

# FARIBAULT COUNTY SHERIFF'S OFFICE

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## POLICIES MANUAL

# FARIBAULT COUNTY SHERIFF'S OFFICE

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# FARIBAULT COUNTY SHERIFF'S OFFICE

## 100 USE OF FORCE POLICY

Issued Date:	08/2020
Revised Date:	03/2023
Approved By:	Michael Gormley, Sheriff; Scott Adams, Chief Deputy

### PURPOSE:

It is the policy of the Faribault County Sheriff's Office to provide officers with guidelines for the use of force and deadly force in accordance with:

- [MN STAT 626.8452 DEADLY FORCE AND FIREARMS USE; POLICIES AND INSTRUCTION REQUIRED;](#)
- [MN STAT 626.8475 DUTY TO INTERCEDE AND REPORT;](#)
- [MN STAT 609.06 AUTHORIZED USE OF FORCE;](#)
- [MN STAT 609.065 JUSTIFIABLE TAKING OF LIFE;](#) and
- [MN STAT 609.066 AUTHORIZED USE OF FORCE BY PEACE OFFICERS.](#)

### POLICY:

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

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

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

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

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

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

Use of Deadly Force Procedure, paragraphs (g.1-2), are effective March 1, 2021 and thereafter.

### DEFINITIONS:

**Bodily Harm:** Physical pain or injury.

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**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.

**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.

**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.

**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.

**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.

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

- 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.

### **PROCEDURE:**

#### **General Provisions**

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

#### **Duty to Intercede**

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

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

### Duty to Report

An officer who observes another officer use force that exceeds the degree of force permitted by law has the duty to report the incident in writing within 24 hours to the chief law enforcement officer of the agency that employs the reporting officer.

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

### 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:

1. effecting a lawful arrest; or
2. the execution of legal process; or
3. enforcing an order of the court; or
4. executing any other duty imposed upon the public officer by law; or
5. defense of self or another.

### Use of Certain Types of Force

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

1. Chokeholds,
2. Tying all of a person's limbs together behind a person's back to render the person immobile, or;
3. Securing a person in any way that results in transporting the person face down in a vehicle.

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

### 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;

1. To protect the peace officer or another from death or great bodily harm, provided that the threat:
  - a. can be articulated with specificity;

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- b. is reasonably likely to occur absent action by the law enforcement officer; and
  - c. must be addressed through the use of deadly force without unreasonable delay; or
2. To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.

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

Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.

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

### 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

1. Provide techniques for the use of and reinforce the importance of de-escalation
2. Simulate actual shooting situations and conditions; and
3. Enhance officers' discretion and judgement in using other than deadly force in accordance with this policy.

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

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

Officers will carry 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.

**FARIBAUT COUNTY SHERIFF'S OFFICE**  
**101 CONDUCTED ENERGY WEAPONS (TASER) POLICY**

Issued Date:	11/2021
Revised Date:	03/2023
Approved By:	Michael Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

This policy provides guidelines for the issuance and use of the Conducted Energy Weapons (CEW).

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

**PROCEWURE:**

Issuance And Carrying CEWs

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

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

Deputies shall only use the CEW and cartridges that have been issued by the Office. Uniformed deputies who have been issued the CEW shall wear the device in an approved holster on their person. Non-uniformed deputies may secure the CEW on their person.

Members carrying the CEW should perform a spark test per Taser training.

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

- a) All CEWs shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- b) Whenever practicable, deputies should carry two or more cartridges on their person when carrying the CEW.
- c) Deputies shall be responsible for ensuring that their issued CEW is properly maintained and in good working order.
- d) Deputies should not hold both a firearm and the CEW at the same time.

Detention deputies/jailers who are not carrying firearms are not required to carry the CEW on the weak side.

Verbal And Visual Warnings

A verbal warning of the intended use of the CEW should precede its application unless it would otherwise endanger the safety of deputies or when it is not practicable due to the circumstances.

The purpose of the warning is to:

- a) Provide the individual with a reasonable opportunity to voluntarily comply.
- b) Provide other deputies and individuals with a warning that the CEW may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with a deputy's lawful orders and it appears both reasonable and feasible under the circumstances, the deputy may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device),



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or the laser in a further attempt to gain compliance prior to the application of the CEW. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

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

### Use Of The CEW

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

### *Application Of The CEW*

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

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

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

### *Special Deployment Considerations*

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

- a) Individuals who are known to be pregnant.
- b) Elderly individuals or obvious juveniles.
- c) Individuals with obviously low body mass.
- d) Individuals who are handcuffed or otherwise restrained.
- e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

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

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

### *Targeting Considerations*



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

### *Multiple Applications Of The CEW*

Deputies should apply the CEW for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the CEW against a single individual are generally not recommended and should be avoided unless the deputy reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications. If the first application of the CEW appears to be ineffective in gaining control of an individual, the deputy should consider certain factors before additional applications of the CEW, including:

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

Deputies should generally not intentionally apply more than one CEW at a time against a single subject.

### *Actions Following Deployments*

Deputies shall notify a supervisor of all CEW discharges. Confetti tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

### *Dangerous Animals*

The CEW may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective. 304.5.7 OFF-

### *Duty Considerations*

Deputies are not authorized to carry office CEWs while off-duty.

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

### Documentation

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

### *CEW Form*

Items that shall be included in the CEW report form are:

- a) The type and brand of CEW and cartridge and cartridge serial number.
- b) Date, time, and location of the incident.
- c) Whether any display, laser or arc deterred a subject and gained compliance.

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- d) The number of CEW activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- e) The range at which the CEW was used.
- f) The type of mode used (probe or drive-stun).
- g) Location of any probe impact.
- h) Location of contact in drive-stun mode.
- i) Description of where missed probes went.
- j) Whether medical care was provided to the subject.
- k) Whether the subject sustained any injuries.
- l) Whether any deputies sustained any injuries.

The Training Officer should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Training Officer should also conduct audits of data downloads and reconcile CEW report forms with recorded activations. CEW information and statistics, with identifying information removed, should periodically be made available to the public.

### *Reports*

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

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

### Medical Treatment

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove CEW probes from a person's body if the probes are in a soft tissue area. Deputies may remove probes if they are not in a soft tissue area of the body. Used CEW probes shall be treated as a sharp's biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

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

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

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

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

### Supervisor Responsibilities

A supervisor should review each incident where a person has been exposed to an activation of the CEW. The device's onboard memory should be downloaded through the data port by a supervisor or Taser Instructor and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.

### Training

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

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

A reassessment of a deputy's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training Officer. All training and proficiency for CEWs will be documented in the deputy's training file.

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

Deputies who do not carry CEWs should receive training that is sufficient to familiarize them with the device and with working with deputies who use the device.

The Training Officer is responsible for ensuring that all members who carry CEWs have received initial and annual proficiency training.

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

The Training Officer should ensure that all training includes:

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

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## 200 AVOIDING RACIAL PROFILING POLICY

Issued Date:	11/2015
Revised Date:	03/2023
Approved By:	Michael Gormley, Sheriff; Scott Adams, Chief Deputy

### **PURPOSE:**

It is the policy of the Faribault County Sheriff's Office to reaffirm our commitment to impartial policing and to reinforce procedures that serve to assure the public we are providing service and enforcing laws in a fair and equitable manner to all.

### **DEFINITIONS:**

**Racial profiling** has the meaning given to it in Minn. Stat. 626.8471, Sub. 2. Which states: "Racial profiling," means any action initiated by law enforcement that relies upon the race, ethnicity, or national origin of an individual rather than:

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

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

### **PROCEDURE:**

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.

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

1. Be respectful and professional;
2. Introduce or identify themselves to the citizen and state the reason for the contact as soon as practical unless providing this information will compromise officer or public safety;
3. Ensure the detention is no longer than necessary to take appropriate action for the known or suspected offense;
4. Attempt to answer any relevant questions the citizen may have regarding the citizen/officer contact including relevant referrals to other agencies when appropriate;

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5. Provide their last name or badge number when requested.
6. Explain and/or apologize if it is determined the reasonable suspicion was unfounded (e.g. after an investigatory stop).

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 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.

### Violations

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

**FARIBAULT COUNTY SHERIFF'S OFFICE**  
**300 CONFIDENTIAL INFORMANTS POLICY**

Issued Date:	04/2022
Revised Date:	04/2023
Approved By:	Michael Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

It is the policy of the Faribault County Sheriff's Office to establish procedures and protocols that take necessary precautions concerning the recruitment, control and use of confidential informants.

**DEFINITIONS:**

**Confidential Informant (CI):** A person who cooperates with a law enforcement agency confidentially in order to protect the person or the agency's intelligence gathering or investigative efforts and; seeks to avoid arrest or prosecution for a crime, mitigate punishment for a crime in which a sentence will be or has been imposed, or receive a monetary or other benefit; and is able, by reason of the person's familiarity or close association with suspected criminals, to:

- A. make a controlled buy or controlled sale of contraband, controlled substance, or other items that are material to a criminal investigation;
- B. supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or
- C. otherwise provide information important to ongoing criminal intelligence gathering or criminal investigative efforts.

**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.

**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.

**Mental Harm:** means a psychological injury that is not necessarily permanent but results in visibly demonstrable manifestations of a disorder of thought or mood that impairs a person's judgment or behavior.

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

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

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

**Compelling Public Interest:** means, for purposes of this policy, situations in which failure to act would result or likely result in loss of life, serious injury, or have some serious negative consequence for persons, property, or public safety and therefore demand action.

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

### PROCEDURE:

#### A. Initial Suitability Determination

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

1. An officer requesting use of an individual as a CI must complete an Initial Suitability Report. The report must be submitted to the appropriate individual or entity, as determined by the agency chief executive, to review for potential selection as a CI. The report must include sufficient detail regarding the risks and benefits of using the individual so that a sound determination can be made. The following information must be addressed in the report, where applicable:
  - a. Age, sex, and residence
  - b. Employment status or occupation
  - c. Affiliation with legitimate businesses and illegal or suspicious enterprises
  - d. Extent to which potential information, associations, or other assistance could benefit a present or future investigation
  - e. Relationship with the target of an investigation
  - f. Motivation in providing information or assistance
  - g. Risk of adversely affecting an existing or future investigation
  - h. Extent to which provided information can be corroborated
  - i. Prior record as a witness
  - j. Criminal history, to include whether he or she is the subject of a pending investigation, is under arrest, or has been charged with a crime
  - k. Risk to the public or as a flight risk
  - l. Consultation with the individual's probation, parole, or supervised release agent, if any
  - m. Consideration and documentation of the individual's diagnosis of mental illness, substance use disorder, traumatic brain injury, or disability; and consideration and documentation of the individual's history of mental illness, substance use disorder, traumatic brain injury or disability
  - n. Relationship to anyone in law enforcement
  - o. Risk of physical harm to the potential CI or their immediate family or relatives for cooperating with law enforcement
  - p. Prior or current service as a CI with this or another law enforcement organization
2. Prior to an individual's use as a CI, a supervisor or other designated authority must review the Initial Suitability Report and determine if the individual is authorized to serve as a CI.
3. Any prospective or current CI must be excluded from engaging in a controlled buy or sale of a controlled substance if the prospective or current CI:
  - a. is receiving in-patient treatment or partial-hospitalization treatment administered by a licensed service provider for a substance use disorder or mental illness; or
  - b. is participating in a treatment-based drug court program or treatment court; except that
  - c. the prospective or current CI may provide confidential information while receiving treatment, participating in a treatment-based drug court program or treatment court.



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4. Documentation and special consideration must be made of the risks involved in engaging a prospective or current CI in the controlled buy or sale of a controlled substance if the individual is known, or has reported, to have experienced a drug overdose in the previous 12 months.
5. Any prospective or current CI who is known to abuse substances, or is at risk for abusing substances, should be provided referral to prevention or treatment services.
6. Any prospective or current CI that has a physical or mental illness that impairs the ability of the individual to understand instructions and make informed decisions should be referred to a mental health professional or other appropriate medical professional, or a case manager/social worker from the county social services agency, or other substance abuse and mental health services.
7. Each CI's suitability must be reviewed every 6 months, at a minimum, during which time the CI's overseeing agent must submit a Continuing Suitability Report addressing the foregoing issues in A.1.a-p, and A.3-6, where applicable. An initial suitability determination must be conducted on a reactivated CI regardless of the length of inactivity.
8. Any information that may negatively affect a CI's suitability during the course of their use must be documented in the CI's file and forwarded to the appropriate authorized personnel as soon as possible.
9. Supervisors must review informant files regularly with the overseeing agent and must attend debriefings of CIs periodically as part of the informant management process. If a CI is active for more than 12 months, a supervisory meeting with the CI must be conducted without the overseeing agent.
10. CI contracts must be terminated, and the CI file placed in inactive status when the CI has not been utilized for 6 months or more.

