordance with this agency's policies.

- Aerosol hand-held chemical agents shall be used in accordance with the [officer's] training and manufacturer specifications.
- High volume OC delivery systems, such as a MK9, are designed for and may be used during a crowd event against individuals and/or groups of individuals engaged in unlawful acts or endangering public safety and/or security.
- Aerosol hand-held chemical agents may not be used indiscriminately against a crowd or group of persons, but only against specific individuals who are engaged in specific acts of serious unlawful conduct or who are actively resisting arrest.
- [Officers] shall use the minimum amount of the chemical agent necessary to overcome the subject's resistance.
- When possible, persons should be removed quickly from any area where chemical agents have been used. [Officers] must monitor the subject and pay particular attention to the subject's ability to breathe following the application of a chemical agent. If/when possible, decontamination efforts must be made.
- Subjects who have been affected by chemical agents shall be placed in the recovery position if a seated or standing position cannot be achieved.

•
Chemical Munitions. Chemical munitions may be used for crowd control and dispersal when:

- a threat of imminent harm or serious property damage is present, or other crowd dispersal techniques have failed or did not accomplish the policing goal as determined by the incident commander,
- sufficient egress to safely allow the crowd to disperse exists, and
- the use of chemical munitions is approved by the on-scene supervisor/incident commander.

When feasible, additional announcements should be made prior to the use of chemical munitions in a crowd situation warning of the imminent use of chemical munitions. Additionally, each chemical munition round deployed must be recorded. The information to be recorded for each chemical munition round deployed that shall be available to the public upon request includes:

- the name the chemical munition used,
- the location the munition was deployed,
- the time the munition was deployed, and
- the safety data sheets (SDS) for the type of chemical agent used.

When chemical munitions are used and when feasible, an emergency responder will be on standby at a safe distance near the target area. Chloroacetophenone (CN) chemical munitions are prohibited.

Electronic Control Weapons (ECWs). ECWs must not be used for the purposes of

crowd control, crowd containment, or crowd dispersal.

MEDIA

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

LEGAL OBSERVERS

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

STATUTORY REFERENCES

- [FIRST AMENDMENT OF THE US CONSTITUTION](#)
- [MINNEOSTA CONSTITUTION](#)
- [MN STATUTE 609.06](#) – Authorized Use of Force
- [MN STATUTE 609.066](#) – Authorized Use of Deadly Force by Peace Officers
- [MN STATUTE 609.705](#) – Unlawful Assembly
- [MN STATUTE 609.71](#) – Riot
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies

Revision approved by the POST Board on _____.

PUBLIC ASSEMBLY AND FIRST AMENDMENT ACTIVITY

[MODEL POLICY]

References:

Minn. Rules 6700.1615

First Amendment US Constitution

Minnesota Constitution

~~609.705~~ Unlawful Assembly

~~609.71~~ Riot

~~609.066~~ Authorized Use of Force by Peace Officers

~~609.06~~ Authorized Use of Force

PURPOSE

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

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

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

The purpose of this policy is to provide ~~guidelines to the~~ (name of law enforcement agency) personnel written guidelines regarding the application and operation of acceptable law enforcement actions addressing public assemblies and First Amendment activity. The (name of law enforcement agency) supports the individual rights of freedom of speech, expression, and peaceful assembly, which are both protected by the United States Constitution and the Minnesota State Constitution. However, neither constitution protect criminal activity or threats against citizens, businesses, or critical infrastructure.

When dealing with First Amendment activity, [officers] shall ensure their actions are within the scope of the constitutions.

- The First Amendment to the Constitution of the United States of America states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or

of the press, or the right of the people peaceably to assemble and to petition the Government for a redress of grievances."

- The Bill of Rights in Article 1 of the Minnesota Constitution addresses the rights of free speech and the liberty of the press.

POLICY

The (name of law enforcement agency) will uphold the constitutional rights of free speech and assembly while using the minimum use of physical force and authority reasonably required to address a crowd management or crowd control issue. The policy of the (name of law enforcement agency) ~~("department")~~ regarding crowd management and crowd control is to apply the appropriate level of direction and control to protect life, property, and vital facilities while maintaining public peace and order during a public assembly or First Amendment activity. Department personnel must not harass, intimidate, or discriminate against or unreasonably interfere with persons engaged in the lawful exercise of their rights. This policy concerning crowd management, crowd control, crowd dispersal, and [police] responses to violence and disorder applies to spontaneous demonstrations, crowd event situations, and planned demonstration or crowd events regardless of the permit status of the event. This policy ~~is to~~ shall be reviewed annually by all law enforcement personnel.

DEFINITIONS

Chemical Agent Munitions: refers to munitions designed to deliver chemical agents from a launcher or hand thrown.

Control Holds: refers to control holds ~~are~~ soft empty hand control techniques ~~as they that~~ do not involve striking.

Crowd Management: means techniques used to manage lawful public assemblies before, during, and after an event. Crowd management can be accomplished in part through coordination with event planners and group leaders, permit monitoring, and past event critiques.

Crowd Control: means techniques used to address unlawful public assemblies.

Deadly Force: has the meaning given to it in MN Statute 609.066, subdivision 1. ~~Force used by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm.~~

~~(Reference: (law enforcement agency's) Use of Force Policy, MN Statutes 609.06 and 609.066)~~

Direct Fired Munitions: refers to less-lethal ~~impact~~ munitions ~~that are~~ designed to

be ~~direct~~ fired at a specific target.

First Amendment Activities: First Amendment activities include all forms of speech and expressive conduct used to convey ideas and/or information, express grievances, or otherwise communicate with others and include both verbal and non-verbal expression. Common First Amendment activities include, but are not limited to, speeches, demonstrations, vigils, picketing, distribution of literature, displaying banners or signs, street theater, and other artistic forms of expression. All these activities involve the freedom of speech, association, and assembly and the right to petition the government, as guaranteed by the United States Constitution and the Minnesota State Constitution.

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

Great Bodily Harm: ~~has the same meaning given to it in Minnesota Statute 609.02, subdivision 8. Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm. (Reference: (law enforcement agency's) Use of Force Policy, MN Statutes 609.06 and 609.066)~~

Legal Observers: ~~refers to~~ individuals, usually representatives of civilian human rights agencies, who attend public demonstrations, protests and other activities. The following may be indicia of a legal observer: Wearing a green National Lawyers' Guild issued or authorized Legal Observer hat and/or vest (a green NLG hat and/or black vest with green labels) or wearing a blue ACLU issued or authorized legal observer vest.

Less-lethal Impact Munitions: ~~has the same meaning given to it in Minnesota Statute 609.066, subdivision 1. Impact munitions which can be fired, launched, or otherwise propelled for the purpose of encouraging compliance, overcoming resistance or preventing serious injury without posing significant potential of causing death.~~

Media: ~~Media~~ means any person who is an employee, agent, or independent contractor of any newspaper, magazine or other periodical, book publisher, news agency, wire service, radio or television station or network, cable or satellite station or network, or audio or audiovisual production company, or any entity that is in the regular business of news gathering and disseminating news or information to the public by any means, including, but not limited to, print, broadcast, photographic, mechanical, internet, or electronic distribution. For purposes of this policy, the following are indicia of being a member of the media: visual identification as a member of the press, such as by displaying a professional or authorized press pass or wearing a professional or authorized press badge or some distinctive clothing that identifies the wearer as a member of the press.

Law Enforcement PROCEDURES

Uniform: All [officers] responding to ~~public~~ First Amendment assemblies must at all times, including when wearing protective gear, display their agency name and a unique personal identifier in compliance with this department's uniform policy. The chief law enforcement officer must maintain a record of any peace officer at the scene who is not in compliance with this requirement due to exigent circumstances.

Officer conduct: All peace officers responding to public assemblies must be mindful of their personal conduct and remain professional.

- [Officers] shall avoid negative verbal engagement with members of the crowd. Verbal abuse against officers does not constitute a reason for an arrest or for any use of force against such individuals.
- [Officers] must maintain professional demeanor and remain neutral in word and deed despite unlawful or anti-social behavior on the part of crowd members.
- [Officers] must not ~~take action~~ act or fail to ~~take action~~ act based on the opinions being expressed.
- [Officers] must not interfere with the rights of members of the public to observe and document police conduct via video, photographs, or other methods unless doing so interferes with on-going police activity.
- [Officers] using munitions must be trained and qualified in their use per department policy. ~~must not use a weapon or munition unless the officer has been trained in the use and qualified in deployment of the weapon/munition.~~

This policy does not preclude [officers] from taking appropriate action to direct crowd and vehicular movement; enforce ordinances and statutes; and to maintain the safety of the crowd, the general public, law enforcement personnel, and emergency personnel.

RESPONSE TO CROWD SITUATIONS

Operational Planning. For preplanned First Amendment events within this agency's jurisdiction, supervisory/command staff shall develop an operational plan based on information received from the organizers or obtained in a transparent and lawful manner. The plan shall be communicated to and should be followed by personnel involved in the operation. The operational plan, at a minimum, should include the following information:

- the event date, time, and location,
- the type of event and the groups involved (organizer information may be included if available),
- a description of the anticipated weather conditions,
- agency personnel assignments,

- details regarding the equipment and additional resources available (including mutual support agencies), and
- any other operational information that would be prudent or helpful to involved personnel.

For unplanned First Amendment events, the first responding [officer] should assess the event without interfering with attendees. From the assessment, the [officer] shall relay the following information, if it is known, to dispatch and command staff:

- the location of the event,
- the approximately number of attendees,
- the purpose of the event,
- whether any indicators or unlawful activity is present, and
- the [officer's] predicted ability/need to continue monitoring the event.

****Will be moving the Uniform and Officer Conduct sections from above here.**

Lawful assembly. Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest, or otherwise express their views and opinions through varying forms of communication including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills, leafleting and loitering.

Unlawful assembly. According to MN Statute 609.705, an assembly is considered unlawful when three or more persons assemble 1) with the intent to commit an unlawful act by force; 2) with intent to carry out any purpose in a manner that will disturb or threaten the public peace; or 3) without an unlawful purpose, but the participants so conduct themselves in a disorderly manner as to disturb or threaten the public peace. It is a misdemeanor for an individual to participate in an unlawful assembly.

- ~~The definition of an unlawful assembly has been set forth in Minnesota Statute §609.705.~~
- The mere failure to obtain a permit, such as a parade permit or sound permit, is not a sufficient basis to declare an unlawful assembly
- The fact that some of the demonstrators or organizing groups have engaged in violent or unlawful acts on prior occasions or demonstrations is not grounds for declaring an assembly unlawful.
- Whenever possible, the unlawful behavior of a few participants must not result in the majority of peaceful protestors being deprived of their First Amendment rights, unless other participants or officers are threatened with

dangerous circumstances.

- Unless emergency or dangerous circumstances prevent negotiation, crowd dispersal techniques must not be initiated until after attempts have been made through contacts with the police liaisons and demonstration or crowd event leaders to negotiate a resolution of the situation so that the unlawful activity will cease, and the First Amendment activity can continue.

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

- ~~Name, rank of person, and agency giving the order~~ the name and rank of the person and agency giving the order,
- ~~Declaration of Unlawful Assembly and reason(s) for declaration~~ a declaration of "unlawful assembly" and the reason(s) for the declaration,
- ~~information regarding egress~~ or escape routes that may be used by individuals to disperse,
- ~~Specific consequences of failure to comply with dispersal order~~ the specific consequences that will result due to a failure to comply with the dispersal order, and
- how long ~~the group has~~ individuals have to comply with the dispersal order.