### **B. Exigent Confidential Informants**

1. Certain circumstance arise when an individual who has been arrested is willing to immediately cooperate and perform investigative activities under the direction of an overseeing agent. In these circumstances, the initial suitability determination can be deferred and an individual may be utilized as a CI for a period not to exceed 12 hours from the time of arrest if:
  - a. The individual is not excluded from utilization as a CI under A(3)(a-c) of this policy; and
  - b. There is compelling public interest or exigent circumstances exist that demand immediate utilization of the individual as a CI and any delay would significantly and negatively affect any investigation; and
  - c. A supervisor has reviewed and approved the individual for utilization as a CI under these circumstances.
2. Upon the conclusion of the 12-hour window, or at any time before, an initial suitability determination must be conducted before the individual engages in any further CI activities.

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

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

1. Juveniles

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

### D. General Guidelines for Overseeing CIs

General guidelines for overseeing CIs are as follows:

1. CIs must be treated as assets of the agency, not the individual overseeing agent.
2. No promises or guarantees of preferential treatment within the criminal justice system will be made to any informant without prior approval from the prosecuting authority.
3. CIs must not be used without authorization of the agency through procedures identified in this policy.
4. CIs must not be used to gather information purely of a political nature or for other information-gathering efforts that are not connected with a criminal investigation.
5. Under no circumstances must an informant be allowed access to restricted areas or investigators' work areas within a law enforcement agency.
6. All CIs must sign and abide by the provisions of the agency's CI agreement.
7. Any physical or mental illness that impairs the CI's ability to knowingly contract or otherwise protect the informant's self-interest must be taken into consideration before the CI signs the agreement.
8. The CI's overseeing agent must discuss each of the provisions of the agreement with the CI, with particular emphasis on the following:
  - a. CIs may voluntarily initiate deactivation, whereupon the protocols outlined in section E of this policy must be followed.
  - b. CIs are not law enforcement officers. They have no arrest powers, are not permitted to conduct searches and seizures, and may not carry a weapon while performing activities as a CI.
  - c. CIs found engaging in any illegal activity beyond what is authorized by the agency and conducted while under the supervision of an overseeing agent, will be subject to prosecution.
  - d. CIs are prohibited from engaging in actions or activities that could be deemed entrapment. The meaning of the term and implications of such actions must be explained to each CI.
  - e. CIs are prohibited from engaging in self-initiated information or intelligence gathering without agency direction and approval. The CI must not take any actions in furtherance of an investigation without receiving specific instruction(s) from the overseeing agent or agency.
  - f. Every reasonable effort will be taken to ensure the confidentiality of the CI but, upon judicial order, he or she may be required to testify in open court.
  - g. CIs may be directed to wear a listening and recording device.
  - h. CIs must be required to submit to a search before and after a controlled purchase.
  - i. CIs who participate in unplanned or unanticipated activities or meet with a subject(s) under investigation in a location outside of the jurisdictional boundary of

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the handling agency must promptly report that activity or meeting to their overseeing agents.

9. CI activity outside jurisdictional boundaries:
  - a. Investigators handling CIs who engage in operational activity in locations outside the jurisdictional boundaries of the agency must coordinate with counterparts in law enforcement agencies that have jurisdiction in that location where the CI will operate before any activity occurs, or in a timely manner after unanticipated activity occurs and is brought to the attention of the overseeing agent.
  - b. Any decision to defer or delay notice to or coordinate with an outside agency having jurisdiction in the area where a CI has or may operate must be documented, reviewed, and approved by the agency's chief executive or their designee.
10. Officers must take the utmost care to avoid conveying any confidential investigative information to a CI, such as the identity of other CIs, surveillance activities, or search warrants, other than what is necessary and appropriate for operational purposes.
11. No member of this agency must knowingly maintain a social relationship with a CI, or otherwise become personally involved with a CI beyond actions required in the performance of duty.
12. Members of this agency must not solicit, accept gratuities from, or engage in any private business transaction with a CI.
13. Meetings with a CI must be conducted in private with another officer or agent present and with at least one officer or agent of the same sex, except when not practical. The meeting location should minimize the potential for discovery of the informant's cooperation and provide sufficient space to complete necessary administrative duties. The meetings must be documented and subsequently entered into the individual's CI file.
14. Overseeing agents must develop and follow a communications strategy and plan with the CI that minimizes, to the greatest extent possible, the risk of discovery or compromise of the relationship between the agency and the CI. This plan should also aim to prevent the detection, compromise, or interception of communications between the overseeing agent and the CI.
15. Procedures must be instituted to assist CIs with concealing their identity and maintaining their safety. Care should be given not to expose CIs to unnecessary safety risks.
16. Preceding or following every buy or sale of controlled substances, overseeing agents must screen the CI for any personal safety or mental health concerns, risk of substance abuse, and/or potential relapse in any substance abuse recovery.
  - a. At the request of the CI, or if the overseeing agent deems it necessary, reasonable efforts should be taken to provide the CI with referral to substance abuse and/or mental health services.
  - b. Overseeing agents must document:
    - i. the screening,
    - ii. any referral to services provided to, or requested by, the CI, and
    - iii. any refusal by the CI to participate in the screening and/or any refusal by the CI to accept referral to services. Reasons for the CI's refusal must be documented, where applicable.
  - c. No part of this subsection supersedes MN Stat. 253B.05, sub.2.
17. Reasonable protective measures must be provided for a CI when any member of this agency knows or should have known of a risk or threat of harm to a person serving as a CI and the risk or threat of harm is a result of the informant's service to this agency.

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

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

An informant file system must be established as follows:

1. The agency chief executive must designate a file supervisor who must be responsible for developing and maintaining master CI files and an indexing system.
2. A file must be maintained on each CI deemed suitable by the agency.
3. An additional Unreliable Informant File must be established for CIs deemed unsuitable during initial suitability determinations or at a later time.
4. Each file must be coded with an assigned informant control number for identification within the indexing system and must include the following information, where applicable:
  - a. Name, aliases, and date of birth
  - b. Height, weight, hair color, eye color, race, sex, scars, tattoos, or other distinguishing features
  - c. Emergency contact information
  - d. Name of the officer initiating use of the informant and any subsequent overseeing agents
  - e. Photograph and criminal history record
  - f. Current home address and telephone number(s)
  - g. Residential addresses in the last five years
  - h. Current employer, position, address, and telephone number
  - i. Social media accounts
  - j. Marital status and number of children
  - k. Vehicles owned and their registration numbers
  - l. Places frequented
  - m. Gang affiliations or other organizational affiliations
  - n. Briefs of information provided by the CI and the CI's subsequent reliability
  - o. Special skills and hobbies
  - p. Special areas of criminal expertise or knowledge
  - q. A copy of the signed informant agreement
5. CI files must be maintained in a separate and secured area.

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6. The file supervisor must ensure that information concerning CIs is strictly controlled and distributed only to officers and other authorities who have a need and a right to such information.
7. CI File Review
  - a. Sworn personnel may review an individual's CI file only upon the approval of the agency's chief executive or their designee.
  - b. The requesting officer must submit a written request explaining the need for review. A copy of this request, with the officer's name, must be maintained in the individual's CI file.
  - c. Officers must not remove, copy, or disseminate information from the CI file.
  - d. CI files must be reviewed only in designated areas of the law enforcement facility and returned as soon as possible to their secure file location.
  - e. All disclosures or access to CI files must be recorded by the file supervisor, to include information such as the requesting officer or agency, the purpose of access or disclosure, the information conveyed, and the date and time of access or dissemination.
  - f. No portion of an individual's CI file must be entered into any other electronic or related database without controls sufficient to exclude access to all but authorized personnel with a need and a right to know.

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

A CI deactivation procedure must be established as follows:

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

### **G. Monetary Payments**

Monetary payments must be managed as follows:

1. All monetary compensation paid to CIs must be commensurate with the value of the information or assistance provided to the agency.
2. All CI payments must be approved in advance by the officer in charge of confidential funds.

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3. Officers must provide accounting of monies received and documentation for confidential funds expended. Any documentation of monies paid or received should not contain the true identity of the informant but should use the CI's control number.
4. Two officers must be present when making payments or providing funds to CIs.
5. The appropriate individual, as designated by the agency's chief executive, must ensure that the process for authorization, disbursement, and documentation of CI payments, as well as the accounting and reconciliation of confidential funds, is consistent with agency policy.
6. If a CI is authorized to work with another law enforcement or prosecutorial agency, financial payments must be coordinated between the agencies in a manner that is proportionate to the assistance rendered to each agency and consistent with provision F.1. of this policy.
7. Written records of receipts are retained, or justification for the exception is documented when a written receipt is not available.



**FARIBAULT COUNTY SHERIFF'S OFFICE**  
**400 CRIMINAL CONDUCT ON SCHOOL BUSES POLICY**

Issued Date:	01/2011
Revised Date:	04/2023
Approved By:	Michael Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

It is the policy of the Faribault County Sheriff's Office to respond to allegations of criminal conduct which occur within our jurisdiction on school buses. This agency shall work with and consult school officials, transportation personnel, parents, and students when respond to these incidents to protect student safety and deal appropriately with those who violate the law.

This policy recognizes that responding to reports of alleged criminal conduct on school buses within this jurisdiction is the responsibility of this agency in cooperation with any other law enforcement agency that has jurisdiction over the alleged offense. This policy is not intended to interfere with or replace school disciplinary policies that relate to student misconduct on school buses.

**PROCEDURE:**

This agency shall:

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



**FARIBAULT COUNTY SHERIFF'S OFFICE**  
**500 DOMESTIC ABUSE RESPONSE AND ARREST POLICY**

Issued Date:	04/2013
Revised Date:	04/2023
Approved By:	Michael Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

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

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

**DEFINITIONS:**

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

**Domestic Abuse** has the meaning given it in Minn. Stat. 518B.01, subd. 2(a), which states: "Domestic abuse" means the following, if committed against a family or household member by a family or household member:

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

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

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

**Family or Household Member** has the meaning given it in Minn. Stat. 518B.01, subd. 2(b)(1)-(7): spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they have been married or have lived together at any time, and persons involved in a significant romantic or sexual relationship. It also includes a man and a woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.

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

**Qualified domestic violence-related offense (QDVRO)** has the meaning given it in Minn. Stat. 609.02, subd. 16 and includes a violation of or an attempt to violate a domestic abuse order for protection; first or second degree murder; first through fifth degree assault; domestic assault; female genital mutilation; domestic assault by strangulation; first through fourth degree criminal sexual conduct; malicious punishment of a child; threats of violence; violation of harassment restraining

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order; stalking; interference with an emergency call; nonconsensual dissemination of private sexual images; and violation of domestic abuse no contact order; and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

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

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

**Domestic Abuse No Contact Order (DANCO)** is an order issued under Minn. Stat. 629.75 by a judge in criminal court limiting contact between a defendant and a victim of domestic abuse. DANCOs may be issued as pretrial condition of release and/or as a probationary condition of sentence.

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

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

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

### **PROCEDURE:**

#### **Dispatching The Calls**

*Receiving the Domestic Call:* Upon receiving a domestic call, the dispatcher will assign domestic calls a high priority and should assign at least two officers to the call. If only one officer is available, all reasonable attempts should be made to obtain another officer to assist the officer who was initially dispatched.

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

- the nature of the incident,

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

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

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

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

### **Responding To The Calls**

*Driving to the Scene:* The peace officers should respond directly and without unreasonable delay to the scene.

*Initial Contact with Occupants:* Upon arriving at the scene of a domestic call, the responding officers should identify themselves as peace officers; explain their presence, and request entry into the home. The officers should ask to see the person who is the alleged victim. The officers should separate parties prior to taking statements. If the person who called the law enforcement agency is someone other than the subject of the call, the officer should not reveal the caller's name. The officer should ensure all of the occupants are safe.

### *Entry*

- **Refused Entry** – If refused entry, the officers should be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused the officers should request the dispatcher to contact the caller.
- **Forced Entry** – If access is still refused and the officers have reason to believe that someone is in imminent danger the officers are permitted to force entry.

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- Search Warrant Entry – If the officers are refused entry and have no legal grounds for forced entry and have reasonable grounds to believe a crime has been committed, the officers should contact the appropriate authority to obtain a search warrant.

### *First Aid:*

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

### **Arrest Decisions**

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

- photos of the scene,
- condition of clothing,
- property damage,
- evidence of physical injury including strangulation,
- excited utterances of the victim and the suspect,
- demeanor of the victim and the suspect,
- medical records including the victim's statements to paramedics, nurses and doctors,
- recorded interviews of witnesses including children who may have been present,
- evidence of any prior domestic abuse – related convictions including dates, and
- any existing OFPs, HROs or DANCOs.

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

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

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

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*Predominant Aggressor and Dual Arrests:* The agency shall discourage dual arrest<sup>1</sup>. Where there are allegations that each party assaulted the other, the peace officer shall determine whether there is sufficient evidence to conclude that one of the parties is the predominant aggressor based on the following criteria and the officer's judgment:

- comparative extent of any injuries inflicted,
- fear of physical injury because of past or present threats,
- actions taken in self-defense or to protect oneself,
- the history of domestic abuse perpetrated by one party against the other, or
- the existence or previous existence of an order for protection.

*Victim Request Not to Prosecute:* If the officer finds probable cause to believe a domestic abuse offense has been committed and intends to arrest but the victim requests no arrest or prosecution, the officer should inform the victim that the decision to arrest is the officer's and the decision to prosecute lies with the prosecutor.

### **Authority And Types Of Arrest**

1. Warrantless Probable Cause Arrest for Fifth Degree Assault or Domestic Assault: Although the general rule is that officers may not make probable cause arrests for misdemeanors unless the offense occurs in their presence (or a citizen who saw the crime requests an arrest) domestic assault is an exception.

A peace officer may arrest a person anywhere without a warrant, including at the person's residence, if the peace officer has probable cause to believe that the person has, within the preceding 72 hours, assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm any person covered by the "family or household member" definition, even if the assault did not take place in the presence of the peace officer (Minn. Stat. 629.341).

A peace officer acting in good faith and exercising due care in making an arrest pursuant to this statute is immune from civil liability that might result from the officer's action.

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

2. Level of Arrest for Fifth Degree Assault and Domestic Assault: Misdemeanor, Gross Misdemeanor and Felony: Assault in the Fifth Degree and Domestic Assault are deemed misdemeanor offenses. However, changes in the statutes have greatly increased the potential for arrests for these crimes at the gross misdemeanor and felony level.
  - a. *Gross Misdemeanors:* Minn. Stat. 609.224, subd. 2(a), Assault in the Fifth Degree, provides for an enhancement to a gross misdemeanor violation when the offense is against the same victim within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency in Minnesota, or any similar law of another state.

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

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

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

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

Domestic assault against a family or household member is also enhanceable under the same circumstances except that the prior convictions may be against any family or household member. According to Minn. Stat. 609.2247, subd. 2., whoever assaults a family or household member by strangulation is guilty of a felony.

3. *Stalking* The acts which constitute stalking according to Minn. Stat. 609.749 include several which are frequently applicable to domestic abuse situations even when no actual assault occurred.
- a. *Gross Misdemeanors*: A person who stalks another by committing any of the following acts is guilty of a gross misdemeanor:
- i. directly or indirectly, or through third parties, manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;
  - ii. follows, monitors, or pursues another, whether in person or through any available technological or other means;
  - iii. returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;
  - iv. repeatedly makes telephone calls, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;
  - v. makes or causes the telephone of another to repeatedly or continuously ring;
  - vi. repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, through assistance devices for the visually or hearing impaired, or any communication made through any available technologies or other objects; or
  - vii. knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties.

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

- b. *Felony/Felony Enhancements*: A person who commits any offense described in 3.a) (see above) against a victim under the age of 18, if the actor is more than 36 months older than the



## FARIBAUT COUNTY SHERIFF'S OFFICE

victim, and the act is committed with sexual or aggressive intent, is guilty of a felony.

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

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

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

- c. *Venue (Minn. Stat. 609.749, subp. 1b.):* If a suspect commits acts of stalking in different counties, the acts may be consolidated and prosecuted in any county in which one of the acts was committed. If the conduct that constitutes stalking is done through use of a wireless or electronic communication device, the conduct can be prosecuted in the county where either the suspect or victim resides.
4. *Probable Cause Warrantless Arrest:* The domestic abuse arrest statute (Minn. Stat. 629.72) provides an officer may not issue a citation in lieu of arrest in harassment/stalking, domestic abuse, violation of an order for protection, or violation of a domestic abuse no contact order cases. According to Minn. Stat. 629.34, subd.1(c)(5) an officer may also make a warrantless probable cause arrest even if the offense did not occur in the officer's presence if the officer has reasonable cause to believe the offense was a gross misdemeanor or felony (no 72 hour restriction).
5. *Probable Cause Felony Arrests for Other Crimes:* At a domestic call peace officers shall consider whether other felonies have been committed including but not limited to, burglary, felony assault, threats of violence, kidnapping, false imprisonment, and witness tampering.
6. *Violation of Court Orders:* The peace officer shall verify whether any of the following orders exist before or during an arrest. The peace officer or someone acting at the officer's direction may make this verification. Methods of verification include personally seeing a copy of the order or obtaining verification from the court or law enforcement agency that has the actual order. The police report shall include identifying information of the specific court order violated, including county of origin, the file number, and the provision allegedly violated.
  - a. *Order for Protection (OFP):* A peace officer shall arrest and take into custody without a warrant a person who the peace officer has probable cause to believe has violated any condition of an OFP granted pursuant to Minn. Stat. 518B.01, subs. 6, 7, and 9. Such an arrest shall be



## FARIBAULT COUNTY SHERIFF'S OFFICE

made even if the violation of the order did not take place in the presence of the peace officer, if the officer can verify the existence of the order.

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

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

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

- b. *Harassment Restraining Order (HRO):* A peace officer shall arrest and take into custody a person who the peace officer has probable cause to believe has violated a harassment restraining order pursuant to Minn. Stat. 609.748, subds. 4 and 5, if the officer can verify the existence of the order.

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

- i. within 10 years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency;
  - ii. because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability (as defined in section 363A.03), age, or national origin;
  - iii. by falsely impersonating another;
  - iv. while possessing a dangerous weapon;
  - v. with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.414, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or
  - vi. against a victim under the age of 18, if the respondent is more than 36 months older than the victim.
- c. *Domestic Abuse No Contact Order (DANCO)* (Minn. Stat. 629.75): A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated a DANCO, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer.

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

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

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

### **Assistance, Staying At The Scene, Crime Victim Rights, And Services**

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

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

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

*Notice of Crime Victims Rights:* The peace officer shall give the victim of a domestic call a copy of the agency's crime victim notification form.

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

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

### **Children**

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

### **Reports And Forms**

## **FARIBAUT COUNTY SHERIFF'S OFFICE**

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

- detailed statements from the victim, suspect and witnesses;
- description of injuries;
- information about past abuse;
- description of the scene;
- predominant aggressor;
- existence of language barriers;
- presence of elderly victims or those with disabilities; and
- documentation of evidence.

### **Further Investigation**

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

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

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**APPENDIX A: ENHANCEMENTS TABLE**

Conviction means a plea of guilty or verdict of guilty accepted by the court (Minn. Stat. § 609.02.5).

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

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

Offense	Victim of Offense	Time Limit	Prior Conviction	Offense Level
Assault 5	Same Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of 1 <sup>st</sup> of 2 or more convictions	QDVRO	Felony
	Any Victim	w/in 3 years of conviction	QDVRO	Gross Misdemeanor
		w/in 3 years of 1 <sup>st</sup> of 2 or more convictions	QDVRO	Felony
Domestic Assault	Family/Household Member (as defined in Minn. Stat. 518B.01, subd. 2.)	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of 1 <sup>st</sup> of 2 or more convictions for Domestic Assault or Assault 5	QDVRO	Felony
Malicious Punishment	Any Victim	w/in 5 years of discharge	Assault 1-5, Domestic Assault, Malicious Punishment, Criminal Sexual Conduct 1-4, or Terroristic Threats	Felony
Violation of Order for Protection or Harassment Restraining Order	Any Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of 1 <sup>st</sup> of 2 or more convictions	QDVRO	Felony
Stalking	Any Victim	w/in 10 years of conviction	QDVRO	Felony

## FARIBAULT COUNTY SHERIFF'S OFFICE

Interference w/ Privacy	Any Victim	None	Interference w/ Privacy or Stalking	Gross Misdemeanor
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<b>Example of Enhancement Reachback:</b>	
Arrest for Assault 5 & Malicious Punishment	1/1/2013
Plea (Accepted) to Assault 5 & Malicious Punishment (Conviction)	6/1/2013
Sentence of 2 years of probation	8/1/2013
Expiration of reachback for <b>any victim</b> for Assault 5	6/1/2016
Discharge from sentence	8/1/2015
Expiration of reachback for <b>any victim</b> for Malicious Punishment	8/1/2020
Expiration of reachback for <b>same victim</b> for Assault 5	6/1/2023

**FARIBAUT COUNTY SHERIFF'S OFFICE**  
**600 EYEWITNESS IDENTIFICATION PROCEDURES POLICY**

Issued Date:	07/2020
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

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

It is the purpose of this policy to establish guidelines for eyewitness identification procedures involving show-ups, photo arrays, and line-ups. Erroneous eyewitness identifications have been cited as the factor most frequently associated with wrongful convictions. Therefore, in addition to eyewitness identification, all appropriate investigative steps and methods should be employed to uncover evidence that either supports or eliminates the suspect identification.

**DEFINITIONS:**

**Show-up:** The presentation of a suspect to an eyewitness within a short time frame following the commission of a crime to either confirm or eliminate him or her as a possible perpetrator. Show-ups, sometimes referred to as field identifications, are conducted in a contemporaneous time frame and proximity to the crime.

**Line-up:** The process of presenting live individuals to an eyewitness for the purpose of identifying or eliminating suspects.

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

**Administrator:** The law enforcement official conducting the identification procedure.

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

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

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

**Sequential:** Presentation of a series of photographs or individuals to a witness one at a time.

**Simultaneous:** Presentation of a series of photographs or individuals to a witness all at once.

**PROCEDURE:**

**Show-ups**



## FARIBAUT COUNTY SHERIFF'S OFFICE

The use of show-ups should be avoided whenever possible in preference to the use of a lineup or photo array procedure. However, when circumstances require the prompt presentation of a suspect to a witness, the following guidelines shall be followed to minimize potential suggestiveness and increase reliability.

- Document the witness's description of the perpetrator prior to conducting the show up.
- Conduct a show-up only when the suspect is detained within a reasonable time frame after the commission of the offense and within a close physical proximity to the location of the crime.
- Do not use a show-up procedure if probable cause to arrest the suspect has already been established.
- If possible, avoid conducting a show-up when the suspect is in a patrol car, handcuffed, or physically restrained by officers, unless safety concerns make this impractical.
- 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 show-up with more than one witness present at a time.
- Separate witnesses and do not allow communication between them before or after conducting a show-up.
- If one witness identifies the suspect, use a line-up or photo array for remaining witnesses.
- Do not present the same suspect to the same witness more than once.
- Do not require show-up 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 show-up 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 show-up, the officers present, the result of the procedure, and any other relevant information.

### **Line-up and Photo Array Procedures**

#### Basic Procedures for Conducting a Line-up or Photo Array

- a. Line-ups will not typically be utilized for investigations, unless conducting a photo array is not possible.
- b. Whenever possible, a blind presentation shall be utilized. In cases where a blind presentation is not feasible for a photo array, a blinded presentation should be used. Live line-ups must be conducted using a blind presentation.
- c. The line-up or photo array should consist of a minimum of six individuals or photographs. Use a minimum of five fillers and only one suspect.
- d. Fillers should be reasonably similar in age, height, weight, and general appearance and be of the same sex and race, in accordance with the witness's description of the offender.
- e. Avoid the use of fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
- f. Create a consistent appearance between the suspect and the fillers with respect to any unique or unusual feature (e.g., scars, tattoos, facial hair) used to describe the perpetrator by artificially adding or concealing that feature on the fillers.

## FARIBAUT COUNTY SHERIFF'S OFFICE

- g. If there is more than one suspect, include only one in each line-up or photo array.
- h. During a blind presentation, no one who is aware of the suspect's identity should be present during the administration of the photo array. However, during a line-up, the suspect's attorney should be present.
- i. Place suspects in different positions in each line-up or photo array, both across cases and with multiple witnesses in the same case.
- j. Witnesses should not be permitted to see or be shown any photos of the suspect prior to the line-up or photo array.
- k. The witness shall be given a copy of the following instructions prior to viewing the line-up or photo array and the administrator shall read the instructions aloud before the identification procedure. See *Appendix A* for instructions.
- l. The line-up or photo array should be shown to only one witness at a time; officers should separate witnesses so they will not be aware of the responses of other witnesses.
- m. Multiple identification procedures should not be conducted in which the same witness views the same suspect more than once.
- n. Officers should scrupulously avoid the use of statements, cues, casual comments, or providing unnecessary or irrelevant information that in any manner may influence the witnesses' decision-making process or perception.
- o. Following an identification, the administrator shall ask the witness to provide a confidence statement and document the witness's response.
- p. The administrator shall ask the witness to complete and sign an Eyewitness Identification Procedure Form.
- q. Line-up and photo array procedures should be video or audio recorded whenever possible. If a procedure is not recorded, a written record shall be created and the reason for not recording shall be documented. In the case of line-ups that are not recorded, agents shall take and preserve a still photograph of each individual in the line-up.

### **Photographic Arrays**

#### Creating a Photo Array

- Use contemporary photos.
- Do not mix color and black and white photos.
- 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.
- Fillers should not be reused in arrays for different suspects shown to the same witness.

#### Conducting the Photo Array

- The photo array should be preserved, together with full information about the identification process as part of the case file and documented in a report.

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- If a blind administrator is not available, 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 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.