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

Dispersal announcements must be made in a manner that will ensure that they are audible over a sufficient area. Dispersal announcements must be made from different locations when the demonstration is large and noisy. The dispersal announcements should be repeated after commencement of the dispersal operation so that persons individuals who were not present at for the original broadcast will understand that they must leave the area. The announcements must also specify adequate egress or escape routes. Whenever possible, a minimum of two escape/egress routes shall be identified and announced. Whenever possible, dispersal orders should also be given in other languages that are appropriate for the audience. Officers must recognize that not all crowd members may be fluent in the language(s) used in the dispersal order.

A. Crowd Dispersal

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

Crowd Dispersal. Crowd dispersal techniques should not be initiated until officers have made repeated announcements to the crowd, or are aware that repeated announcements have been made, asking members of the crowd to voluntarily disperse. The dispersal orders should have also informed individuals in the crowd of the specific consequences that will result due to a failure to disperse (i.e. arrest). Unless an immediate risk to public safety exists or significant property damage is occurring, sufficient time will be allowed for a crowd to comply with a peace officers commands before action is taken. If verbal announcements to disperse do not result in voluntary movement by the crowd, officers may utilize additional crowd dispersal tactics. Additional crowd dispersal tactics must be approved and ordered by the on-scene supervisor/incident commander before agency staff may deploy additional crowd dispersal tactics/tools. The use of these crowd dispersal tactics shall be consistent with department policy. Peace officers must use the minimal amount of officer intervention reasonably necessary to address a crowd management or control issue.

If a group or crowd subsequently participates in another assembly at a different geographical location after receiving a dispersal order, so the participants are not engaged in unlawful activity, the assembly cannot be dispersed. A secondary assembly may only be dispersed after a determination of unlawful assembly and new declarations and dispersal orders have been issued.

Tactics and Weapons to Disperse or Control a Non-Compliant Crowd

~~Nothing in this policy prohibits officers' abilities to use appropriate force options to defend themselves or others as defined in the (law enforcement agency's) Use of Force policy. The purpose of this section is to provide [officers] guidance on use of force determinations when dealing with non-compliant crowds and/or crowd dispersals. Nothing in this policy prohibits an [officer] from using appropriate force in order to defend themselves or others as outlined by this agency's Use of Force policy or MN Statute.~~

Use of Batons-Contact Weapons. Contact weapons shall be used only when soft and hard empty hand controls have failed to bring the subject or situation under control, and it reasonably appears other such methods would be ineffective. Contact weapons may only be used in manner described herein, unless the use of deadly force is warranted.

- ~~• Batons must not be used for crowd control, crowd containment, or crowd dispersal except as specified below.~~
- Batons may be visibly displayed and held in a ready position during squad or platoon formations.
- When reasonably necessary for protection of the officers or to disperse individuals in the crowd pursuant to the procedures of this policy, batons or other contact weapons may be used in a pushing, pulling, or jabbing motion. Baton jabs must not be used indiscriminately against a crowd or group of persons but only against individuals who are physically aggressive or actively resisting arrest. Baton jabs should not be used in a crowd control situation against an individual who is attempting to comply but is physically unable to disperse or move because of the press of the crowd or some other fixed obstacle.
- Contact weapons may be used to defend [officers] from an actively aggressive suspect.
- Contact weapons may be used to strike an actively aggressive suspect for the purpose of rendering that person temporarily incapacity in order to bring the situation under control. [Officers' may only strike bodily areas identified in their training that result only in incapacitation.
- Indiscriminately swinging or striking individuals in a crowd is prohibited.
- Intentionally striking an individual in the head or neck with a contact weapon is only justified in the use of deadly force.
- ~~• Officers must not strike a person with any baton to the head, neck, throat, kidneys, spine, or groin, or jab with force to the armpit unless the person has created an imminent threat of great bodily harm to another.~~
- ~~• Batons shall not be used against a person who is handcuffed except when permissible under this department's Use of Force policy and state law.~~

Direct Fired Munitions. Direct fired munitions may never be used indiscriminately against a group or crowd even if some individuals are involved in violent or disruptive behavior/criminal activity. A(n) [officers] use of direct fired munitions must be in alignment with this policy.

- Except for exigent circumstances, the on-scene supervisor/incident commander must authorize the deployment of direct fired munitions. ~~Direct fired munitions must be used only against a specific individual who is engaging in conduct that poses an immediate threat of loss of life or substantial bodily harm to officers, or the general public; or is creating an imminent risk to the lives or safety of other persons through the substantial destruction of property.~~
- [Officers] are authorized to deploy direct fire munitions in accordance with their training and manufacture specifications.
- [Officers] shall not discharge direct fired munitions at a person's head, neck, throat, face, left armpit, spine, kidneys, or groin unless deadly force is justified.
- When circumstances permit, the on-scene supervisor/incident commander must ~~make an~~ attempt to accomplish the policing goal without the use of direct fired munitions as described above, and, if practical, an audible warning shall be given to a subject before deployment of the weapon.

Aerosol Chemical Agents. Aerosol chemical agents must ~~not be used for crowd control or dispersal except as described in this part.~~ be used during a crowd event in accordance with this agency's policies.

- ~~• The use of aerosol chemical agents during a crowd control or dispersal event must be approved by the on-scene supervisor/incident commander prior to the chemical being deployed.~~
- ~~• Aerosol, hand-held, pressurized, containerized chemical agents that emit a stream shall not be used for crowd management, crowd control, or crowd dispersal during demonstrations or crowd events~~
- Aerosol hand-held chemical agents shall be used in accordance with the [officers] training and manufacturer specifications.
- High volume OC deliver systems, such as a MK9, are designed for and may be used during a crowd event against individuals and/or groups of individual engaged in unlawful acts or endangering public safety and/or security.
- Aerosol hand-held chemical agents may not be used indiscriminately against a crowd or group of persons, but only against specific individuals who are engaged in specific acts of serious unlawful conduct or who are actively resisting arrest.
- Officers shall use the minimum amount of the chemical agent necessary to overcome the subject's resistance.

- When possible, persons should be removed quickly from any area where chemical agents have been used. Officers must monitor the subject and pay particular attention to the subject's ability to breathe following the application of a chemical agent. If/when possible, decontamination efforts must be made.
- Subjects who have been affected by chemical agents shall be placed in the recovery position if a seated or standing position cannot be achieved.

Chemical Munitions. ~~The use of chemical munitions is subject to the same procedural requirements as outlined in this agency's Use of Force policy.~~ Chemical munitions may be used for crowd control and dispersal only when:

- a threat of imminent harm or serious property damage is present, or other crowd dispersal techniques have failed or did not accomplish the policing goal as determined by the incident commander,
- sufficient egress to safely allow the crowd to disperse exists, and
- the use of chemical munitions is approved by the on-scene supervisor/incident commander.

When feasible, additional announcements should be made prior to the use of chemical munitions in a crowd situation warning of the imminent use of chemical munitions. Additionally, each chemical munition round deployed must be recorded. The information to be recorded for each chemical munition round deployed that shall be available to the public upon request includes:

- the name the chemical munition used,
- the location the munition was deployed,
- the time the munition was deployed, and
- the safety data sheets (SDS) for the type of chemical agent used.

~~Where extensive use of chemical munitions would reasonably be anticipated to impact nearby residents or businesses, agencies should consider proactively notifying impacted individuals of safety information related to the munitions use as soon as possible, even if after the event.~~ When chemical munitions are used, an emergency responder will be on standby at a safe distance near the target area when feasible. Chloroacetophenone (CN) chemical munitions are prohibited.

~~**Canines.** Canines must not be used for crowd control, crowd containment, or crowd dispersal.~~

~~**Fire Hoses.** Fire hoses shall not be used for crown control, crowd containment, or crowd dispersal.~~

Electronic Control Weapons (ECWs). ECWs must not be used for the purposes of crowd control, crowd containment, or crowd dispersal.

~~Police vehicles. Police vehicles must not be used for crowd dispersal. Police vehicles may be used for observation, visible deterrence, traffic control, transportation, and area control during an assembly event.~~

~~A. Restrictions on Crowd Control and Crowd Dispersal~~

- ~~1. Canines. Canines must not be used for crowd control, crowd containment, or crowd dispersal.~~
- ~~2. Fire Hoses. Fire hoses must not be used for crowd control, crowd containment, or crowd dispersal.~~
- ~~3. Electronic Control Weapons (ECWs) must not be used for crowd control, crowd containment, or crowd dispersal.~~
- ~~4. Motorcycles and police vehicles must not be used for crowd dispersal, but may be used for purposes of observation, visible deterrence, traffic control, transportation, and area control during a crowd event.~~
- ~~5. Skip Fired Specialty Impact Less-Lethal Munitions (Wooden Dowels and Stinger Grenades) may be used as a last resort if other crowd dispersal techniques have failed or have been deemed ineffective.~~
- ~~6. Direct Fired munitions may never be used indiscriminately against a crowd or group of persons even if some members of the crowd or group are violent or disruptive.~~
 - ~~a) Except for exigent circumstances, the on-scene supervisor/incident commander must authorize the deployment of Direct Fired munitions. Direct Fired munitions must be used only against a specific individual who is engaging in conduct that poses an immediate threat of loss of life or serious bodily injury to them self, officers, or the general public; or is creating an imminent risk to the lives or safety of other persons through the substantial destruction of property.~~
 - ~~b) Officers shall not discharge a Direct Fired munitions at a person's head, neck, throat, face, left armpit, spine, kidneys, or groin unless deadly force would be justified.~~
 - ~~c) When circumstances permit, the on-scene supervisor/incident commander must make an attempt to accomplish the policing goal without the use of Direct Fired munitions as described above, and, if practical, an audible warning shall be given to the subject before deployment of the weapon.~~
- ~~7. Aerosol Hand-held Chemical Agents must not be used in a demonstration or crowd situation or other civil disorders without the approval of the on-scene supervisor/incident commander.~~
 - ~~a) Aerosol, hand held, pressurized, containerized chemical agents that emit~~

~~a stream shall not be used for crowd management, crowd control, or crowd dispersal during demonstrations or crowd events. Aerosol hand-held chemical agents may not be used indiscriminately against a crowd or group of persons, but only against specific individuals who are engaged in specific acts of serious unlawful conduct or who are actively resisting arrest.~~

- ~~b) Officers shall use the minimum amount of the chemical agent necessary to overcome the subject's resistance.~~
- ~~c) When possible, persons should be removed quickly from any area where hand held chemical agents have been used. Officers must monitor the subject and pay particular attention to the subject's ability to breathe following the application of a chemical agent.~~
- ~~d) A subject who has been sprayed with a hand-held chemical agent shall not be left lying on their stomach once handcuffed or restrained with any device.~~

8. Chemical munitions use in a crowd situation is subject to the following:

- ~~a) Chemical munitions must be used only when:
 - ~~1) a threat of imminent harm or serious property damage is present, or other crowd dispersal techniques have failed or did not accomplish the policing goal as determined by the incident commander,~~
 - ~~2) sufficient egress to safely allow the crowd to disperse exists, and~~
 - ~~3) The use of chemical munitions is approved by the on-scene supervisor/incident commander, and~~~~
- ~~b) When feasible, additional announcements should be made prior to the use of chemical munitions in a crowd situation warning of the imminent use of chemical munitions.~~
- ~~c) Deployment of chemical munitions into a crowd must be avoided to prevent unnecessary injuries.~~
- ~~d) CN chemical munitions are prohibited.~~
- ~~e) The use of each chemical munition must be recorded (time, location), and the following information must be made available by the department on request:
 - ~~1) the name of each chemical munition used in an incident,~~
 - ~~2) the location and time of use for each munition deployment,~~
 - ~~3) access to the safety data sheet (SDS) for chemical munition~~~~
- ~~f) Where extensive use of chemical munitions would reasonably be anticipated to impact nearby residents or businesses, agencies should consider proactively notifying impacted individuals of safety information related to the munitions use as soon as possible, even if after the event.~~
- ~~g) When chemical munitions are used, an emergency responder will be on~~

~~standby at a safe distance near the target area when feasible.~~

- ~~h) Chemical munitions are subject to the same procedural requirements as outlined in the (law enforcement department)'s UOF policy.~~

ARRESTS

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

HANDCUFFS

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

MEDIA

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

presence would unduly interfere with the enforcement action.