### Line-ups

#### Conducting the Line-up

- Live line-ups shall be conducted using a blind administrator.
- Ensure that all persons in the line-up are numbered consecutively and are referred to only by number.
- The primary investigating officer is responsible for the following:
  - 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.
  - 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.

**FARIBAULT COUNTY SHERIFF'S OFFICE**  
**APPENDIX A: LINE UP / PHOTO ARRAY INSTRUCTIONS**

**Officer Instructions to Witness:**

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

**FARIBAULT COUNTY SHERIFF'S OFFICE**  
**700 SEXUAL ASSAULT INVESTIGATION POLICY**

Issued Date:	03/2021
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

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

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

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

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

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

**DEFINITIONS:**

**Consent:** As defined by Minn. Stat. 609.341, which states:

- 1) Words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor. Consent does not mean the existence of a prior or current social relationship between the actor and the complainant or that the complainant failed to resist a particular sexual act.
- 2) A person who is mentally incapacitated or physically helpless as defined by Minnesota Statute 609.341 cannot consent to a sexual act.
- 3) Corroboration of the victim's testimony is not required to show lack of consent.

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

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

**Sexual Assault:** A person who engages in sexual contact or penetration with another person in a criminal manner as identified in MN Statute 609.342 to 609.3451.

## FARIBAULT COUNTY SHERIFF'S OFFICE

**Family and Household Member:** As defined in Minn. Stat. 518.B.01 Subd.2.b. to include:

- 1) spouses or former spouses;
- 2) parents and children;
- 3) persons related by blood;
- 4) persons who are presently residing together or who have resided together in the past;
- 5) persons who have a child in common regardless of whether they have been married or have lived together at any time;
- 6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and
- 7) persons involved in a significant romantic or sexual relationship

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

**Victim Advocate:** A Sexual Assault Counselor defined by Minn. Stat. 595.02, subd. 1(k) and/or Domestic Abuse Advocate as defined by Minn. Stat. 595.02, subd. 1(1) who provide confidential advocacy services to victims of sexual assault and domestic abuse. Victim advocates as defined provide coverage in all counties in Minnesota. Minnesota Office of Justice Programs (MN OJP) can assist departments in locating their local victim advocacy agency for the purposes outlined in this policy.

**Victim Centered:** A victim-centered approach prioritizes the safety, privacy and well-being of the victim and aims to create a supportive environment in which the victim's rights are respected and in which they are treated with dignity and respect. This approach acknowledges and respects a victims' input into the criminal justice response and recognizes victims are not responsible for the crimes committed against them.

**Vulnerable Adult:** any person 18 years of age or older who:

- 1) is a resident inpatient of a facility as defined in Minn. Stat. 626.5572. Subd. 6;
- 2) receives services at or from a facility required to be licensed to serve adults under sections [245A.01](#) to [245A.15](#), except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);
- 3) receives services from a home care provider required to be licensed under sections [144A.43](#) to [144A.482](#); or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections [256B.0625, subdivision 19a](#), [256B.0651](#) to [256B.0654](#), and [256B.0659](#); or
- 4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
  - i. that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and
  - ii. because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.



# FARIBAULT COUNTY SHERIFF'S OFFICE

## 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.

### 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.

### Victim Interviews

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

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

- Offer to have a confidential victim advocate present (if possible) if the victim would benefit from additional support during the process
- Whenever possible, conduct victim interviews in person
- Make an effort to conduct the interview in a welcoming environment
- Let the victim share the details at their own pace



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- Recognize victims of trauma may have difficulty remembering incidents in a linear fashion and may remember details in days and weeks following the assault
- After the initial interview, consider reaching out to the victim within a few days, after at least one sleep cycle to ask if they remember any additional details.
- Depending on the victim, additional interviews might be needed to gather additional information. Offer support from a victim advocate to the victim to help facilitate engagement with the investigative process and healing.
- Some victims do remember details vividly and might want to be interviewed immediately.
- During initial and subsequent victim interviews, officers should note the following information as victims share it, recognizing that a victim may not be able to recall all the details of the assault during a particular interview.
  - 1) Whether the suspect was known to the victim
  - 2) How long the victim knew the suspect
  - 3) The circumstances of their meeting and if there is any indication of the use of drugs or alcohol to facilitate the sexual assault
  - 4) The extent of their previous or current relationship
  - 5) Any behavioral changes that led the situation from one based on consent to one of submission, coercion, fear, or force
  - 6) Specific actions, statements, and/or thoughts of both victim and suspect immediately prior, during, and after assault
  - 7) Relevant communication through social media, email, text messages, or any other forms of communication

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

#### *Minors and Vulnerable Adults*

This agency recognizes that certain victims, due to their age or a physical, mental, or emotional distress, are better served by utilizing interview techniques and strategies that eliminate the duplication of interviews and use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. Members of this agency will be alert for victims who would be best served by the use of these specialized interview techniques.

Officers, in making this determination, should consider the victim's age, level of maturity, communication skills, intellectual capacity, emotional state, and any other observable factors that would indicate specialized interview techniques would be appropriate for a particular victim. When an officer determines that a victim requires the use of these specialized interview techniques, the officer should follow the guidance below.

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

## FARIBAUT COUNTY SHERIFF'S OFFICE

witnesses, unless those individuals are believed to be the perpetrators.

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

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

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

### *Victims of Domestic Abuse*

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

### **Protecting Victim Rights**

- 1) Confidentiality: Officers should explain to victims the limitations of confidentiality in a criminal investigation and that the victim's identifying information is not accessible to the public, as specified in Minn. Stat. section 13.82, subd. 17(b)
- 2) Crime Victim Rights: Officers must provide the following information to the victim:
  - a) Crime victim rights and resource information required to be provided to all victims as specified by Minn. Stat. section 611A.02, subd. 2(b)
  - b) If the suspect is a family or household member to the victim, crime victim rights and resource information required to be provided to domestic abuse victims, as specified by Minn. Stat. section 629.341, subd. 3.
  - c) The victim's right to be informed of the status of a sexual assault examination kit upon request as provided for under Minn. Stat. section 611A.27, subd. 1.
  - d) Pursuant to Minn. Stat. 611A.26, subd. 1, no law enforcement agency or prosecutor shall require that a complainant of a criminal sexual conduct or sex trafficking offense submit to a polygraph examination as part of or a condition to proceeding with the investigation, charging or prosecution of such offense.

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- 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.

### **Evidence Collection**

#### *Considerations for Evidence Collection*

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

### **Sexual Assault Medical Forensic Examinations**

- 1) Prior to the sexual assault medical forensic examination the investigating officer should do the following:
  - a) Ensure the victim understands the purpose of the sexual assault medical forensic exam and its importance to both their general health and wellness and to the investigation. Offer assurance to the victim that they will not incur any out-of-pocket expenses for forensic medical exams and provide information about evidence collection, storage and preservation in sexual assault cases.
  - b) Provide the victim with general information about the procedure, and encourage them to seek further detail and guidance from the forensic examiner, health care professional, or a victim advocate. Officers and investigators cannot deny a victim the opportunity to have an exam.
  - c) Officers should be aware and if necessary, relay to victims who do not want to undergo an exam that there might be additional treatments or medications they are entitled to even if they do not want to have an exam done or have evidence collected. Victims can seek that information from a health care provider or a victim advocate. If possible, transport or arrange transportation for the victim to the designated medical facility.
  - d) Ask the victim for a signed release for access to medical records from the exam.
- 2) Officers should not be present during any part of the exam, including during the medical history.
- 3) Following the exam, evidence collected during the exam shall be handled according to the requirements of agency policy and Minnesota Statute 299C.106.

### **Contacting and Interviewing Suspects**

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

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

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

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

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

### **Role of the Supervisor**

Supervisors may do the following:

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

### **Case Review/Case Summary**

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

## FARIBAULT COUNTY SHERIFF'S OFFICE

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

# FARIBAULT COUNTY SHERIFF'S OFFICE

## 800 PURSUIT POLICY

Issued Date:	01/2011
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

### PURPOSE:

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

### DEFINITIONS:

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

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

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

1. a physical barrier, or
2. a clearly indicated dividing section constructed so as to impede vehicular traffic.

**Channeling:** To direct vehicular traffic into a progressively narrowing passageway or lane location on the roadway.

**Compelling Path:** The use of channeling technique with a modified roadblock located at its narrowed end. The compelling path differs from a termination roadblock in that the driver or any vehicle traveling the path has an exit option at the narrowed end.

### PROCEDURE:

#### Pursuit Considerations

1. Pursuit is justified when:
  - a. a vehicle operator fails to stop after being given a visual or audible signal to stop by a peace officer; and
  - b. there is reasonable expectation of a successful apprehension of the suspect.
2. Other factors to be considered:
  - the initial decision to engage in a pursuit shall rest primarily with the officer who has initiated the vehicular stop, after considering the elements of this policy.
  - these elements shall include, but are not limited to: the crime for which the suspect is wanted (the need to apprehend immediately), and the risk to the community created by the pursuit (traffic, area of pursuit, environmental factors, and weather conditions).
  - the officer must continually consider the risks created by the pursuit, as those risks may change during a pursuit.



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- terminating a pursuit shall be considered a decision made in the interest of public safety.
  - the officer's decision to continue a pursuit may be overridden by a supervisor at any time.
3. Standards applied to the evaluation of a pursuit, as well as the decision to continue a pursuit shall include the following considerations:
    - is the need to immediately apprehend the suspect more important than the risk created by the pursuit.
    - do the dangers created by the pursuit exceed the danger posed by allowing the perpetrator to escape.

### **Procedures & Tactics for an Officer Engaging in a Pursuit**

1. Emergency vehicles shall be driven in a safe manner and with due regard for public safety.
2. Emergency vehicles operating in emergency mode are permitted to violate certain traffic regulations when necessary, as long as the operator continues to exercise due care in vehicle operation.
3. The pursuing vehicle shall be known as the primary unit, which will be the unit closest to the fleeing vehicle and the secondary unit, which shall remain at a safe distance behind the primary unit but close enough to provide support and communicate with dispatch. Backup units as needed shall operate at a safe distance to provide support.

### **Responsibilities of the Primary Unit**

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

### **Supervision of Pursuit Activities**

1. Each agency shall outline their procedures regarding who has control over pursuit activities.
2. Procedures regarding control over pursuit activities should:
  - reference who should be notified a unit has become involved in a pursuit.
    - i. The Sheriff, Chief Deputy, and/or the sheriff's designee
  - reference who critical information necessary to evaluate the continuation of the pursuit should be directed to.
    - i. The Sheriff, Chief Deputy, and/or the sheriff's designee



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- ii. The deputy who initiated the pursuit
- indicate who has the authority to terminate any pursuit.
  - i. The Sheriff, Chief Deputy, and/or the sheriff's designee
  - ii. The deputy who initiated the pursuit (may be overridden by the Sheriff, Chief Deputy, and/or sheriff's designee at any time)
3. Options to keep in mind during a pursuit include, but are not limited to:
  - parallel pursuits.
  - channeling techniques.
  - creating a compelling path.
4. Post-pursuit chain of command notifications are required and should be identified in each agency's policy.
  - a. The Sheriff, Chief Deputy, and/or the sheriff's designee shall be notified of all pursuits

### **Dispatch Responsibilities**

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

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

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

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

### **Interjurisdictional Pursuit**

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

### **Air Support**

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

### **Pursuit Summary Report**

1. The primary officer and the supervisor shall file a pursuit summary report.

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2. To ensure compliance with MN STAT 626.5532, the chief law enforcement officer shall ensure the completion of the State pursuit report form and forward it to the Commissioner of Public Safety within 30 days following the incident.
3. As required in MN STAT 626.5532, the report must contain the following elements:
  - a. the reason(s) for, and the circumstances surrounding the incident;
  - b. the alleged offense;
  - c. the length of the pursuit including time and distance;
  - d. the outcome of the pursuit;
  - e. any injuries or property damage resulting from the incident; and
  - f. any pending criminal charges against the driver.

### **Evaluation and Critique**

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

**FARIBAUT COUNTY SHERIFF'S OFFICE**  
**801 ROADBLOCKS / TIRE DEFLATING DEVICES POLICY**

Issued Date:	11/2001
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

The purpose of this policy is to ensure the safe and proper use of a sheriff's vehicle or equipment during pursuit or other emergency situations where a Roadblock or the use of Tire Deflating Devices are required.

The tire deflating device may be used to assist in concluding pursuits. Deputies should use the device to stop a pursuit or emergency situation which is creating unnecessary risks or to stop a dangerous felon. Roadblock means an enforcement procedure designed for stopping or diverting traffic in instances of riots jail or prison escapes, or natural disasters and for apprehending motor vehicle drivers which are creating unnecessary risks to citizens and police officers.

**PROCEDURE:**

**Roadblocks:**

1. The decision to activate a roadblock should be based on the following:
  - a. Seriousness of the crime.
  - b. Sufficient information and description of wanted persons and vehicles.
  - c. The elapsed time between the criminal act and its discovery.
2. The roadblock may be activated for all felony crimes and any misdemeanor where the continued operation will obviously endanger the safety of the public.
3. The location of a roadblock should be based on making the best use of available staffing. The roadblock shall be established in such a location as to allow the fleeing suspect the opportunity to stop voluntarily at the roadblock. No route of escape should be overlooked. There is never any guarantee of safety when an automobile is stopped at a roadblock. The best place for a roadblock provides safety and convenience in stopping vehicles. Care in choosing the site can reduce any potential hazard.
4. Deputies should be deployed individually and not grouped. Grouping provides a single target for gunfire or an oncoming car. Officers should remain on the same side of the road so they won't get in the line of fire.
5. One-car roadblocks are most practical when used off the roadway. It allows the deputy to concentrate on the suspect vehicle and minimize their attention to traffic control.
  - a. The patrol unit should be parked at an angle.
  - b. All red lights on the patrol unit should be activated.
  - c. Fusees should be placed 300 feet in each direction and 10 feet to the rear of the unit if practical.
6. The two-car roadblock is most effective for felony apprehensions. The two-car roadblock restricts traffic, provides cover for the deputies and allows for immediate pursuit.
  - a. Patrol units should be parked at an angle facing in opposite directions.
  - b. Patrol units shall be parked far enough apart so that, if required, a vehicle could be driven in between them.

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- c. Fusees should be placed at 300 feet in each direction and 10 feet to the rear of the unit if practical.
7. The moving roadblock is not usually effective and is not recommended. It may be utilized only under exceptional circumstances. It should not be attempted by one Deputy because it places him/her in an extremely vulnerable position.
8. The courts have held that a violation of the Fourth Amendment requires an intentional acquisition of physical control. A seizure occurs even when an unintended person or thing is the object of detention or taking. A seizure occurs when a person is stopped by the very instrumentality set in motion or put in place in order to achieve the result, (ie: the roadblock). The location of roadblocks must be such that the fleeing suspect has an opportunity to stop voluntarily. After a pursuit the Deputy should conduct a high-risk stop (felony stop). Deputies should not approach the suspect vehicle, if practical, after a pursuit.

### **Tire Deflating Devices:**

When using the Tire Deflating Device:

1. Care should be given in determining when and where to place the device.
2. Deputies who are assigned the device shall be trained in its use.
3. The Tire Disabling Device must be carried in the assigned member's squad. Issues to be considered in utilizing the device are:
  - a. Road conditions (leading to and after the deployment site),
  - b. Traffic conditions,
  - c. Ability to communicate with other agencies,
  - d. Possibility of apprehension at a later date,
  - e. Consideration that the need is offset by the person continuing to flee,
  - f. Ability of the officer to obtain protective shelter from the violator.

Deputies do **not** need supervisory permission prior to implementation. **In no circumstances will the device be used to disable motorcycles.**

4. The disabling device should be placed on the opposite side of the appropriate roadway, with the towrope across the roadway.
  - a. All agencies involved in the pursuit shall be advised on the MINCEP that the device is in place. Officers should continue the pursuit to a point where they can safely avoid striking the device and stop other traffic.
  - b. As the vehicle approaches, the disabling device should be pulled onto the roadway directly into the vehicle's path. The Tire Disabling Device may be tossed into the vehicle's path if time does not permit placement and use of the towrope. Deputies are not to hold onto the towrope.
  - c. The device shall be removed from the road immediately after the suspect vehicle passes the site.

### **Responsibilities:**

After utilizing the Device or Roadblock, the Deputy must submit a Field Report containing the following information to the County Sheriff:

- Reason for use,
- Location,
- Method of deployment,
- Length of pursuit,

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- Estimate speed of violator,
- Distance from the device to the termination of the pursuit.

After use, the device should be examined for damage. The County Sheriff should be notified of any required repairs.

**FARIBAULT COUNTY SHERIFF'S OFFICE**  
**802 LIGHTING EXEMPTION OF LAW ENFORCEMENT VEHICLES**  
**POLICY**

Issued Date:	01/2011
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

It is the policy of the Faribault County Sheriff's Office to provide a uniform guideline for all department personnel to use when operating a department vehicle without headlights, taillights or marine navigational lighting while functioning as a peace officer.

**DEFINITIONS:**

For the purpose of this policy the following definitions apply:

**Vehicle:** means a motor vehicle or watercraft owned, leased or otherwise the property of the State of Minnesota or a political subdivision.

**Lights:** refers to headlights, taillights and marine navigational lighting as referenced in MN STAT 84.87, 84.928, 169.48 to 169.65 and 86B.511.

**PROCEDURE:**

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

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

# FARIBAULT COUNTY SHERIFF'S OFFICE

## 900 ALLEGATIONS OF MISCONDUCT POLICY

Issued Date:	07/2021
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

### **PURPOSE:**

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

It is the policy of the **Faribault County Sheriff's Office** to accept and to fairly and impartially investigate all complaints of misconduct to determine the validity of allegations; and to impose any corrective actions that may be justified in a timely and consistent manner.

### **DEFINITIONS:**

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

**Administrative Investigation:** An internal investigation conducted in response to a complaint with the goal of determining whether an employee engaged in misconduct.

**Chief Law Enforcement Officer** means the chief of police, sheriff, state law enforcement director or designee. Within this model policy, the chief law enforcement officer will be referred to as CLEO.

**Law Enforcement Officer** means an individual who holds a peace officer license in the State of Minnesota. Within this model policy, a law enforcement officer will be referred to as LEO.

**Complainant** means a person who submits a complaint to the Agency or CLEO alleging misconduct by an agency member.

**Complaint** means a statement alleging behavior that constitutes misconduct.

**Member** means all voluntary and compensated personnel of the agency.

**Discipline** means any of the following or combination thereof:

- Oral Reprimand
- Written Reprimand
- Suspension
- Demotion
- Discharge

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

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

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



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

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

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

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

**Misconduct** means:

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

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

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

### PROCEDURE:

#### **Acceptance And Filing Of Complaints**

1. Complaint forms must be made available through agency personnel, at designated public facilities, and online.
2. Complaints may be received either in person, over the telephone, in writing, or via the internet. A complainant may remain anonymous. The complainant should be advised that remaining anonymous may affect the investigation of the complaint.
3. A complainant may be accompanied by an attorney or other representative at the time a complaint is filed or at any other stage of the process.
4. Employees must provide assistance to individuals who express the desire to lodge complaints against any employee of this agency.
5. The complainant must be advised of the procedures for submitting the complaint and provided with a copy of their submitted complaint.
6. The complainant should be asked to verify by signature if the complaint is a complete and accurate account. If the complainant elects not to sign, this fact must be documented and the complaint processed according to procedure.
7. The CLEO will forward a copy of the written complaint to the respondent only after it is determined that the complaint does not allege a criminal violation and the notification will not impede a criminal investigation.

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8. A CLEO or Receiving Authority may delegate the duties and responsibilities required of a CLEO by this policy to an appropriate designee(s).
9. Any complaint made against a chief of police must initially be made to the city administrator, manager or mayor. Any complaint made against a sheriff must initially be made to the county attorney, the county administrator or the board of county commissioners.
10. The city administrator, manager, mayor, county attorney, county administrator or board of county commissioners must refer investigations of alleged misconduct against a CLEO to an outside law enforcement agency or criminal justice agency that has no discernible conflict of interest.

### **Investigation Of A Complaint**

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

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- *Conclusions:* The investigator's findings and conclusions as to whether any misconduct occurred and the underlying reasons for the findings and conclusions.
7. The investigation must be completed within thirty (30) days of the filing of the complaint unless the CLEO or Receiving Authority determines there is good cause to grant an extension. The complainant and respondent must be informed of any extension.

### **Additional Investigation, Review And Disposition**

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

### **Maintenance And Disclosure Of Data**

1. Disclosure to the public, complainant and respondent of data collected, created or received by the agency in connection with this policy and procedure must be governed by the provisions of

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the MN Government Data Practices Act. Retention of data collected or maintained in connection with this policy must be retained in accordance with the agency's "Record Retention Schedule."

2. All data collected, created or received by the agency in connection with this policy and procedure must be maintained in accordance with the agency's "Record Retention Schedule."
3. The placement of the disposition report or other data in an employee's personnel file must be governed by the agency's personnel policy.
4. Access to data collected, created, or received in connection with this policy and procedure may only be authorized by the CLEO or the agency's Data Practices "Responsible Authority," and as provided by Chapter 13, the "Minnesota Government Data Practices Act," or valid court order.

### **POST Board Reporting Requirements**

1. Under Minn. Rule 6700.1610, a licensed peace officer must self-report to the POST Board any violations of the Standards of Conduct for peace officers listed in Minn. Rule 6700.1600.
2. Any person with knowledge of peace officer misconduct constituting grounds for action under Minn. Stat. chapter 214, or Minn. Rules 6700.1600, may report the violation to the Board.
3. Minnesota Stat. 626.8457 Subd. 3 requires CLEOs to submit individual peace officer public and private data related to allegations of misconduct to the POST Board in "real time" via the POST Board Misconduct Reporting System.
4. A chief law enforcement officer must update data within 30 days of final disposition of a complaint or investigation.
5. Law enforcement agencies and political subdivisions are prohibited from entering into a confidentiality agreement that would prevent disclosure of the data identified in Minn. Stat. 626.8457 Subd. 3 paragraph (b) to the Board. Any such confidentiality agreement is void as to the requirements of this section.

**FARIBAULT COUNTY SHERIFF'S OFFICE**  
**901 PROFESSIONAL CONDUCT OF PEACE OFFICERS POLICY**

Issued Date:	01/2011
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

It is the policy of the Faribault County Sheriff's Office to investigate circumstances that suggest an officer has engaged in unbecoming conduct, and impose disciplinary action when appropriate.

**PROCEDURE:**

**Principle One:**

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

1. **Rationale:** Peace officers conduct their duties pursuant to a grant of limited authority from the community. Therefore, officers must understand the laws defining the scope of their enforcement powers. Peace officers may only act in accordance with the powers granted to them.
2. **Rules**
  - a. Peace officers shall not knowingly exceed their authority in the enforcement of the law.
  - b. Peace officers shall not knowingly disobey the law or rules of criminal procedure in such areas as interrogation, arrest, detention, searches, seizures, use of informants, and preservation of evidence, except where permitted in the performance of duty under proper authority.
  - c. Peace officers shall not knowingly restrict the freedom of individuals, whether by arrest or detention, in violation of the Constitutions and laws of the United States and the State of Minnesota.
  - d. Peace officers, whether on or off duty, shall not knowingly commit any criminal offense under any laws of the United States or any state or local jurisdiction.
  - e. Peace officers will not, according to MN STAT 626.863, knowingly allow a person who is not a peace officer to make a representation of being a peace officer or perform any act, duty or responsibility reserved by law for a peace officer.

**Principle Two**

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

1. **Rationale:** Community cooperation with the police is a product of its trust that officers will act honestly and with impartiality. The peace officer, as the public's initial contact with the criminal justice system, must act in a manner that instills such trust.
2. **Rules**
  - a. Peace officers shall carry out their duties with integrity, fairness and impartiality.
  - b. Peace officers shall not knowingly make false accusations of any criminal, ordinance, traffic or other law violation. This provision shall not prohibit the use of deception during criminal investigations or interrogations as permitted under law.
  - c. Peace officers shall truthfully, completely, and impartially report, testify and present evidence, including exculpatory evidence, in all matters of an official nature.
  - d. Peace officers shall take no action knowing it will violate the constitutional rights of any person.

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- e. Peace officers must obey lawful orders but a peace officer must refuse to obey any order the officer knows would require the officer to commit an illegal act. If in doubt as to the clarity of an order the officer shall, if feasible, request the issuing officer to clarify the order. An officer refusing to obey an order shall be required to justify his or her actions.
- f. Peace officers learning of conduct or observing conduct that is in violation of any law or policy of this agency shall take necessary action and report the incident to the officer's immediate supervisor who shall forward the information to the CLEO. If the officer's immediate supervisor commits the misconduct the officer shall report the incident to the immediate supervisor's supervisor.

### **Principle Three**

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

1. **Rationale:** Law enforcement effectiveness requires public trust and confidence. Diverse communities must have faith in the fairness and impartiality of their police. Peace officers must refrain from fostering disharmony in their communities based upon diversity and perform their duties without regard to race, color, creed, religion, national origin, gender, marital status, or status with regard to public assistance, disability, sexual orientation or age.
2. **Rules**
  - a. Peace officers shall provide every person in our society with professional, effective and efficient law enforcement services.
  - b. Peace officers shall not allow their law enforcement decisions to be influenced by race, color, creed, religion, national origin, gender, marital status, or status with regard to public assistance, disability, sexual orientation or age.