LEGAL OBSERVERS

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

~~Documentation of Public Assembly and First Amendment Activity~~

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

STATUTORY REFERENCES

- FIRST AMENDMENT OF THE US CONSTITUTION

- MINNEOSTA CONSTITUTION
- MN STATUTE 609.06 – Authorized Use of Force
- MN STATUTE 609.066 – Authorized Use of Deadly Force by Peace Officers
- MN STATUTE 609.705 – Unlawful Assembly
- MN STATUTE 609.71 – Riot
- ADMINISTRATIVE RULE 6700.1615 – Required Agency Policies

Revision approved by the POST Board on _____.

SEXUAL ASSAULT INVESTIGATIONS [MODEL POLICY]

POLICY

It is the policy of the (*name of law enforcement agency*) to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring its peace officers understand the laws governing this area. When investigating incidents of sexual assault, peace officers shall utilize investigative techniques that are victim centered. [Officers] should strive to protect the dignity and autonomy of victims by giving them choices, whenever possible, and by helping them to better understand the criminal justice system and its processes. [Officers] shall coordinate and work cooperatively with the prosecutor's office and assist in conducting any necessary follow up investigations when directed to do so by the prosecuting attorney or a supervisor.

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, immigration status, or national origin.

DEFINITIONS

Child or Minor: a person under the age of 18.

Consent: has the meaning given to it in [MN Statute 609.341](#).

Criminal Sexual Conduct: a person who engages in sexual contact or penetration with another person in a criminal manner as identified in [MN Statutes 609.342](#) to [609.3451](#).

Family or Household Member: has the same meaning given to it in [MN Statute 518B.01](#), subdivision 2(b).

Medical Forensic Examiner: the health care provider conducting a sexual assault medical forensic examination.

Mentally Incapacitated: has the meaning given to it in [MN Statute 609.341](#), subdivision 7.

Physically Helpless: has the meaning given to it in [MN Statute 609.341](#), subdivision 9.

Sexual Assault: refers to an act of sexual abuse in which an individual touches another in a sexual manner without consent or by coercion.

Sexual Assault Medical Forensic Examination: means an examination of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients.

Victim Advocate: refers to a Sexual Assault Counselor defined by [MN Statute 595.02](#), subd. 1(k) and/or Domestic Abuse Advocate as defined by [MN Statute 595.02](#), subdivision 1(l) 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 in locating a local victim advocacy agency for the purposes outlined in this policy.

Victim Centered Approach: refers to an investigative approach which 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 victim's input into the criminal justice response and recognizes victims are not responsible for the crimes committed against them.

Vulnerable Adult: has the meaning given to it in [MN Statute 626.5572](#), subdivision 21.

PURPOSE

This policy provides peace officers important guidelines and information for responding to reports of sexual assault and affirms the authority and responsibility peace officers have to conduct thorough investigations and to make arrest determinations in accordance with established probable cause standards.

PROCEDURE

RESPONDING TO A SEXUAL ASSAULT CALL

When responding to a sexual assault call, [officers] shall respond without delay and follow standard incident response procedures. Upon arrival, [officers] should determine whether the victim needs medical attention as well as the location/jurisdiction in which the assault took place. If the assault took place outside of the agency's jurisdiction, the responding [officer] should assist the victim in contacting the appropriate law enforcement agency and provide any services or assistance requested by the victim. If the victim is unsure of where the assault took place or another jurisdiction cannot be determined, the [officer] should take the report. Agency personnel shall treat victims of sexual assault with dignity and respect. Agency personnel should also recognize that victims of traumatic incidents may not be willing or able to immediately assist with the criminal investigation.

During initial contact, the responding [Officer] should explain the investigative process to the victim. This explanation should include a description of the various tasks and roles the first responder, investigator, and anyone else with whom the victim will likely interact. [Officers] are encouraged to connect the victim with local victim advocates as soon as possible. Personnel should inform the victim that there are confidential victim advocates available to address any need they might have and to support them through the criminal justice process. These advocates may be present to support the victim during any interviews that take place. The victim should be provided with contact information for the local victim advocate and [officers] are encouraged to contact local victim advocates on

the victim's behalf with their permission. Victim advocates are not, without the consent of the victim, allowed to disclose any opinion or information received from or about the victim.

INVESTIGATION

During a sexual assault investigation, peace officers shall ensure the following tasks are completed.

- The responding [officer] shall collect the victim's preferred contact information.
- [Officers] shall ask about and document any signs and/or symptoms of injury-including strangulation.
- [Officers] shall ensure the victim knows they can go to a designated facility for a forensic medical examination. [Officers] may arrange for transportation for the victim or transport the victim themselves.
- If the victim seeks medical attention or elects to have a forensic medical examination completed, [officers] shall attempt to obtain a signed medical release form from the victim.
- [Officers] shall identify and attempt to interview any potential witnesses to the sexual assault and/or anyone the victim may have told about the assault.
- [Officers] shall collect any evidence related to the assault, including, but not limited to, clothing, bedding, electronic data, and security footage.

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 being as 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 points.

- [Officers] are encouraged to offer to have a confidential victim advocate present as additional support for the victim during the process.
- [Officers] should conduct the victim interviews in person in a comfortable and welcoming environment to the extent possible.
- [Officers] should let the victim share details of the event at their own pace.
- [Officers] should be mindful of the fact that victims may have difficulty remembering incidents in a linear fashion and may remember details in the days and weeks following the assault.

Depending on the victim, additional interviews may be needed to gather any additional necessary information. In some instances, the victim may not have wanted to provide an initial statement at all. Therefore, after the initial interview or interview attempt, the [officer] or investigator may need to reach out to the victim to conduct a follow-up interview. Personnel should consider reaching out to the victim within a few days of the incident, or minimally, after one sleep cycle to allow the victim to process the event. The

details [officers] and/or investigators should attempt to discern through victim interviews includes the following:

- Does the victim know the suspect?
- How long has the victim known the suspect?
- What type of relationship does the victim have (past or present) with the suspect?
- Were drugs or alcohol involved in the incident?
- Were there any behaviors or actions that altered the encounter? (i.e., Did the encounter start off consensual and then change based on the behaviors of one or more of the individuals involved?)
- What, if any, specific statements, actions, and/or thoughts did the victim and/or suspect have prior, during, and after the assault?
- What, if any, digital communication exists between those involved? (i.e., Are there social media messages, text messages, or emails between the parties that may be of evidentiary value?)

Evidence Collection. Peace officers investigating a sexual assault shall follow standard evidence collection procedures and any other procedures mandated by this agency. When collecting evidence, [officers] should consider the following points.

- [Officers] should collect evidence or document information regarding the environment in which the assault took place, including indications of isolation and soundproofing.
- [Officers] should 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.
- 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, drug paraphernalia, or other related items.
- If the victim has declined a medical examination or a medical forensic examination will not be conducted, the [officer] should obtain victim consent and take photographs of visible physical injuries, including any healing or old injuries. Victim should be instruction on how to document any bruising or injury that becomes apparent in the hours or days after the altercation. [Officers] are encouraged to follow-up with the victim a day or two after the reported event to take additional photos if the victim consents.

Sexual Assault Medical Forensic Examinations. Prior to a sexual assault medical forensic examination, the investigating officer should do the following:

- ensure the victim understands the purpose of the sexual assault medical forensic examination and its importance to both their general health and wellness and to the investigation. [Officers] should inform the victim that forensic medical examinations are completed at zero cost to them.
- provide the victim general information about the procedure and encourage them to seek further detail and guidance from the forensic examiner, health care

professional, or victim advocate. [Officers] and investigators shall not deny a victim the opportunity to have an exam.

- [officers] should be aware and if necessary relay to victims who do not want to undergo an exam that there may be additional treatments or medications they are entitled to even if they do not want to have an examination completed. Victims can get additional information on these other treatments from a health care provider or a victim advocate. If possible, law enforcement should transport or arrange transportation of the victim to the designated medical facility.
- ask the victim to sign a medical release form to gain access to any medical records related to the examination.

[Officers] should not be present during any part of the examination, including during the medical history. Following the examination, the evidence collected shall be handled according to agency policy and [MN Statute 299C.106](#).

Minors and Vulnerable Adults. This agency recognizes that victims are better served by utilizing interview techniques and strategies that eliminate the need for multiple interviews. Members of this agency will be alert for victims who would be best served by the use of 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 limit their actions to the following:

- ensuring the safety of the victim,
- ensuring the scene is safe,
- safeguarding evidence where appropriate,
- collecting any information necessary to identify the suspect, and
- addressing the immediate medical needs of individuals at the scene.

Essentially, initial responding [officers] should not attempt to interview the victim in these situations. Instead, [officers] should attempt to obtain basic information and facts about the situation, including the jurisdiction where the incident occurred and what crime(s) may have 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.

[Officers] responding to victims with special considerations must comply with the mandated reporting requirements of [MN Statutes 260E.06](#) and [626.557](#), as applicable. [Officers] investigating cases involving victims with special considerations are encouraged to coordinate these investigations with human services. 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 human services. This policy recognizes that in certain cases, notifying and/or the involvement of a parent/guardian pursuant to [MN Statute 260E.22](#) can cause harm to the minor and/or impede the investigation. [Officers] responding to the sexual assault of a minor victim that does not trigger a mandated report under [MN Statute 260E.06](#) should assess for the impact on the victim and the investigation if parents/guardians were notified before involving them.

[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. 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.

[Officers] responding to a report of sexual assault committed against a family and/or household member must follow the requirements/guidelines of this policy as well as those in the agency's domestic abuse policy.

Suspect Contact and Interviews. When circumstances allow, [officers] should review the suspect's criminal history record before initiating contact. When reviewing the record, [officers] should pay special attention to qualified domestic abuse related offenses and other accusations or charges related to criminal sexual conduct. Initial and subsequent interviews with a suspect should, whenever possible, be conducted in person and recorded. If the suspect does not deny having sexual contact with the victim, but denies the encounter was non-consensual, [officers] should:

- collect evidence of past communication, including but not limited to all relevant interactions on social media, through text message, and through any other mediums between the suspect and victim, and
- gather additional details regarding the events that transpired prior to, during, and after the assault in an effort to identify additional potential witnesses, crime scene locations, and evidence.

As part of their investigation, [officers] should collect evidence from the suspect- either by consent or with a search warrant. Sexual assault medical forensic examinations may be completed on a suspect by a medical professional. If a forensic examination is not conducted, the investigating [officer] should ensure the following evidence is collected:

- DNA (that of the suspect and any obtainable that may be from the victim, possibly via fingernail scrapings),
- biological trace evidence (if applicable),
- the suspect's clothing worn during the assault, and
- injury photographs.

[Officers] should also document the suspect's appearance, the presence of any scars/tattoos, piercings, and any other identifiable marks, features, or attributes.

For sexual assaults involving strangers, [officers] should focus investigative efforts on the collection of video, DNA, and other trace evidence that may help identify the perpetrator.

VICTIM RIGHTS

Peace officers have a statutory obligation to inform domestic and sexual assault victims of their rights. [Officers] must provide victims of sexual assault, minimally, with the information included herein.

- [MN Statute 611A.02](#), subdivision 2(b)(1-6), requires peace officers to provide victims an initial notice of their rights as a victim of a crime.
- [MN Statute 629.341](#), subdivision 3 requires peace officers to inform victims whether a shelter or other services are available in their community. Under this provision, [officers] shall also inform the victim of their legal rights and the remedies available to them.
- [MN Statute 611A.27](#), subdivision 1, requires peace officers to release information regarding a sexual assault examination kit to the victim or their delegate upon request. Victims should be informed of their right to request this information.

As stated in [MN Statute 611A.26](#), subdivision 1, no law enforcement agency or prosecutor shall require a victim, or complainant, of sexual assault to submit to a polygraph examination as a condition of proceeding with the investigation or prosecution of the crime. A victim may submit to a polygraph examination if the conditions described in [MN Statute 611A.26](#), subdivisions 2-4 are met.

EVIDENCE PRESERVATION

When a victim calls to report a sexual assault and the assault was recent, dispatchers and/or peace officers should inform the victim of the following to ensure critical evidence is not lost:

- suggest to the victim that he or she not bathe or clean up,
- if the victim needs to urinate, suggest he or she collect the urine in a clean container for test and avoid wiping, and
- place any clothing, blankets, or linens worn or present during or after the assault in a paper bag unwashed.

If the assault happened more than 24 hours ago or the victim has already bathed or washed their clothing/bedding, [officers] should reassure the victim that other evidence may still be identified and recovered by other means.

STATUTORY REFERENCES

- [MN STATUTES CHAPTER 260E](#) – Reporting Maltreatment of Minors
- [MN STATUTE 260C.175](#) – Taking Child Into Custody
- [MN STATUTE 260E.22](#) – Interviews
- [MN STATUTE 299C.106](#) – Sexual Assault Examination Kit Handling
- [MN STATUTE 518B.01](#) – Domestic Abuse Act
- [MN STATUTE 595.02](#) – Testimony of Witnesses
- [MN STATUTE 609.341](#) – Definitions
- [MN STATUTE 609.342](#) – Criminal Sexual Conduct in the First Degree
- [MN STATUTE 609.343](#) – Criminal Sexual Conduct in the Second Degree
- [MN STATUTE 609.344](#) – Criminal Sexual Conduct in the Third Degree
- [MN STATUTE 609.345](#) – Criminal Sexual Conduct in the Fourth Degree
- [MN STATUTE 609.3451](#) – Criminal Sexual Conduct in the Fifth Degree
- [MN STATUTE 609.3453](#) – Criminal Sexual Predatory Conduct
- [MN STATUTE 609.3458](#) – Sexual Extortion
- [MN STATUTE 609.3459](#) – Law Enforcement; Reports of Sexual Assaults
- [MN STATUTE 609.347](#) – Evidence in Criminal Sexual Conduct Cases
- [MN STATUTE 609.35](#) – Costs of Medical Examination
- [MN STATUTE 611A.02](#) – Notification of Victim Services and Victims' Rights
- [MN STATUTE 611A.26](#) – Polygraph Examinations; Criminal Sexual Assault Conduct Complaints; Limitations
- [MN STATUTE 611A.27](#) – Victim Rights to Sexual Assault Evidence Information
- [MN STATUTE 626.5572](#) – Definitions
- [MN STATUTE 626.8442](#) – Policies on Sexual Assaults
- [MN STATUTE 629.341](#) – Allowing Probable Cause Arrests for Domestic Violence; Immunity from Liability
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies

Revision approved by the POST Board on ____.

SEXUAL ASSAULT INVESTIGATIONS

[MODEL POLICY]

POLICY

It is the policy of the *(name of law enforcement agency)* to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring its peace officers understand the laws governing this area. When investigating incidents of sexual assault, peace officers shall utilize investigative techniques that are centered around this victim. [Officers] should strive to protect the dignity and autonomy of victims by giving them choices, whenever possible, and by helping them to better understand the criminal justice system and its processes. [Officers] shall coordinate and work cooperatively with the prosecutor's office and assist in conducting any necessary follow up investigations when directed to do so by the prosecuting attorney or a supervisor.

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

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

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

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.~~

Child or Minor: a person under the age of 18.

Consent: has the meaning given to it in MN Statute 609.341.

~~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.~~

Sexual Assault Criminal Sexual Conduct: a person who engages in sexual contact or penetration with another person in a criminal manner as identified in MN Statutes 609.342 to 609.3451.

Family or Household Member: has the same meaning given to it in MN Statute 518B.01, subdivision 2(b).

~~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 or **previously in-volved** in a significant romantic or sexual relationship~~

Medical Forensic Examiner: the health care provider conducting a sexual assault medical forensic examination.

Mentally Incapacitated: has the meaning given to it in MN Statute 609.341, subdivision 7.

Physically Helpless: has the meaning given to it in MN Statute 609.341, subdivision 9.

Sexual Assault: refers to an act of sexual abuse in which an individual touches another in a sexual manner without consent or by coercion.

Sexual Assault Medical Forensic Examination: **means** an examination of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients.

Victim Advocate: **refers to** a Sexual Assault Counselor defined by MN Statute 595.02, subd. 1(k) and/or Domestic Abuse Advocate as defined by MN Statute 595.02, subdivision 1(l) 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 in locating a local victim advocacy agency for the purposes outlined in this policy.

Victim Centered Approach: refers to an ~~investigative-victim-centered~~ approach which 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 victim's input into the criminal justice response and recognizes victims are not responsible for the crimes committed against them.

Vulnerable Adult: has the meaning given to it in MN Statute 626.5572, subdivision 21.

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 required to be licensed under chapter 245A, except that a person receiving outpatient services for treatment of substance use disorder or mental illness, or one who is served in the Minnesota Sex Offender Program on a court hold order for commitment, or 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); 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 [MN Statute 256B.0625](#), [subdivision 19a](#), [256B.0651](#), [256B.0653](#), [256B.0654](#), [256B.0659](#), or [256B.85](#), [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 [care or services](#) assistance, the individual has an impaired ability to protect the individual from maltreatment.~~

PURPOSE

This policy provides peace officers important guidelines and information for responding to reports of sexual assault and affirms the authority and responsibility peace officers have to conduct thorough investigations and to make arrest determinations in accordance with established probable cause standards.

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

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

PROCEDURE

~~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.~~

RESPONDING TO A SEXUAL ASSAULT CALL

When responding to a sexual assault call, [officers] shall respond without delay and follow standard incident response procedures. Upon arrival, [officers] should determine whether the victim needs medical attention as well as the location/jurisdiction in which the assault took place. If the assault took place outside of the agency's jurisdiction, the responding [officer] should assist the victim in contacting the appropriate law enforcement agency and provide any services or assistance requested by the victim. If the victim is unsure of where the assault took place or another jurisdiction cannot be determined, the [officer] should take the report. Agency personnel shall treat victims of sexual assault with dignity

and respect. Agency personnel should also recognize that victims of traumatic incidents may not be willing or able to immediately assist with the criminal investigation.

During initial contact, the responding [Officer] should explain the investigative process to the victim. This explanation should include a description of the various tasks and roles the first responder, investigator, and anyone else with whom the victim will likely interact. [Officers] are encouraged to connect the victim with local victim advocates as soon as possible. Personnel should inform the victim that there are confidential victim advocates available to address any need they might have and to support them through the criminal justice process. These advocates may be present to support the victim during any interviews that take place. The victim should be provided with contact information for the local victim advocate and [officers] are encouraged to contact local victim advocates on the victim's behalf with their permission. Victim advocates are not, without the consent of the victim, allowed to disclose any opinion or information received from or about the victim.

INVESTIGATION

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.~~

During a sexual assault investigation, peace officers shall ensure the following tasks are completed.

- If not already done so, the responding [officer] should collect the victim's preferred contact information.
- [Officers] shall ask about and document any signs and/or symptoms of injury-including strangulation.
- [Officers] shall ensure the victim knows they can go to a designated facility for a forensic medical examination. [Officers] may arrange for transportation for the victim or transport the victim themselves.
- If the victim seeks medical attention or elects to have a forensic medical examination completed, [officers] shall attempt to obtain a signed medical release form from the victim.
- [Officers] shall identify and attempt to interview any potential witnesses to the sexual assault and/or anyone the victim may have told about the assault.
- [Officers] shall collect any evidence related to the assault, including, but not limited to, clothing, bedding, electronic data, and security footage.

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 being 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 points.

- ~~Offer to have a confidential victim advocate present (if possible) if the victim would benefit from additional support during the process.~~
- [Officers] are encouraged to offer to have a confidential victim advocate present if the victim requests one or if the [officer] believe 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.~~
- [Officers] should conduct the victim interviews in person in a comfortable and welcoming environment to the extent possible.
- ~~Let the victim share the details at their own pace.~~
- [Officers] should let the victim share details of the event at their own pace.
- [Officers] should be mindful of the fact that Recognize victims of trauma may have difficulty remembering incidents in a linear fashion and may remember details in the 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~~

Depending on the victim, additional interviews may be needed to gather any additional necessary information. In some instances, the victim may not have wanted to provide an initial statement at all. Therefore, after the initial interview or interview attempt, the [officer] or investigator may need to reach out to the victim to conduct a follow-up interview. Personnel should consider reaching out to the victim within a few days of the incident, or minimally, after one sleep cycle to allow the victim to process the event. The details [officers] and/or investigators should attempt to discern through victim interviews includes the following:

- Does the victim know the suspect?
- How long has the victim known the suspect for?
- What type of relationship does the victim have (past or present) with the suspect?
- Were drugs or alcohol involved in the incident?
- Were there any behaviors or actions that altered the encounter? (i.e. Did the encounter start off consensual and then change based on the behaviors of one or more of the individuals involved?)
- What, if any, specific statements, actions, and/or thoughts did the victim and/or suspect have prior, during, and after the assault?
- What, if any, digital communication exists between those involved? (i.e. Are there social media messages, text messages, or emails between the parties that have be of evidentiary value?)

~~Special Considerations—Minors and Vulnerable Adults/Domestic Abuse Victims~~

Evidence Collection. Peace officers investigating a sexual assault shall follow standard evidence collections procedures and any other procedures mandated by this agency. When collecting evidence, [officers] should do and/or consider the following points.