### **Principle Four**

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

1. **Rationale:** A peace officer's ability to perform his or her duties is dependent upon the respect and confidence communities have for the officer and law enforcement officers in general. Peace officers must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public.
2. **Rules**
  - a. Peace officers shall not consume alcoholic beverages or chemical substances while on duty except as permitted in the performance of official duties, and under no circumstances while in uniform, except as provided for in **c**.
  - b. Peace officers shall not consume alcoholic beverages to the extent the officer would be rendered unfit for the officer's next scheduled shift. A peace officer shall not report for work with the odor of an alcoholic beverage on the officer's breath.
  - c. Peace officers shall not use narcotics, hallucinogens, or other controlled substances except when legally prescribed. When medications are prescribed, the officer shall inquire of the prescribing physician whether the medication will impair the officer in the performance of the officer's duties. The officer shall immediately notify the officer's supervisor if a prescribed medication is likely to impair the officer's performance during the officer's next scheduled shift.



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- d. Peace officers, whether on or off duty, shall not engage in any conduct which the officer knows, or should reasonably know, constitutes sexual harassment as defined under Minnesota law, including but not limited to; making unwelcome sexual advances, requesting sexual favors, engaging in sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature.
- e. Peace officers shall not commit any acts which constitute sexual assault or indecent exposure as defined under Minnesota law. Sexual assault does not include a frisk or other search done in accordance with proper police procedures.
- f. Peace officers shall not commit any acts which, as defined under Minnesota law, constitute (1) domestic abuse, or (2) the violation of a court order restraining the officer from committing an act of domestic abuse or harassment, having contact with the petitioner, or excluding the peace officer from the petitioner's home or workplace.
- g. Peace officers, in the course of performing their duties, shall not engage in any sexual contact or conduct constituting lewd behavior including but not limited to, showering or receiving a massage in the nude, exposing themselves, or making physical contact with the nude or partially nude body of any person, except as pursuant to a written policy of the agency.
- h. Peace officers shall avoid regular personal associations with persons who are known to engage in criminal activity where such associations will undermine the public trust and confidence in the officer or agency. This rule does not prohibit those associations that are necessary to the performance of official duties or where such associations are unavoidable because of the officer's personal or family relationships.

### **Principle Five**

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

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

#### **2. Rules**

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

### **Principle Six**

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

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

#### **2. Rules**

- a. Peace officers shall not use their official position, identification cards or badges for: (1) personal or financial gain for themselves or another person; (2) obtaining privileges not otherwise available to them except in the performance of duty; and (3) avoiding consequences of unlawful or prohibited actions.



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- b. Peace officers shall not lend to another person their identification cards or badges or permit these items to be photographed or reproduced without approval of the chief law enforcement officer.
- c. Peace officers shall refuse favors or gratuities which could reasonably be interpreted as capable of influencing official acts or judgments.
- d. Unless required for the performance of official duties, peace officers shall not, while on duty, be present at establishments that have the primary purpose of providing sexually oriented adult entertainment. This rule does not prohibit officers from conducting walk-throughs of such establishments as part of their regularly assigned duties.
- e. Peace officers shall:
  - i. not authorize the use of their names, photographs or titles in a manner that identifies the officer as an employee of this agency in connection with advertisements for any product, commodity or commercial enterprise;
  - ii. maintain a neutral position with regard to the merits of any labor dispute, political protest, or other public demonstration while acting in an official capacity;
  - iii. not make endorsements of political candidates while on duty or while wearing the agency's official uniform.

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

### **Principle Seven**

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

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

#### **2. Rules**

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

### **Principle Eight**

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

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

### **Application**

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

**FARIBAUT COUNTY SHERIFF'S OFFICE**  
**902 CLASSROOM DISCRIMINATION POLICY**

Issued Date:	01/2021
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

Peace officer continuing education expands the peace officer's own knowledge and experiences. It is imperative that the environment for this education has an atmosphere which is multi-ethnic, multi-cultural, and gender fair.

Complaints will be handled in a prompt, just, open, and unbiased manner in accordance with these procedures. Copies of these procedures will be given by the director or the director's designee to all people who teach in the program. Additionally, all students will be given a written policy about the existence of these procedures.

Nothing in this procedure is intended to expand, diminish or alter in any manner whatsoever any right or remedy available under an applicable collective bargaining agreement.

**DEFINITIONS:**

**Classroom Discrimination** means an act or comment of prejudice by a member which relates to race, gender, creed, age, color, religion, national origin, marital status, physical disability, mental disability, or characteristics identified as sexual orientation, and that offends another.

**Complainant** means the person or group who files a complaint with the continuing education sponsor alleging classroom discrimination by a faculty member, staff member, student, or the continuing education coordinator when he or she receives believable facts relating to alleged classroom discrimination from a person who wants to remain anonymous.

**Complaint** means a statement which is made to a course supervisor, in writing, in person, or by phone which alleges classroom discrimination.

**Coordinator** means the person who is responsible for supervising a continuing education course while it is being conducted.

**Director** means the person in charge of the training or education program.

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

1. The act, or acts, complained about did not occur;
2. The member(s) named in the complaint were not involved in the alleged misconduct; or
3. That the act(s) which provided the basis for the complaint occurred, however, the investigation reveals that such act(s) were justified, lawful, and proper.

**Member** means a faculty or staff member, or a student.

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

**Policies and Procedures** means the administrative acts promulgated by the course sponsor regulating conduct of faculty members.

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**Sustained** means a fair preponderance of the evidence obtained in the investigation established that the accused member's actions constituted a violation of this procedure.

### **PROCEDURE:**

#### **Initiating Complaint:**

- A. Anyone who is not a member and has personal knowledge of the facts giving rise to the complaint may file a classroom discrimination complaint. Any member who has personal knowledge of classroom discrimination must file a complaint according to these procedures.
- B. All complaints must be directed to the coordinator of the continuing education program. Upon receiving any complaint, the coordinator must immediately initiate a memo to the director.
- C. If the person filing the complaint sets forth specific believable facts relating to the classroom discrimination and the person wishes to remain anonymous, the coordinator of the course receiving the information will then become the complainant. If the coordinator has reason to believe that the complaint is unfounded, the coordinator must have the authority to require the person to identify himself or herself. If the person refuses to do so, the coordinator may refuse to initiate a complaint and must advise the anonymous person of that fact.
- D. After a complaint is filed, the coordinator must sign it, give or mail a copy to the complainant, and furnish a copy to the director. The director must forward a copy of the document to the accused member, only after it is determined that the complaint does not allege a criminal violation and the notification will not impede a criminal investigation.
- E. A complainant may be accompanied by an attorney or other appropriate representative at the time a complaint is filed or at any other stage of the process.

#### **Investigation of a Complaint:**

- A. Upon receipt of the complaint, the director must make an initial determination whether the facts alleged warrant a formal investigation. In making this determination, the director may meet informally with the complainant, faculty or staff member, student member or any potential witness. If the director decides that an investigation is not warranted, the disposition of the complaint must be either not sustained or exonerated. The complainant must be notified of this decision and the basis for determination. Also, the accused member must be notified. If the complainant supplies additional information within 30 days of the determination, the director may reverse this decision.
- B. If the director determines that a formal investigation should be conducted, he or she must assign the appropriate person to investigate the complaint. The investigation may be assigned to an external agency where there is the potential conflict of interest.
- C. The investigator must, as soon as possible, after being assigned to the investigation, inform the complainant of the investigator's name, business phone number and the status of the complaint.
- D. The investigator must thoroughly investigate all classroom discrimination contained in the complaint. If the investigation uncovers other alleged classroom discrimination by another

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faculty member, staff member, or student, the investigator must initiate a complaint against that person.

- E. All faculty, staff members, and students, including the accused member, must cooperate with the investigation. Failure to cooperate may be basis for disciplinary action.
- F. The investigator must do a report which contains all relevant information, organized into the three following sections:
  - a. Allegations – This section must consist of an itemized summary of the acts of classroom discrimination alleged in the complaint. Reference must be made to those rules, procedures, orders, statutes, or constitutional provisions that would be violated if the allegations were taken as true.
  - b. Investigation – This section must consist of a chronological summary of the investigation, including all pertinent facts obtained through interviews with witnesses. Written statements, description and analysis of any physical evidence, and all other relevant information must be included.
  - c. Conclusion(s) – This section must include the investigators findings, conclusions as to whether any classroom discrimination occurred, and the underlying reasons for the findings and conclusions. These conclusions will not be binding on the director.
- G. The investigation will be concluded within thirty days of the filing of the complaint, unless an extension is granted by the director for good cause. The complainant must be informed of any extension of time and the accused member will also be informed if he or she was informed pursuant to section “*Initiating Complaint, D*”.

### **Investigation Review and Disposition:**

- A. Upon completion of the investigation, the investigator must submit his or her report and all investigative notes to the director. If the director determines the investigation was not adequate, the director must make one of the following dispositions: Exonerated, Not Sustained, or Sustained.
- B. The director must be informed of this decision and the accused must also be informed if he or she was informed pursuant to section “*Initiating Complaint, B.*”.
- C. If the complaint is either exonerated or not sustained, the director must immediately notify the complainant and the accused member of the disposition.
- D. If the complaint is sustained, the director must take appropriate disciplinary action. Such action must be based on the investigative report and the accused member’s record of service. This action will be in conformance with any applicable collective bargaining agreement, contract or other rules or regulation relating to discipline of members. The disciplinary action may include counseling, remedial education, an oral reprimand, a written reprimand, suspension with or without pay, demotion or discharge.
- E. After selecting the appropriate disciplinary action, the director must issue a Findings of Fact which must minimally contain the following information:

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- a. A summary of the act or acts constituting misconduct and the specific statutes, policies, regulations and procedures violated;
  - b. A description of the disciplinary or remedial action taken to prevent recurrence of the misconduct; and
  - c. Any additional information as the director may find applicable to accurately document the disposition.
- F. Prior to the implementation of remedial and/or disciplinary actions, the accused member will be provided with a copy of the Findings of Fact. The director and/or appropriate supervisor shall review it with the accused member and explain the reasons for the action.
- G. The complainant shall also be given a copy of the Findings of Fact.
- H. When a sustained disposition is final, the accused member may appeal the disposition according to the member's collective bargaining agreement or if applicable, through the Veteran's Preference Act.
- I. The director may suspend an accused member with pay at any time during the investigation of a complaint.

### **Documentation:**

- A. If the provider of the continuing education course is a state agency or political subdivision of Minnesota, the data generated by this process will be maintained and disseminated in accordance with the Minnesota Governmental Data Practices Act.
- B. If the provider of the continuing education course is a private entity or an organization which is not covered by the Data Practices Act, the provider will adopt policies for the collection and dissemination of the data in accordance with the Minnesota Data Practices Act.

**FARIBAULT COUNTY SHERIFF'S OFFICE**  
**1000 PREDATORY OFFENDER REGISTRATION AND COMMUNITY**  
**NOTIFICATION POLICY**

Issued Date:	01/2011
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

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

**DEFINITIONS:**

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

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

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

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

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

**PROCEDURE:**

**Registration:**

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

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

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

- If the offender is already registered, complete a *Change of Information Form* included on the BCA's website at [www.dps.state.mn.us/bca](http://www.dps.state.mn.us/bca).



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

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

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

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

### **Community Notification:**

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

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

#### CONFIDENTIAL - Fact Sheet - Law Enforcement Agency Use Only

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

#### *Notification Process*

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

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

- Mandatory disclosure
  - Victims who have requested disclosure

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- Discretionary disclosure
  - Other witnesses or victims
  - Other law enforcement agencies.

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

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

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

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

### *Health Care Facility Notification*

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

### *Specialized Notifications*

1. Offenders from Other States and Offenders Released from Federal Facilities Subject to Notification
  - If a local law enforcement agency learns that a person under its jurisdiction is subject to registration and desires consultation on whether or not the person is eligible for notification, the agency must contact the DOC. The DOC will review the governing law of the other state and, if comparable to Minnesota requirements, inform law enforcement that it may proceed with community notification in accordance with the level assigned by the other state.

## FARIBAUT COUNTY SHERIFF'S OFFICE

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

### 2. *Victim Notification*

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

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

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

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

### 3. *Homeless Notification Process*

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

**FARIBAULT COUNTY SHERIFF'S OFFICE**  
**1100 PROCESSION OF PROPERTY SEIZED FOR ADMINISTRATIVE**  
**FORFEITURE POLICY**

Issued Date:	02/2011
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

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

**DEFINITIONS:**

**Cash:** money in the form of bills or coins, traveler's checks, money orders, checks or other forms of electronic money or stored value cards, including but not limited to gift cards, debit cards, gift cards/certificates or other negotiable financial instruments.

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

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

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

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

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

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

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## PROCEDURE:

### **Seized Property Subject to Administrative Forfeiture**

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

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

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

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

All firearms, ammunition and firearm accessories found:

- in a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;
- on or in proximity to a person from whom a felony amount of controlled substance is seized; or
- on the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under MN STAT Chapter 152.