~~Considerations for Evidence Collection~~

~~Officers shall follow this agency's policy on crime scene response. In addition, officers may should do the following:~~

- [Officers] should collect evidence or document information 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.~~
- [Officers] should 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.
- 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, drug paraphernalia, or other related items.
- If the victim has declined a medical examination or a medical forensic examination will not be conducted ~~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 apparent in the hours or days after the altercation. ~~evidence later after these photographs are taken.~~ [Officers] are encouraged to follow-up with the victim a day or two after the reported event to take additional photos if the victim consents.
 - 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. (Drug paraphernalia)~~

- d. ~~If the victim has declined a medical examination or a medical forensic examination 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.~~

Sexual Assault Medical Forensic Examinations. Prior to a sexual assault medical forensic examination, the investigating officer should do the following:

- ensure the victim understands the purpose of the sexual assault medical forensic examination and its importance to both their general health and wellness and to the investigation. [Officers] ~~assurance should~~ **inform** the victim that ~~they will not incur any out-of-pocket expenses for forensic medical examinations~~ **are completed at zero cost to them.** ~~Officers should inform the victim how and provide information about evidence collection, storage and preservation in sexual assault cases.~~
- 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~~ **shall not** deny a victim the opportunity to have an exam.
- [officers] should be aware and if necessary, relay to victims who do not want to undergo an exam that there ~~might~~ **may** be additional treatments or medications they are entitled to even if they do not want to have an examination completed. ~~done or have evidence collected.~~ Victims can ~~seek that~~ **get additional** information **on these other treatments** from a health care provider or a victim advocate. If possible, **law enforcement should transport or arrange transportation** ~~transport or arrange transportation~~ for the victim to the designated medical facility.
- ask the victim to sign a medical release form to gain ~~for a signed release for access to~~ **any** medical records ~~from the~~ **related to** the examination.

[Officers] should not be present during any part of the examination, including during the medical history. Following the examination, **the** evidence collected ~~during the exam~~ shall be handled according to ~~the requirements of~~ agency policy and Minnesota Statute 299C.106.

Minors and Vulnerable Adults. This agency recognizes that certain victims, due to their age or a physical, mental, or **trauma** ~~emotional distress~~, are better served by utilizing interview techniques and strategies that eliminate **the need for multiple interviews.** ~~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. ~~Officers responding to reports of sexual assaults involving these sensitive population groups shall limit their actions to the following:~~

- ensuring the safety of the victim,
- ensuring the scene is safe,
- safeguarding evidence where appropriate,
- collecting any information necessary to identify the suspect, and
- addressing the immediate medical needs of individuals at the scene.

Essentially, initial responding [officers] should not attempt to interview the victim in these situations. ~~but should~~ Instead, [officers] should attempt to obtain basic information and facts about the situation, including the jurisdiction where the incident occurred and what crime(s) **may have occurred**. ~~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.

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

Not all sexual assaults of minor victims require a mandatory report to social services. This policy recognizes that in certain cases, notifying and/or the involvement of a parent/guardian pursuant to MN Statute 260E.22 can cause harm to the minor and/or impede the investigation. [Officers] responding to the sexual assault of a minor victim that does not trigger a mandated report under Minnesota Statute 260E.06 should assess ~~for~~ the impact on the victim and the investigation if parents/guardians were notified before ~~making a decision to~~ **involving** them.

[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. 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.

Victims of Domestic Abuse

~~Officers responding to a report of sexual assault committed against a family and/or household member 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.~~

[Officers] responding to a report of sexual assault committed against a family and/or household member must follow the requirements/guidelines of this policy as well as those in the agency's domestic abuse policy.

Suspect Contact and Interviews. When circumstances allow, [officers] should review the suspect's criminal history record before initiating contact. When reviewing the record, [officers] should pay special attention to qualified domestic abuse related offenses and other accusations or charges related to criminal sexual conduct. Initial and subsequent interviews with a suspect should, whenever possible, be conducted in person and recorded. If the suspect does not deny having sexual contact with the victim, but denies the encounter was non-consensual, [officers] should:

- collect evidence of past communication, including but not limited to all relevant interactions on social media, through text message, and through any other mediums between the suspect and victim, and
- gather additional details regarding the events that transpired prior to, during, and after the assault in an effort to identify additional potential witnesses, crime scene locations, and evidence.

As part of their investigation, [officers] should collect evidence from the suspect- either by consent or with a search warrant. Sexual assault medical forensic examinations may be completed on a suspect by a medical professional. If a forensic examination is not conducted, the investigating [officer] should ensure the following evidence is collected:

- DNA (that of the suspect and any obtainable that may be from the victim, possibly via fingernail scrapings),
- biological trace evidence (if applicable),
- the suspect's clothing worn during the assault, and
- injury photographs.

[Officers] should also document the suspect's appearance, the presence of any scars/tattoos, piercings, and any other identifiable marks, features, or attributes.

~~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.~~

For sexual assaults involving strangers, [officers] should focus investigative efforts on the collection of video, DNA, and other trace evidence used for analysis to **that may help** identify the perpetrator (handle evidence collection per agency policy).

~~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 genital 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.~~

VICTIM RIGHTS

~~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:~~

- ~~• crime victim rights and resource information as required to be provided to all victims as specified by Minn. Stat. MN Statute section 611A.02, subdivision 2(b),~~
- ~~• if the suspect is a family and/or household member to the victim, crime victim rights and resource information required to be provided to domestic abuse victims, as specified as required by Minn. Stat. section MN Statute 629.341, subdivision 3,~~
- ~~• 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 in MN Statute 611A.27, subdivision 1,~~
- ~~• pursuant to Minn. Stat. MN Statute 611A.26, subdivision 2 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. Per MN Statute 611A.26, subdivision 2, a law enforcement agency or prosecutor may not ask that a complainant of a criminal sexual conduct offense submit to a polygraph examination as part of the investigation, charging, or prosecution of such an offense unless the complainant has been refer to, and the opportunity to exercise the option of consulting with a sexual assault counselor as defined in MN Statute 595.02, subdivisions 1(d).~~

~~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.~~

Peace officers have a statutory obligation to inform domestic and sexual assault victims of their rights. [Officers] must provide victims of sexual assault, minimally, with the information included herein.

- MN Statute 611A.02, subdivision 2(b)(1-6), requires peace officers to provide victims an initial notice of their rights as a victim of a crime.
- MN Statute 629.341, subdivision 3 requires peace officers to inform victims whether a shelter or other services are available in their community. Under this provision, [officers] shall also inform the victim of their legal rights and the remedies available to them.
- MN Statue 611A.27, subdivision 1, requires peace officers to release information regarding a sexual assault examination kit to the victim or their delegate upon request. Victims should be informed of their right to request this information.

As stated in MN Statute 611A.26, subdivision 1, no law enforcement agency or prosecutor shall require a victim, or complainant, of sexual assault to submit to a polygraph

examination as a condition of proceeding with the investigation or prosecution of the crime. A victim may submit to a polygraph examination if the conditions described in 611A.26, subdivisions 2-4 are met.

EVIDENCE PRESERVATION

When a victim calls to report a sexual assault and the assault was recent, dispatchers and/or peace officers should inform the victim of the following to ensure critical evidence is not lost:

- suggest to the victim that he or she not bathe or clean up,
- if the victim needs to urinate, suggest he or she collect the urine in a clean container for test and avoid wiping, and
- place any clothing, blankets, or linens worn or present during or after the assault in a paper bag unwashed.

If the assault happened more than 24 hours ago or the victim has already bathed or washed their clothing/bedding, [officers] should reassure the victim that other evidence may still be identified and recovered by other means.

STATUTORY REFERENCES

- MN STATUTES CHAPTER 260E – Reporting Maltreatment of Minors
- MN STATUTE 260C.175 – Taking Child Into Custody
- MN STATUTE 260E.22 - Interviews
- MN STATUTE 299C.106 – Sexual Assault Examination Kit Handling
- MN STATUTE 518B.01 – Domestic Abuse Act
- MN STATUTE 595.02 – Testimony of Witnesses
- MN STATUTE 609.341 – Definitions
- MN STATUTE 609.342 – Criminal Sexual Conduct in the First Degree
- MN STATUTE 609.343 – Criminal Sexual Conduct in the Second Degree
- MN STATUTE 609.344 – Criminal Sexual Conduct in the Third Degree
- MN STATUTE 609.345 – Criminal Sexual Conduct in the Fourth Degree
- MN STATUTE 609.3451 – Criminal Sexual Conduct in the Fifth Degree
- MN STATUTE 609.3453 – Criminal Sexual Predatory Conduct
- MN STATUTE 609.3458 – Sexual Extortion
- MN STATUTE 609.3459 – Law Enforcement; Reports of Sexual Assaults
- MN STATUTE 609.347 – Evidence in Criminal Sexual Conduct Cases
- MN STATUTE 609.35 – Costs of Medical Examination
- MN STATUTE 611A.02 – Notification of Victim Services and Victims' Rights

- MN STATUTE 611A.26 - Polygraph Examinations; Criminal Sexual Assault Conduct Complaints; Limitations
- MN STATUTE 611A.27 – Victim Rights to Sexual Assault Evidence Information
- MN STATUTE 626.8442 – Policies on Sexual Assaults
- MN STATUTE 629.341 – Allowing Probable Cause Arrests for Domestic Violence; Immunity from Liability
- ADMINISTRATIVE RULE 6700.1615 – Required Agency Policies

Revision approved by the POST Board on ____.

SCHOOL RESOURCE OFFICER [MODEL POLICY]

POLICY

The primary purpose of this policy is to provide guidelines which define the relationship between law enforcement agencies and the schools utilizing school resource officers (SRO). It will further facilitate the understanding of this relationship with regards to criminal matters and law enforcement situations, which will arise at the local school level. The goal of the SRO programs is to provide safe learning environments, provide valuable resources to school staff members, foster a positive relationship with students and develop strategies to resolve problems that affect our youth with the goal of protecting all children, so they can reach their fullest potential.

GUIDING PRINCIPLES

1. The SRO employed by (School Name/Police Agency) should be carefully selected, thoroughly trained, and appropriately equipped to fulfill their role within the school community. The SRO should actively engage in early prevention and early intervention educational programs that focus on and support student needs.
2. SROs shall be specially trained in the principles and standards identified in [MN Statute 626.8482](#), subdivision 4 which recognize the unique role of an SRO to foster positive relationships, open communication and mentorship while providing a safe and constructive environment for students, staff and visitors in the school setting.
3. SROs are expected to recognize and consider alternatives to formal criminal referral such as diversion and restorative justice programs where possible and as appropriate for the incident, the involved students and families, victim(s) and the larger school community.
4. When a criminal incident also involves a violation of school rules, SROs should consider referral of the matter to school authorities in lieu of formal criminal referral, as appropriate for the incident, the students and families involved, the victim(s) and the larger school community.
5. Nothing in this policy should be construed as limiting any other duty or responsibility imposed on peace officers; the expectation that peace officers will exercise professional judgment and discretion to protect the health, safety, and general welfare of the public when carrying out their duties; or creates a duty for school resource officers to protect students, staff, or others on school grounds that is different from the duty to protect the public as a whole.

DEFINITIONS

School: means an elementary school, middle school, or secondary school, as defined in [MN Statute 120A.05](#), subdivisions 9, 11 and 13.

School Resource Officer or SRO: refers to a licensed peace officer who is assigned to work in an elementary school, middle school, or secondary school during the regular instructional school day as one of the peace officer's regular responsibilities through the terms of a contract between the peace officer's employer and the designated school district or charter school.

Positive School Climate: refers to a school environment that makes students feel safe, supported and welcome.

Developmentally Appropriate Practices: means individualized, responsive care that is appropriate for the child's age, cultural context, disability status and personality.

Great Bodily Harm: has the same meaning given to it in [MN Statute 609.02](#), subdivision 8.

Prone Restraint: has the same meaning given to it in [MN Statute 121A.58](#), subdivision 1(c).

Custodial Arrest: refers to the actual, physical restraint of a person and their subsequent detention. Custodial arrest may occur with or without a warrant depending on the circumstances.

De-escalation: refers to the methods and actions taken to decrease the severity of a conflict, whether physical or verbal in nature.

PROCEDURE

GENERAL CONTRACTUAL AGREEMENTS

The law enforcement agency's contract with a school district or charter school shall define the SRO duties in compliance with [MN Statute 626.8482](#), subdivision 2. Additionally, SRO contracts entered into by this agency:

- must address a mutually agreed upon policy regarding the use of plain clothes, modified uniforms, and other changes to SRO attire with the goal of fostering a positive school climate, facilitating the establishment of positive relationships with students, and promoting open communication,
- shall articulate the role, if any, of the school district in the selection, vetting and retention of the SRO,
- should address how the SRO will be informed of school district resources available to school staff to assist with de-escalation of conflicts in school, e.g. specialized crisis teams, mediation opportunities, etc., and

- shall establish a public notification process that an SRO will be present in the schools.

A school district or charter school may contract with the agency to perform duties that are in addition to those described above.

DUTIES AND TASKS

Fostering a Positive School Climate and Constructive Relationships. In order to facilitate a positive school climate and constructive relationships with students, SROs should:

- consider establishing a presence at times that allow opportunities to build connections and relationships,
- should establish connections based upon mutual trust and respect while encouraging communication, and
- act as a resource for educating students on what concerns should be reported to a responsible adult.

Collaboration and Campus Safety. SROs employed with this agency are expected to work in collaboration with the schools to provide campus safety training. In doing so, SROs should:

- use developmentally appropriate practices that take into consideration differences in culture, language, trauma and an individual's disabilities,
- use methods that help ensure school safety and security, focusing on safety over violence, and
- encourage students to ask questions about school safety.

Crisis Intervention and De-escalation. SROs are often required to make assessments of rapidly evolving situations, analyze potential responses, and act upon various levels of safety concerns. Crisis intervention and de-escalation strategies should be used whenever possible in response to crisis or safety situations. The safety of the individual, SROs, school staff, students, and others present should not be compromised during de-escalation tactics. To that end, SROs should understand and use developmentally appropriate principles of evidence-based crisis intervention and de-escalation strategies. These strategies include, but are not limited to:

- being empathetic and non-judgmental,
- respecting the personal space of others,
- using non-threatening nonverbal communication,
- avoiding complex questions, and
- giving individuals an appropriate amount of time to make decisions.

Use of Force. If an SRO must use force in the school, the force shall comply with the agency's use of force policy and all applicable Minnesota Statutes. When force is necessary, SROs should try utilizing special tactics and techniques, including de-

escalation, to minimize the level of force required to render a situation safe. SROs shall also minimize the use and duration of physical restraints, including the prone restraint, on students whenever possible. When reasonable, SROs should use the least restrictive physical intervention techniques. To that end, SROs should only use the amount of force that reasonably appears necessary given the facts and circumstances perceived by the SRO at the time of the event to accomplish a legitimate law enforcement purpose.

When force is utilized on a student, as with any other use of force incident, SROs shall assess the condition of the student(s) and render aid as needed. This includes restoring the student to a non-prone or non-restrained position as soon as practical.

Use of force considerations for SROs in the schools include:

- the immediacy and severity of the threat or potential injury to the SRO and/or other bystanders,
- the conduct of the individual being confronted, as reasonably perceived by the SRO at the time,
- the personal characteristics of a subject and SRO (such as age and/or maturity, physical size, and physical abilities),
- the subject's ability to understand and/or comply with SRO commands (is the student impaired by drugs/alcohol, experiencing reduced mental capacity, or is the student known to have an education plan or accommodations?),
- the presence or proximity of weapons or dangerous improvised devices,
- the degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained,
- the availability of other reasonable and feasible options and their possible effectiveness (seriousness of the suspected offense),
- the immediate need for intervention versus allowing time and distance for de-escalation,
- the training and experience of the SRO,
- whether the subject appears to be resisting, attempting to evade arrest by flight, or is attacking the SRO,
- the risk and foreseeable consequences of the subject's escape,
- whether the conduct of the subject being confronted no longer reasonably appears to pose an immediate threat the [officers] or others,
- prior contacts with the subject and knowledge of their propensity for violence, and
- any other exigent circumstances.

When a criminal incident also involves a violation of school rules, SROs should consider referral of the matter to school authorities in lieu of formal criminal referral, as appropriate for the incident, the students and families involved, the victim(s) and the larger school community.

SROs should exercise age-appropriate practices when interacting with children, and developmentally appropriate practices with youth and individuals known to have physical,

mental health, developmental or intellectual disabilities recognizing that the individual's disability may affect their ability to understand or comply with commands from SROs.

Arrest Considerations. As much as is reasonably practical, SROs should utilize alternatives to formal criminal charges. These alternatives include, but are not limited to, diversion and restorative justice programs. Formal charge alternatives may be used when appropriate for the incident, the students and families involved, and for victim(s) as well as the larger school community.

Custodial arrests in school should be avoided if reasonably practical. If a custodial arrest is necessary due to exigent circumstances or other public safety concerns, if practical, the arrest should be made in a non-communal area away from the view of other students. When possible, appropriate school staff should be notified of custodial arrests prior to the arrest being conducted. If it is not possible to give school staff prior notice, the SRO should notify school staff as soon as practical after a custodial arrest has been made.

TRAINING

Except as provided for in bullet points below, beginning September 1, 2025, a peace officer assigned to serve as a school resource officer must complete a training course that provides instruction on the learning objectives identified in [MN Statute 626.8482](#), subdivision 4 prior to assuming the duties of a SRO. Whenever practicable, it is preferable that a peace officer completes the training required under this section prior to filling the role of SRO.

- A peace officer who has completed either the School Safety Center standardized Basic School Resource Officer Training or the National School Resource Officer Basic School Resource Officer course prior to September 1, 2025, must complete the training mandated by [MN Statute 626.8482](#), subdivision 4, before June 1, 2027. A peace officer covered under this paragraph may complete a supplemental training course approved by the board pursuant to [MN Statute 626.8482](#), subdivision 4, paragraph (b), to satisfy the training requirement.
- If the agency is unable to provide the required training course to an [officer] prior to when they assume the duties of a school resource officer, the [officer] must complete the required training within six months of assuming the duties of a SRO. The [officer] is not required to perform the duties described in [MN Statute 626.8482](#), subdivision 2, paragraph (a), clause (4) or (5), until the [officer] has completed the required training course. The [officer] must review any policy adopted by the agency pursuant to [MN Statute 626.8482](#), subdivision 6 before assuming the other duties of a school resource officer.

An SRO will complete a refresher course at a minimum of once every three years. For each school resource officer employed by an agency, the chief law enforcement officer must maintain a copy of the most recent training certificate issued to the [officer] for completion of the training mandated under this section.

Substitute SROs. [Officers] serving as a substitute SRO for fewer than 60 student contact days within a school year are not obligated to complete the required training or perform the duties described in [MN Statute 626.8482](#), subdivision 2 (a)(4-5). Substitute SROs, however, must review and comply with any policies adopted by the agency regarding SROs.

DATA PRACTICES

The contract between the school district and the law enforcement agency must address data practices policies and procedures. These procedures and policies shall identify the education records that can be shared with the law enforcement agency generally and with the SRO specifically and for what purposes. Law enforcement records that contain student and parent data that are maintained by the law enforcement agency shall be governed by the agency's data practices policy and in compliance with the requirements of the [Minnesota Data Practices Act, MN Statutes, Chapter 13](#), and [MN Rules 1205.0100](#) and [1205.2000](#).

STATUTORY REFERENCES

- [GOVERNMENT DATA PRACTICES ACT \(CH 13\)](#)
- [MN STATUTE 609.06](#) – Authorized Use of Force
- [MN STATUTE 609.066](#) – Authorized use of Deadly Force by Peace Officers
- [MN STATUTE 626.8452](#) – Deadly Force and Firearms Use; Policies and Instruction Required
- [MN STATUTE 626.8475](#) – Duty to Intercede and Report
- [MN STATUTE 626.8482](#) – School Resource Officers; Duties; Training; Model Policy
- [ADMINISTRATIVE RULE 1205.0100](#) – How These Rules Apply
- [ADMINISTRATIVE RULE 1205.0200](#) – Definitions
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies

Revision approved by the POST Board on ____.

SCHOOL RESOURCE OFFICER [MODEL POLICY]

POLICY

The primary purpose of this policy is to provide guidelines which define the relationship between law enforcement agencies and the schools utilizing school resource officers (SRO). It will further facilitate the understanding of this relationship with regards to criminal matters and law enforcement situations, which will arise at the local school level. The goal of the SRO programs is to provide safe learning environments, provide valuable resources to school staff members, foster a positive relationship with students and develop strategies to resolve problems that affect our youth with the goal of protecting all children, so they can reach their fullest potential.

GUIDING PRINCIPLES

1. The SRO employed by (School Name/Police Agency) should be carefully selected, thoroughly trained, and appropriately equipped to fulfill their role within the school community. The SRO should actively engage in early prevention and early intervention educational programs that focus on and support student needs.
2. SROs shall be specially trained in the principles and standards identified in Minn. Stat. 626.8482, Subd. 4 which recognize the unique role of an SRO to foster positive relationships, open communication and mentorship while providing a safe and constructive environment for students, staff and visitors in the school setting.
3. SROs are expected to recognize and consider alternatives to formal criminal referral such as diversion and restorative justice programs where possible and as appropriate for the incident, the involved students and families, victim(s) and the larger school community.
4. When a criminal incident also involves a violation of school rules, SROs should consider referral of the matter to school authorities in lieu of formal criminal referral, as appropriate for the incident, the students and families involved, the victim(s) and the larger school community.
5. Nothing in this policy should be construed as limiting any other duty or responsibility imposed on peace officers; the expectation that peace officers will exercise professional judgment and discretion to protect the health, safety, and general welfare of the public when carrying out their duties; or creates a duty for school resource officers to protect students, staff, or others on school grounds that is different from the duty to protect the public as a whole.

DEFINITIONS

School: means an elementary school, middle school, or secondary school, as defined in section 120A.05, subdivisions 9, 11 and 13.

School Resource Officer or SRO: refers to a licensed peace officer who is assigned to work in an elementary school, middle school, or secondary school during the regular instructional school day as one of the peace officer's regular responsibilities through the terms of a contract entered between the peace officer's employer and the designated school district or charter school.

Positive School Climate: refers to a school environment that makes students feel safe, supported and welcome.

Developmentally Appropriate Practices: means individualized, responsive care that is appropriate for the child's age, cultural context, disability status and personality.

Great Bodily Harm: has the same meaning given to it in MN Statute 609.02, subdivision 8.

Prone Restraint: has the same meaning given to it in MN Statute 121A.58, subdivision 1(c). ~~As defined in Minn. Stat. 121A.58 and for purposes of this policy, prone restraint means placing a child in a face down position.~~

Custodial Arrest: ~~A custodial arrest is~~ refers to the actual, physical restraint of a person and **their** subsequent detention. Custodial arrest may occur with or without a warrant depending on the circumstances.

De-escalation: refers to the methods and actions taken to decrease the severity of a conflict, whether physical or verbal in nature.