Situations in which forfeiture should not be pursued:

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

### **Processing Seized Property For Forfeiture Proceedings**

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

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

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

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

## **FARIBAUT COUNTY SHERIFF'S OFFICE**

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

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

### Cash

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

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

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

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

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

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

### Jewelry/Precious Metals/Precious Stones

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

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

### Conveyance Device

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

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

# FARIBAULT COUNTY SHERIFF'S OFFICE

## Firearms/Ammunition/Firearm Accessories

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

## Case File Status

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

## Report Writing

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

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



# FARIBAULT COUNTY SHERIFF'S OFFICE

## 1101 VEHICLE TOWING / IMPOUND POLICY

Issued Date:	08/2022
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

### **PURPOSE:**

This policy outlines the Faribault County Sheriff's Office's procedures for towing a vehicle under the direction of the sheriff's office and under the authority of Minnesota State Statute 168B.035.

### **POLICY:**

Vehicles may be towed for violations of MS §168B.035, §168B.04, including parking, registration, and snow emergency violations.

Vehicles may be moved or removed from a highway when in violation of MS §169.32(a) or when left unattended upon any street or highway or upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic (MS §169.33).

### **PROCEDURE:**

#### Completion of a Vehicle Impound/Inventory Form ("Tow Sheet")

Sheriff's deputies and other authorized employees requesting towing of a vehicle shall complete a Vehicle Impound and Inventory Report ("Tow Sheet"), including a description of property within the vehicle. A copy is to be given to the tow truck operator and the original is to be submitted into the incident's CAD record as soon as practicable after the vehicle is stored.

#### Written Notice of Impound:

The Sheriff's Office or towing company will provide a written notice of impound pursuant to MS §168B.06. The written notice shall adhere to the following and/or any future state statute requiring what shall be placed on the written notice:

- Must be sent to the registered owner and any lienholders within five (5) days, excluding Saturdays, Sundays, and legal holidays (*MS §168B.06.1(a)*)
- The notice must include:
  - The date and place of the taking
  - provide the year, make, model, and serial number of the impounded motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held;
  - inform the owner and any lienholders of their right to reclaim the vehicle under section 168B.07;
  - state that failure of the owner or lienholders to:
    - exercise their right to reclaim the vehicle within the appropriate time allowed under section 168B.051, subdivision 1, 1a, or 2, and under the conditions set forth in section 168B.07, subdivision 1, constitutes a waiver by them of all right, title, and interest in the vehicle and a consent to the transfer of title to and disposal or sale of the vehicle pursuant to section 168B.08; or
    - exercise their right to reclaim the contents of the vehicle within the appropriate time allowed and under the conditions set forth in section 168B.07, subdivision 3, constitutes a waiver by them of all right, title, and interest in the contents and consent to sell or dispose of the contents under section 168B.08; and
  - state that a vehicle owner who provides to the impound lot operator documentation from a government or nonprofit agency or legal aid office that the owner is homeless,

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receives relief based on need, or is eligible for legal aid services, has the unencumbered right to retrieve any and all contents without charge.

*(MS §168B.06.1(b)(1-5))*

Notices shall be sent by certified mail to the registered owner and any lienholders. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. *(MS §168B.06.2 and 168B.06.3)*

### Removal of Vehicles Disabled in a Traffic Collision:

When a vehicle has been involved in a traffic collision and must be removed from the scene, the deputy sheriff may have the driver select a towing company, if reasonably possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, the on-scene deputy or authorized employee may call for any tow company.

If the owner is incapacitated or for any reason it is necessary for the Sheriff's Office to assume responsibility for a vehicle involved in a collision, the deputy sheriff shall request the dispatcher to call a towing company. The deputy sheriff will then conduct an inventory and store the vehicle using a Vehicle Impound and Inventory Report.

### **Removing Vehicles at Arrest Scenes:**

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

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

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

In such cases, the handling employee shall note in the report that the owner was informed that the Sheriff's Office will not be responsible for theft or damages.

### **Vehicle Inventories:**

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if they are closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practicable in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while the owner is in police custody, to provide for the safety of officers and the public, and to protect the Sheriff's Office against fraudulent claims of lost, stolen or damaged property

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## ***Preservation of Evidence***

A sheriff's deputy who removes a vehicle pursuant to MS §168B.035 is required to take reasonable and necessary steps to preserve evidence. If there is probable cause to believe that a vehicle or its contents constitute any evidence which tends to show that a criminal offense has been committed, or that a particular person has committed a criminal offense, officers shall ensure that all legally required, and reasonably necessary efforts are taken to preserve the evidence. Such evidence is to be provided safe storage and preserved until released to the owner or otherwise disposed of according to law.

## ***Security of Vehicle/Property***

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, a deputy sheriff should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cellular telephone, prescriptions) that are not considered evidence or contraband. If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

## **Disposition/Sale of Impounded Vehicles**

Vehicles impounded by the sheriff's office may be subject to disposal or sold pursuant to state statutes.

Junk vehicles, except that it may have a valid, current registration plate and still be eligible for disposal or sale under this subdivision, or abandoned vehicles may be disposed or sold after 15 days notice. (*MS §168B.051.1(1-2)*)

Other impounded vehicles may be disposed or sold after (whichever comes earlier):

1. 45 days after notice to the owner; or
2. the date of a voluntary written title transfer by the registered owner to the impound lot operator.

(*MS §168B.051.2(a)(1-2)*)

## **SELECTED STATUTES:**

- [168B.035 TOWING AUTHORIZED](#)
- [168B.04 AUTHORITY TO IMPOUND VEHICLES](#)
- [168B.051 SALE; WAITING PERIODS](#)
- [168B.06 NOTICE OF TAKING AND SALE](#)
- [169.33 POLICE MAY MOVE VEHICLE](#)

**FARIBAULT COUNTY SHERIFF'S OFFICE**  
**1200 RESPONSE TO REPORTS OF MISSING AND ENDANGERED**  
**PERSONS POLICY**

Issued Date:	01/2011
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

It is the policy of the **Faribault County Sheriff's Office** to establish guidelines and responsibilities for the consistent response to, and investigation of, all reports of missing and endangered persons as defined in MN STAT Chapter 299C.52, subd. 1 (c) and (d) ("Minnesota Missing Children and Endangered Persons' Program" referred to as Brandon's Law).

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

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

**DEFINITIONS:**

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

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

1. the person is missing as a result of a confirmed abduction or under circumstances that indicate that the person's disappearance was not voluntary;
2. the person is missing under known dangerous circumstances;
3. the person is missing more than 30 days;
4. the person is under the age of 21 and at least one other factor in this paragraph is applicable;
5. there is evidence the person is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person's health if the person does not receive the needed care or medication;
6. the person does not have a pattern of running away or disappearing;
7. the person is mentally impaired;
8. there is evidence that the person may have been abducted by a noncustodial parent;
9. the person has been the subject of past threats or acts of violence;
10. there is evidence the person is lost in the wilderness, backcountry, or outdoors where survival is precarious and immediate and effective investigation and search and rescue efforts are critical; or
11. any other factor that the law enforcement agency deems to indicate that the person may be at risk of physical injury or death, including a determination by another law enforcement agency that the person is missing and endangered.

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

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

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

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

## **PROCEDURE:**

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

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

## **Initial Response**

1. As required by MN STAT 299C.53, subd. 1(a), Law Enforcement shall accept, without delay, any report of a missing person. Law enforcement shall not refuse to accept a missing person report on the basis that:
  - a. the missing person is an adult;
  - b. the circumstances do not indicate foul play;
  - c. the person has been missing for a short amount of time;
  - d. the person has been missing for a long amount of time;
  - e. there is no indication that the missing person was in the jurisdiction served by the law enforcement agency at the time of the disappearance;
  - f. the circumstances suggest that the disappearance may be voluntary;
  - g. the reporting person does not have personal knowledge of the facts;
  - h. the reporting person cannot provide all of the information requested by the law enforcement agency;
  - i. the reporting person lacks a familial or other relationship with the missing person; or
  - j. for any other reason, except in cases where the law enforcement agency has direct knowledge that the person is, in fact, not missing, and the whereabouts and welfare of the person are known at the time the report is filed.
2. Dispatch an officer, to the scene, to conduct a preliminary investigation to determine whether the person is missing, and if missing, whether the person is endangered.
3. Obtain interpretive services if necessary.
4. Interview the person who made the initial report, and if the person is a child, the child's parent(s) or guardian(s).
5. Determine when, where, and by whom the missing person was last seen.
6. Interview the individual(s) who last had contact with the person.
7. Obtain a detailed description of the missing person, abductor, vehicles, etc. and ask for recent photo of missing person.

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8. Immediately enter the complete descriptive and critical information, regarding the missing and endangered person, into the appropriate category of the NCIC Missing Person File.
  - a. As required by 42 U.S.C. 5779(a) (Suzanne's Law) law enforcement shall immediately enter missing children less than 21 years of age into the NCIC.
  - b. As required by MN STAT 299C.53, subd. 1(b), if the person is determined to be missing and endangered, the agency shall immediately enter identifying and descriptive information about the person into the NCIC.
9. Enter complete descriptive information regarding suspects/vehicle in the NCIC system.
10. Request investigative and supervisory assistance.
11. Update additional responding personnel.
12. Communicate known details promptly and as appropriate to other patrol units, local law enforcement agencies, and surrounding law enforcement agencies. If necessary, use The International Justice & Public Safety Network (NLETS), the Minnesota Crime Alert Network, and MNJIS KOPS Alert to alert state, regional and federal law enforcement agencies.
13. Notify the family of the Minnesota Missing/Unidentified Persons Clearinghouse services available.
14. Secure the crime scene and/or last known position of the missing person and attempt to identify and interview persons in the area at the time of the incident.
15. Obtain and protect uncontaminated missing person scent articles for possible use by search canines.
16. Activate protocols for working with the media. (AMBER Alert, Minnesota Crime Alert Network)
17. As required by MN STAT Chapter 299C.53, subd. 1(b), consult with the Minnesota Bureau of Criminal Apprehension if the person is determined to be an endangered missing person. Request assistance as necessary.
18. Implement multi-jurisdictional coordination/mutual aid plan as appropriate such as when:
  - a. the primary agency has limited resources;
  - b. the investigation crosses jurisdictional lines; or
  - c. jurisdictions have pre-established task forces or investigative teams.
19. Based on the preliminary investigation determine whether or not a physical search is required.

### **Initial Investigation**

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

### **Investigation**

1. Begin setting up the Command Post/Operation Base away from the person's residence. Know the specific responsibilities of the Command Post Supervisor, Media Specialist, Search Coordinator, Investigative Coordinator, Communication Officer, Support Unit Coordinator, and two liaison officers (one at the command post and one at the victim's residence). The role of the liaison at the home will include facilitating support and advocacy for the family.
2. Establish the ability to "trap and trace" all incoming calls. Consider setting up a separate telephone line or cellular telephone for agency use and follow up on all leads.



## FARIBAUT COUNTY SHERIFF'S OFFICE

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

### **\*\*\*Missing For Over 30 Days\*\*\***

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

1. DNA samples from family members and, if possible, from the missing person.
2. Dental information and x-rays.
3. Additional photographs and video that may aid the investigation or identification.
4. Fingerprints.
5. Other specific identifying information.

This information will be entered into the appropriate databases by BCA Clearinghouse personnel. If the person is still missing after 30 days, review the case file to determine whether any additional



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information received on the missing person indicates that the person is endangered and update the record in NCIC to reflect the status change.

### **Prolonged Investigation**

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

### **Recovery/Case Closure**

#### **Alive**

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

#### **Deceased**

1. Secure the crime scene.
2. Contact coroner, medical examiner or forensic anthropologist to arrange for body recovery and examination.
3. Collect and preserve any evidence at the scene.
4. Depending upon the circumstances, consider the need for intervention, counseling or other services for the family/reporting party or designee.

## **FARIBAUT COUNTY SHERIFF'S OFFICE**

5. Cancel alerts and remove case from NCIC and other information systems, remove posters and other publications from circulation.
6. Perform constructive post-case critique. Re-assess the procedures used and update the department's policy and procedures as appropriate.

**FARIBAULT COUNTY SHERIFF'S OFFICE**  
**1300 SUPERVISION OF PART-TIME PEACE OFFICERS POLICY**

Issued Date:	01/2011
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

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

**DEFINITIONS:**

**Part-time Peace Officer:** "Part-time peace officer" has the meaning given it in MN STAT 626.84, subd. 1 (d).

**Appointment:** means the official declaration provided by the agency to the POST Board which indicates that the agency has engaged the services of a peace officer or part-time peace officer beginning on a specified date.

**Active Duty Status:** means when a peace officer or part-time peace officer is authorized by agency policy to act as an agent of the appointing authority with power to arrest and authority to carry a firearm.

**Hours Worked:** means the actual number of hours served while the part-time peace officer is on active duty status. All active duty hours must be documented regardless of compensation.

**Supervision of Part-time Peace Officer:** means the part-time peace officer and the designated supervising peace officer are aware of their respective identities; the part-time peace officer has the ability to directly contact the designated peace officer, and the part-time or designated peace officer can achieve direct personal contact within a reasonable period of time.