PROCEDURE

GENERAL CONTRACTUAL AGREEMENTS

The law enforcement agency's contract with a school district or charter school shall define the SRO duties in compliance with MN Statute 626.8482, subdivision 2. Additionally, SRO contracts entered into by this agency: ~~Additional issues to be addressed in contract. The contract between the parties:~~

- must address a mutually agreed upon policy regarding the use of plain clothes, modified uniforms, and other changes to SRO attire with the goal of fostering a positive school climate, facilitating the establishment of positive relationships with students, and promoting open communication;
- shall articulate the role, if any, of the school district in the selection, vetting and retention of the SRO;

- should address how the SRO will be informed of school district resources available to school staff to assist with de-escalation of conflicts in school, e.g. specialized crisis teams, mediation opportunities, etc.; and
- shall establish a public notification process that an SRO will be present in the schools.

A school district or charter school may contract with **the agency** ~~a school resource officer's employer for the officer~~ to perform duties that are in addition to those described **above**. in paragraph IV.A.

DUTIES AND TASKS

Fostering a Positive School Climate and Constructive Relationships. In order to **facilitate a positive school climate and constructive relationships with student**, SROs should:

- consider establishing a presence at times that allow opportunities to build connections and relationships,
- should establish connections based upon mutual trust and respect while encouraging communication, and
- **act as a** resource for educating students on what concerns should be reported to a responsible adult.

Collaboration and Campus Safety. SROs **employed with this agency are expected to work** in collaboration with the schools to **provide** ~~Providing~~ campus safety training. In doing so, SROs should:

- use developmentally appropriate practices that take into consideration differences in culture, language, trauma and an individual's disabilities,
- use methods that help ensure school safety and security, focusing on safety over violence, and
- encourage students to ask questions about school safety.

Crisis Intervention and De-escalation. SROs are often required to make assessments of rapidly evolving situations, analyze potential responses, and act upon various levels of safety concerns. Crisis intervention and de-escalation strategies should be used whenever possible in response to crisis or safety situations. The safety of the individual, SROs, school staff, students, and others present should not be compromised during de-escalation tactics. **To that end**, SROs should understand and use developmentally appropriate principles of evidence-based crisis intervention and de-escalation strategies. These strategies include, but are not limited to:

- **being** empathetic and non-judgmental,
- **respecting the personal** space of others,
- **using** non-threatening nonverbal communication,
- **avoiding challenging complex** questions, **and**
- **allow giving individuals an appropriate amount of time for to make** decisions.

Use of Force. If an SRO must use force in the school, the force shall comply with the agency's use of force policy and all applicable Minnesota Statutes. —An SRO's use of force is governed by and shall comply with Minn. Stats. 609.06 Authorized Use of Force; 609.066 Authorized Use of Deadly Force by Peace Officers; 626.8475 Duty to Intercede and Report; and the Law Enforcement Agency Use of Force Policy. When force is necessary, SROs should try utilizing special tactics and techniques, including de-escalation, to minimize the level of force required to render a situation safe. SROs shall also minimize the use and duration of physical restraints, including the prone restraint, on students whenever possible. When reasonable, SROs should use the least restrictive physical intervention techniques. To that end, SROs should only use the 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.

When force is utilized on a student, as with any other use of force incident, SROs shall assess the condition of the student(s) and render aid as needed. This includes restoring the student to a non-prone or non-restrained position as soon as practical.

~~Specific tactics and strategies to minimize uses of force or the use and duration of prone restraint or physical holds of students:~~

~~Employ de-escalation techniques, the least restrictive physical intervention strategies, as reasonable, for addressing conflicts in schools as identified in the training required under Minn. Stat. 626.8482, Subd. 4., and 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.~~

~~Consistent with training after any use of force, the SRO shall assess the condition of the student and render aid as needed including restoring the student to a non-prone position as soon as possible,~~

Use of force considerations for SROs in the schools include:

- the immediacy and severity of the threat or potential injury to the SRO and/or other bystanders,
- the conduct of the individual being confronted, as reasonably perceived by the officer at the time,
- the personal characteristics of a subject and SRO (such as age and/or maturity, physical size, and physical abilities),
- the subject's ability to understand and/or comply with SRO commands (is the student impaired by drugs/alcohol, experiencing reduced mental capacity, or is the student known to have an education plan or accommodations?),
- the presence or proximity of weapons or dangerous improvised devices,
- the degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained,
- the availability of other reasonable and feasible options and their possible effectiveness (seriousness of the suspected offense),

- the immediate need for intervention versus allowing time and distance for de-escalation,
- the training and experience of the SRO,
- whether the subject appears to be resisting, attempting to evade arrest by flight, or is attacking the officer,
- the risk and foreseeable consequences of the subject's escape,
- whether the conduct of the subject being confronted no longer reasonably appears to pose an immediate threat to the officers or others,
- prior contacts with the subject and knowledge of their propensity for violence, and
- any other exigent circumstances.

1. ~~Additional considerations for SROs when using force as allowed in Minn. Stat. 609.06 in a school situation, should include:~~

- ~~1. Immediacy and severity of the threat to officers or others.

 - a. ~~Potential for injury to officers, students, and others~~~~
- ~~2. The conduct of the individual being confronted, as reasonably perceived by the officer at the time.~~
- ~~3. Officer/individual factors (e.g. age and/or maturity, physical size and/or abilities).~~
- ~~4. The individual's ability to understand and comply with officer commands

 - a. ~~The effects of suspected drug or alcohol use.~~
 - b. ~~The individual's mental state or capacity.~~
 - c. ~~The student's education plan or accommodations, if known.~~~~
- ~~5. Proximity of weapons or dangerous improvised devices.~~
- ~~6. The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.~~
- ~~7. The availability of other reasonable and feasible options and their possible effectiveness (Minn. Stat. § 626.8452).~~
- ~~8. The immediate need for intervention versus allowing time and distance for additional de-escalation.

 - a. ~~Seriousness of the suspected offense or reason for contact with the individual.~~~~
- ~~9. Training and experience of the officer.~~
- ~~10. Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.~~
- ~~11. The risk and reasonably foreseeable consequences of escape.~~
- ~~12. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.~~
- ~~13. Prior contacts with the individual or awareness of any propensity for violence.~~
- ~~14. Any other exigent circumstances.~~

When a criminal incident also involves a violation of school rules, SROs should consider referral of the matter to school authorities in lieu of formal criminal referral, as appropriate for the incident, the students and families involved, the victim(s) and the larger school community.

SROs should exercise age-appropriate practices when interacting with children, and developmentally appropriate practices with youth and individuals known to have physical, mental health, developmental or intellectual disabilities recognizing that the individual's disability may affect their ability to understand or comply with commands from SROs.

Arrest Considerations. As much as is reasonably practical, SROs should ~~seek to~~ utilize alternatives to formal criminal ~~charges. Referral.~~ **These alternatives include, but are not limited to, such as** diversion and restorative justice programs. **Formal charge alternatives may be used when** ~~where possible and as appropriate for the incident, the students and families involved, and for victim(s) and~~ **as well as** the larger school community.

Custodial arrests in school should be avoided if reasonably practical. If a custodial arrest is necessary ~~because of exigency~~ **due to exigent circumstances** or ~~other~~ public safety ~~considerations~~ **concerns, if practical,** the arrest should be made in a non-communal area away from the view of other students ~~if practicable.~~ When **possible, reasonably practicable,** appropriate school staff should be notified of custodial arrests prior to the arrest being conducted. **If it is not possible to give school staff prior notice, the SRO should notify school staff as soon as practical after a custodial arrest has been made. and/or** ~~present during the custodial arrest of a student.~~

TRAINING

Except as provided for in ~~paragraphs E.2., E.3., and E.4.~~ **the bullet points** below, beginning September 1, 2025, a peace officer assigned to serve as a school resource officer must complete a training course that provides instruction on the learning objectives identified in Minnesota Statute 626.8482, subdivision 4 prior to assuming the duties of a SRO. Whenever practicable, it is preferable that a peace officer completes the training required under this section prior to filling the role of SRO.

- A peace officer who has completed either the School Safety Center standardized Basic School Resource Officer Training or the National School Resource Officer Basic School Resource Officer course prior to September 1, 2025, must complete the training mandated ~~under paragraph E.1. above~~ **by MN Statute 626.8482, subdivision 4,** before June 1, 2027. A peace officer covered under this paragraph may complete a supplemental training course approved by the board pursuant to Minnesota Statute 626.8482, subdivision 4, paragraph (b), to satisfy the training requirement.
- ~~However, If an officer's employer~~ **the agency** is unable to provide the required training course to an [officer] prior to ~~the officer assuming~~ **when they assume** the duties of a school resource officer, the [officer]1` ` 1Q 11

q21`12Q 175 must complete the required training within six months of assuming the duties of a **SRO** ~~school resource officer~~. The [officer] is not required to perform the duties described in Minnesota Statute 626.8482, subdivision 2, paragraph (a), clause (4) or (5), until the officer has completed the required training course. The officer must review any policy adopted by the ~~officer's employer~~ agency pursuant to section 626.8482, subdivision 6 before assuming the other duties of a school resource officer. ~~and must comply with that policy~~. SROs shall comply with all applicable policies.

An SRO will complete a refresher course at a minimum of once every three years. For each school resource officer employed by an agency, the chief law enforcement officer must maintain a copy of the most recent training certificate issued to the officer for completion of the training mandated under this section.

Substitute SROs. [Officers] serving as a substitute SRO for fewer than 60 student contact days within a school year are not obligated to complete the required training or perform the duties described in MN Statute 626.8482, subdivision 2 (a)(4-5). Substitute SROs, however, must review and comply with any policies adopted by the agency regarding SROs.

~~An officer who is serving as a substitute school resource officer for fewer than 60 student contact days within a school year is not obligated to complete the required training or perform the duties described in Minnesota Statutes, section 626.8482 subdivision 2, paragraph (a), clause (4) or (5), but must review and comply with any policy adopted pursuant to subdivision 6 by the law enforcement agency that employs the substitute school resource officer.~~

DATA PRACTICES

The contract between the school district and the law enforcement agency must address data practices policies and procedures. These procedures and policies shall identify the education records that can be shared with the law enforcement agency generally and with the SRO specifically and for what purposes. Law enforcement records that contain student and parent data that are maintained by the law enforcement agency shall be governed by the agency's data practices policy and in compliance with the requirements of the Minnesota Data Practices Act, Minn. Stats., chapter 13, and Minnesota Rules 1205.0100 and 205.2000.

STATUTORY REFERENCES

- **GOVERNMENT DATA PRACTICES ACT (CH 13)**
- **MN STATUTE 609.06 – Authorized Use of Force**
- **MN STATUTE 609.066 – Authorized use of Deadly Force by Peace Officers**
- **MN STATUTE 626.8452 – Deadly Force and Firearms Use; Policies and Instruction Required**

- MN STATUTE 626.8475 – Duty to Intercede and Report
- MN STATUTE 626.8482 – School Resource Officers; Duties; Training; Model Policy
- ADMINISTRATIVE RULE 1205.0100 – How These Rules Apply
- ADMINISTRATIVE RULE 1205.0200 – Definitions
- ADMINISTRATIVE RULE 6700.1615 – Required Agency Policies

Revision approved by the POST Board on ____.

USE OF FORCE [MODEL POLICY]

POLICY

It is the policy of this law enforcement agency to ensure [officers] respect the sanctity of human life when making decisions regarding use of force. Peace 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 shall be evaluated from the perspective of a reasonable peace 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 applies to all licensed peace officers and part-time peace officers engaged in the discharge of official duties. This policy is to be reviewed annually. Any questions or concerns should be addressed with the immediate supervisor for clarification.

DEFINITIONS

Authorized Device: a device an [officer] has received permission from the agency to carry in the performance of their duties, and for which the [officer] has:

- obtained training in the technical, mechanical and physical aspects of the device; and
- developed a knowledge and understanding of the law, rules and regulations regarding the use of such a device.

Bodily Harm: has the meaning given to it in [MN Statute 609.02](#), subdivision 7.

Choke Hold: has the meaning given to it in [MN Statute 609.02](#), subdivision 3(b).

Deadly Force: has the meaning given to it in [MN Statute 609.066](#), subdivision 1.

De-escalation: Acting 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.

Exigent Circumstances: refers to circumstances that would lead a reasonable officer to believe that a particular action is immediately necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence to individuals or law enforcement's efforts.

Great Bodily Harm: has the same meaning given to it in [MN Statute 609.02](#), subdivision 8.

Imminent: means something is ready to take place or is impending. Imminent does not mean instantaneous.

Less-lethal Force: refers to any use of force other than that which is considered deadly force that involves the physical effort to control, restrain, or overcome the resistance of another person.

Objectively Reasonable: means the use and level of force used by a peace officer, given the totality of the circumstances and information known by the officer at the time the force was used, is in alignment with what any other reasonable and prudent officer would do in the same or similar situation. Objective reasonableness is not evaluated using hindsight.

Totality of the Circumstances: refers to all the facts and circumstances known to a peace officer at the time, taken as a whole, when a use of force determination is made. This includes the conduct of the officer and subject leading up to any use of force.

PROCEDURE

An [officer] shall use de-escalation techniques and other alternatives to force consistent with their training whenever possible and appropriate before resorting to force. 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 the commission of a crime, an [officer] shall allow an individual time and opportunity to submit to verbal commands before force is used.

In general, when using force, [officers] should consider or ensure the following:

- Use of physical force should be discontinued when resistance ceases or when the incident is under control.
- 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.

- 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.

Except in cases where deadly force is authorized as articulated in [MN Statute 609.066](#) to protect the peace officer or another from death or great bodily harm, [officers] are prohibited from:

- using chokeholds,
- tying all of a person's limbs together behind their back to render the person immobile (i.e., a hog tie), or
- securing a person in any way that results in transporting the person face down in a vehicle.

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

LESS-LETHAL FORCE

When de-escalation techniques are not effective or appropriate, [an officer] may consider the use of force to control a non-compliant or actively resistant individual. An [officer] is authorized to use agency-approved force techniques and equipment in the following circumstances:

- effecting a lawful arrest,
- executing a legal process,
- enforcing an order of the court,
- executing any other duty imposed upon the peace officer by law, and/or
- defending oneself or another.

DEADLY FORCE

[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:

- To protect the peace officer or another from death or great bodily harm, provided that the threat:
 - can be articulated with specificity,
 - is reasonably likely to occur absent action by the law enforcement officer, and

- must be addressed through the use of deadly force without unreasonable delay; or
- 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 listed above unless immediately apprehended.

[An officer] shall not use deadly force against a person based on the danger the person poses to themselves if an objectively reasonable [officer] would believe, based on the totality of the circumstances that the person does not pose a threat of death or great bodily harm to the peace officer or another.

When feasible, the [officer] shall identify themselves as a law enforcement officer and warn of their intent to use deadly force.

DUTY TO INTERCEDE AND REPORT

Regardless of tenure or rank, a peace officer shall intercede when 1) he or she is present and observes another peace officer use force in violation of [MN Statute 609.066](#), subdivision 2, or otherwise beyond that which is objectively reasonable under the circumstances and 2) he or she is physically or verbally able.

A peace officer who observes another peace 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. This report shall be made even if the peace officer observed using excessive force is not employed by this agency.

TRAINING

All [officers] shall receive training, at least annually, on this agency's use of force policy and related legal updates. Throughout the year, this agency will provide its [officers] de-escalation, simulation, and scenario-based trainings focused on use of force to aid [officers] in use of force situations and determinations.

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

Before carrying an authorized device, all [officers] shall receive training and instruction on the use of the device including training as it relates to use of force situations. Such training and instruction shall continue on an annual basis. [Officers] shall only carry and use authorized devices unless circumstances exist which pose an immediate threat to the safety of the public or the [officer] justifies the use of a device or object that has not been

previously authorized to counter such a threat. With agency approval, [officers] may modify, alter, or cause to be altered an authorized device in their possession or control.

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

STATUTORY REFERENCES

- [MN STATUTE 609.02](#) – Definitions
- [MN STATUTE 609.06](#) – Authorized Use of Force
- [MN STATUTE 609.065](#) – Justifiable Taking of Life
- [MN STATUTE 609.066](#) – Authorized Use of Force by Peace Officers
- [MN STATUTE 626.5534](#) – Use of Force Reporting; Independent Investigations Required
- [MN STATUTE 626.8452](#) – Deadly Force and Firearms Use; Policies and Instruction Required
- [MN STATUTE 626.8475](#) – Duty to Intercede and Report
- [ADMINISTRATIVE RULE 6700.1610](#) – Reporting Obligations and Cooperation
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies

Revision approved by the POST Board on ____.

USE OF FORCE AND DEADLY FORCE [MODEL POLICY]

PURPOSE

~~It is the policy of the (law enforcement agency) 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.~~

POLICY

It is the policy of this law enforcement agency to ensure [officers] respect the sanctity of human life when making decisions regarding use of force. ~~Sworn law enforcement~~ Peace 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 ~~peace~~ 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 applies to all licensed peace officers and part-time peace officers engaged in the discharge of official duties. This policy is to be reviewed annually and any questions or concerns should be addressed with the immediate supervisor for clarification.

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

DEFINITIONS

Authorized Device: a device an [officer] has received permission from the agency to carry and use in the discharge of that officer's **in the performance of their** duties, and for which the [officer] has:

- obtained training in the technical, mechanical and physical aspects of the device; and
- developed a knowledge and understanding of the law, rules and regulations regarding the use of such a device.

Bodily Harm: ~~Physical pain or injury.~~ **has the meaning given to it in MN Statute 609.02, subdivision 7.**

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.~~ **has the meaning given to it in MN Statute 609.02, subdivision 3(b).**

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.~~ **has the meaning given to it in MN Statute 609.066, subdivision 1.**

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.

Exigent Circumstances: **refers to circumstances that would lead a reasonable officer to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence to individuals or law enforcement's efforts.**

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.~~ **has the same meaning given to it in MN Statute 609.02, subdivision 8.**

Imminent: **means something is ready to take place or is impending. Imminent does not mean instantaneous.**

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

Less-lethal Force: refers to any use of force other than that which is considered deadly force that involves the physical effort to control, restrain, or overcome the resistance of another person.

Objectively Reasonable: means the use and level of force used by a peace officer, given the totality of the circumstances and information known by the officer at the time the force was used, is in alignment with what any other reasonable and prudent officer would do in the same or similar situation. Objective reasonableness is not evaluated by hindsight.

Totality of the Circumstances: refers to all the facts and circumstances known to a peace officer at the time, taken as a whole, when a use of force determination is made. This includes the conduct of the officer and subject leading up to any use of force.

PROCEDURE

General Provisions

De-escalation:

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. 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 **the** commission of a crime, an [officer] shall allow an individual time and opportunity to submit to verbal commands before force is used.

In general, when using force, [officers] should consider or ensure the following:

- Use of physical force should be discontinued when resistance ceases or when the incident is under control.
- 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.
- 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.

Use of Certain Types of Force

Except in cases where deadly force is authorized as articulated in MN Statute 609.066 to protect the peace officer or another from death or great bodily harm, [officers] are prohibited from using:

- using chokeholds,
- tying all of a person's limbs together behind their back to render the person immobile (i.e., a hog tie), or
- securing a person in any way that results in transporting the person face down in a vehicle.

~~Less than lethal measures must be considered by the officer prior to applying these measures.~~

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

LESS-LETHAL FORCE

~~Use of Other Than Deadly Force~~

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

- effecting a lawful arrest, ~~or~~
- ~~the execution of~~ executing a legal process, ~~or~~
- enforcing an order of the court, ~~or~~
- executing any other duty imposed upon the public peace officer by law, and/or
- ~~defense of~~ defending oneself or another.

DEADLY FORCE

~~Use of Deadly Force~~

[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:

- To protect the peace officer or another from death or great bodily harm, provided that the threat:
 - can be articulated with specificity,
 - is reasonably likely to occur absent action by the law enforcement officer, and

- must be addressed through the use of deadly force without unreasonable delay; or
- 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), **listed above** unless immediately apprehended.

[An officer] shall not use deadly force against a person based on the danger the person poses to **self themselves** 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).

~~Where~~ **When** feasible, the [officer] shall identify themselves as a law enforcement officer and warn of their intent to use deadly force.

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

DUTY TO INTERCEDE AND REPORT

~~Duty to Intercede~~

Regardless of tenure or rank, a peace officer ~~must~~ **shall** intercede when **1) he or she is present and observes** ~~ing~~ another peace officer ~~use~~ **ing** force in violation of section 609.066, subdivision 2, or otherwise beyond that which is objectively reasonable under the circumstances and **2) he or she is** physically or verbally able to ~~do so~~ **intercede**.

~~Duty to Report~~

An **peace** officer who observes another **peace** 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. **This report shall be made even if the peace officer observed using excessive force is not employed by this agency.**

TRAINING

All [officers] shall receive training, at least annually, on this agency's use of force policy and related legal updates. ~~In addition, training shall be provided on a regular and periodic basis and designed to~~ **Throughout the year, this agency will provide its [officers] de-escalation, simulation, and scenario-based trainings focused on use of force to aid [officers] in use of force situations and determinations.**

- ~~Provide techniques for the use of and reinforce the importance of de-escalation,~~

- b. ~~Simulate actual shooting situations and conditions; and~~
c. ~~Enhance officers' discretion and judgement in using other than deadly force in accordance with this policy.~~

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

Before carrying an authorized device, all [officers] shall receive training and instruction in the use of the device including training as it relates to ~~its use in deadly force and/or other than deadly~~ of force situations. Such training and instruction shall continue on an annual basis. [Officers] **shall only** ~~will~~ carry and use ~~only~~ authorized devices unless circumstances exist which pose an immediate threat to the safety of the public or the officer requiring the use of a device or object that has not been authorized to counter such a threat. With agency approval, [officers] may modify, alter, or cause to be altered an authorized device in their possession or control.

Recordkeeping Requirements

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

STATUTORY REFERENCES

- MN STATUTE 609.06 – Authorized Use of Force
- MN STATUTE 609.065 – Justifiable Taking of Life
- MN STATUTE 609.066 – Authorized Use of Force by Peace Officers
- MN STATUTE 626.5534 – Use of Force Reporting; Independent Investigations Required
- MN STATUTE 626.8452 – Deadly Force and Firearms Use; Policies and Instruction Required
- MN STATUTE 626.8475 – Duty to Intercede and Report
- ADMINISTRATIVE RULE 6700.1610 – Reporting Obligations and Cooperation
- ADMINISTRATIVE RULE 6700.1615 – Required Agency Policies

Revision approved by the POST Board on ____.