**PROCEDURE:**

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

When designating a peace officer to supervise a part-time peace officer an agency shall establish written procedures which at a minimum include:

1. how the designated peace officer is to be notified of the designated peace officer's responsibility for assuming supervision of a part-time peace officer;
2. the duties and responsibilities of the designated peace officer in exercising supervisory responsibility for a part-time peace officer;
3. the means by which the part-time peace officer is to notify the designated supervising peace officer that the part-time peace officer is on active duty status; and
4. the means by which the designated supervising peace officer is to be notified when the part-time peace officer is no longer on active duty status.

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An agency that agrees to designate a peace officer to supervise a part-time peace officer who is not employed by the same agency shall establish at a minimum:

1. all policies required under *MN RULES* 6700.1105, Subpart 2;
2. all policies required under *MN RULES* 6700.1110; and
3. a written joint powers agreement which confers upon the designated supervising peace officer full power and authority within the jurisdiction of the part-time peace officer to be supervised.

### **Responsibilities Of The Part-Time Peace Officer**

1. The hours of active duty status during the calendar year of a part-time peace officer are limited to no more than 1,040 hours.
2. A part-time peace officer shall record all active duty hours worked either on the *Part-time Peace Officer Monthly Hour Log* provided by the POST Board, or in an electronic format that includes the same information for each agency by whom the part-time peace officer is appointed. The part-time peace officer shall record the date, time, and total hours of active duty, the name of the agency for which the hours were worked and the name of the designated supervising peace officer assigned for each shift or time entry on the log.
3. On the last day of every month the part-time peace officer shall provide the chief law enforcement officer of every agency for whom the part-time peace officer worked a written notice of the total number of hours worked for all agencies. The notice may be provided on the *Part-time Peace Officer Monthly Hour Log* provided by the POST Board, or in an electronic format that includes the same information.
4. The part-time peace officer shall keep and maintain copies of active duty reporting forms for five years and shall make the forms available to the POST Board upon request.

### **Policy Distribution**

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

**FARIBAULT COUNTY SHERIFF'S OFFICE**  
**1400 BEST PRACTICES FOR PUBLIC ASSEMBLY AND FIRST**  
**AMENDMENT ACTIVITY POLICY**

Issued Date:	08/2021
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

*IMPORTANT NOTE: This policy was adopted by the Minnesota POST Board on July 22, 2021. At this time, the policy is recommended to Minnesota Law Enforcement Agencies as a best practice, and is not a mandatory policy.*

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 **Faribault County Sheriff's Office** supports all people's fundamental right to peaceably assemble and their right to freedom of speech and expression.

The purpose of this policy is to provide guidelines to the **Faribault County Sheriff's Office** personnel regarding the application and operation of acceptable law enforcement actions addressing public assemblies and First Amendment Activity.

The **Faribault County Sheriff's Office** will uphold the constitutional rights of free speech and assembly while using the minimum use of physical force and authority required to address a crowd management or crowd control issue.

The policy of the **Faribault County Sheriff's Office** ("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.

**DEFINITIONS:**

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

**Control Holds:** Control holds are soft empty hand control techniques as they do not involve striking.

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

**Crowd Control:** Techniques used to address unlawful public assemblies.

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

(Reference: [Faribault County Policy 100 -Use of Force](#), MN Statutes [609.06](#) and [609.066](#))

**Direct Fired Munitions:** 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:** 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: [Faribault County Policy 100 -Use of Force](#), MN Statutes [609.06](#) and [609.066](#))

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

**Less-lethal Impact Munitions:** Impact munitions which can be fired, launched, or otherwise propelled for the purpose of encouraging compliance, overcoming resistance or preventing serious injury without posing significant potential of causing death.

**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.

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## PROCEDURE:

### Law Enforcement:

- A. Uniform:** All officers responding to public assemblies must at all times, including when wearing protective gear, display their agency name and a unique personal identifier in compliance with this department's uniform policy. The chief law enforcement officer must maintain a record of any officer(s) at the scene who is not in compliance with this requirement due to exigent circumstances.
- B. Officer conduct:**
1. Officers shall avoid negative verbal engagement with members of the crowd. Verbal abuse against officers does not constitute a reason for an arrest or for any use of force against such individuals.
  2. Officers must maintain professional demeanor and remain neutral in word and deed despite unlawful or anti-social behavior on the part of crowd members.
  3. Officers must not take action or fail to take action based on the opinions being expressed.
  4. Officers must not interfere with the rights of members of the public to observe and document police conduct via video, photographs, or other methods unless doing so interferes with on-going police activity.
  5. Officers must not use a weapon or munition unless the officer has been trained in the use and qualified in deployment of the weapon/munition.
  6. This policy does not preclude officers from taking appropriate action to direct crowd and vehicular movement; enforce ordinances and statutes; and to maintain the safety of the crowd, the general public, law enforcement personnel, and emergency personnel.

### Responses to Crowd Situations

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

**B. Unlawful assembly**

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



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### C. Declaration of Unlawful Assembly

1. If the on-scene supervisor/incident commander has declared an unlawful assembly, the reasons for the declaration and the names of the decision maker(s) must be recorded. The declaration and dispersal order must be announced to the assembly. The name(s) of the officers announcing the declaration should be recorded, with the time(s) and date(s) documented.
2. The dispersal order must include:
  - i. Name, rank of person, and agency giving the order
  - ii. Declaration of Unlawful Assembly and reason(s) for declaration
  - iii. Egress or escape routes that may be used
  - iv. Specific consequences of failure to comply with dispersal order
  - v. How long the group has to comply
3. Whenever possible, dispersal orders should also be given in other languages that are appropriate for the audience. Officers must recognize that not all crowd members may be fluent in the language(s) used in the dispersal order.
4. Dispersal announcements must be made in a manner that will ensure that they are audible over a sufficient area. Dispersal announcements must be made from different locations when the demonstration is large and noisy. The dispersal announcements should be repeated after commencement of the dispersal operation so that persons not present at the original broadcast will understand that they must leave the area. The announcements must also specify adequate egress or escape routes. Whenever possible, a minimum of two escape/egress routes shall be identified and announced.

### D. Crowd Dispersal

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

# FARIBAULT COUNTY SHERIFF'S OFFICE

## **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 **Faribault County Policy 100-Use of Force**.

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

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

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

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

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- ii. 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.
  - iii. 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.
  - i. 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.
  - ii. Officers shall use the minimum amount of the chemical agent necessary to overcome the subject's resistance.
  - iii. 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.
  - iv. 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:
  - i. 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
  - ii. 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.
  - iii. Deployment of chemical munitions into a crowd must be avoided to prevent unnecessary injuries.
  - iv. CN chemical munitions are prohibited.
  - v. 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
  - vi. 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.

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- vii. When chemical munitions are used, an emergency responder will be on standby at a safe distance near the target area when feasible.
- viii. Chemical munitions are subject to the same procedural requirements as outlined in **Faribault County Policy 100-Use of Force**.

### C. Arrests

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

### Handcuffs

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

### Media

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

### **Legal Observers**

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

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

- A. The purpose of any visual documentation by the **Faribault County Sheriff's Office** of a public assembly or first amendment activity must be related only to:
  1. Documentation of the event for the purposes of debriefing,
  2. Documentation to establish a visual record for the purposes of responding to citizen complaints or legal challenges, or
  3. Creating visual records for training purposes.
- B. If it is the policy of the **Faribault County Sheriff's Office** 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.

### **REFERENCES:**

- [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

**FARIBAULT COUNTY SHERIFF'S OFFICE**  
**1500 UNMANNED AERIAL VEHICLE POLICY**

Issued Date:	02/2021
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

The purpose of this policy is to establish guidelines for the use of an unmanned aerial vehicle (UAV) and for the storage, retrieval, and dissemination of images and data captured by the UAV.

Unmanned aerial vehicles may be utilized to enhance the **Faribault County Sheriff's Office's** mission of protecting lives and property when other means and resources are not available or are less effective. Any use of an Unmanned Aerial Vehicle will be in strict accordance with all Federal Aviation Administration (FAA) requirements and guidelines and Minnesota State Statute 626.19 Use of Unmanned Aerial Vehicles.

**DEFINITIONS:**

**Unmanned Aerial Vehicle (UAV):** means an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

**PROCEDURE:**

**Use Of The UAV; Limited.**

Except as provided by Authorized Use, as listed below, a UAV must not be used without a search warrant.

**Authorized Use Without a Search Warrant:**

- During or in the aftermath of an emergency situation that involves the risk of death or bodily harm to a person.
- Over a public event where there is a heightened risk to the safety of participants or bystanders.
- To counter the risk of a terrorist attack by a specific individual or organization if the agency determines that credible intelligence indicates a risk.
- To prevent the loss of life and property in natural or man-made disaster and to facilitate operational planning, rescue, and recovery operations in the aftermath of these disasters.
- To conduct a threat assessment in anticipation of a specific event.
- To collect information from a public area if there is reasonable suspicion of criminal activity.
- To collect information for crash reconstruction purposes after a serious or deadly collision occurring on a public road.
- Over a public area for officer training or public relations purposes; and
- For purposes unrelated to law enforcement at the request of a government entity provided that the government entity makes the request in writing to the law enforcement agency and specifies the reason for the request and proposed period of use.

**Limitations On Use:**

- Must not deploy a UAV with facial recognition or other biometric-matching technology unless expressly authorized by a warrant.
- Must not equip a UAV with weapons.



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- Must not use a UAV to collect data on public protests or demonstrations unless expressly authorized by a warrant or an exception listed above.

### **Documentation Required:**

- Each deployment of a UAV requires:
  - Unique incident/report number(s) to include an incident report that documents the factual basis for the use of the UAV and identify the applicable authorized use.

### **Data Classification; Retention**

Data collected by a UAV is classified as private data on individual or nonpublic data, exceptions include:

- If a data subject requests a copy of the recording, data on other individuals who do not consent to its release must be redacted from the copy.
- UAV data may be disclosed as necessary in an emergency situation that involves the risk of death or bodily harm to a person.
- UAV Data may be disclosed to the government entity making a request for UAV use for non-law enforcement purposes.
- If UAV data is criminal investigative data, this data is governed by Minnesota State Statute section 13.82, subdivision 7; and
- UAV data that are not public data under other provisions of chapter 13 retain that classification.
  - Section 13.04, subdivision 2, does not apply to data collected by a UAV.
  - Notwithstanding section 138.17, a law enforcement agency must delete data collected by a UAV as soon as possible, and in no event later than seven (7) days after collection unless the data is part of an active criminal investigation.

### **Evidence:**

- Information obtained or collected in violation of MN State Statute 626.19 is not admissible as evidence in a criminal, administrative, or civil proceeding against the data subject.

### **Reporting**

- Pursuant to Minnesota State Statute 626.19 subdivision 11, by January 15<sup>th</sup> of each year UAV use shall be reported to the Commissioner of Public Safety the following information for the preceding calendar year:
  - Date(s) of UAV deployment
  - The number of times a UAV was deployed, organized by the types of incidents and the justification for deployment.
  - The number of criminal investigations aided by the deployment of UAV's.
  - The number of deployments of UAV's for reasons other than criminal investigations; and
  - The total cost of the UAV program

### **Program Coordinator:**

The Sheriff, Chief Deputy, and/or the Sheriff's designee will appoint a program coordinator(s). The program coordinator will ensure that use of the UAV conforms with Federal Aviation Administration requirements and guidelines, Minnesota State Statute 626.19 "Use of Unmanned Aerial Vehicles" and that all authorized users operate the UAV in accordance with this policy.

### **Deployment Of UAV:**



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- Any deployment of the UAV must be authorized by The Sheriff, Chief Deputy, and/or the Sheriff's designee
- A UAV must be operated by a current Federal Aviation Administration licensed UAV pilot.

# FARIBAULT COUNTY SHERIFF'S OFFICE

## 1600 CANINE (K9) UNIT POLICY

Issued Date:	11/2022
Revised Date:	04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

### **PURPOSE:**

To establish procedures and regulations governing the training, use and administration of a police service dog team employed by the Faribault County Sheriff's Office. This team will be referred to throughout this manual as "K9" team. This Standard Operating Procedure shall define the authority and responsibility for their use.

Utilization of a properly trained police service dog represents a highly cost effective and reliable asset to law enforcement personnel by utilizing the canine's acute olfactory senses. The police service dog also provides a psychological deterrent by their presence at the scene of various law enforcement operations.

Areas of potential deployment for the K9 team may include, but are not limited to:

- Evidence Searches/Article Recovery
- Tracking/Trailing of lost/missing persons, suicidal persons, and suspects who flee from law enforcement.
  - K9 Team may track any suspect for handler/officer protection purposes, or public safety purposes.
- Narcotics/Controlled Substances Detection
- Handler/Officer Protection

### **PROCEDURE:**

#### **Authority and Responsibility**

- A. The Sheriff, or Chief Deputy in his absence, is responsible for the general supervision of the K9 team assigned to support narcotics detection functions, and other specialty services the K9 Unit provides, within the Faribault County Sheriff's Office.
- B. The K9 Unit supervisor shall be responsible for the following:
  - a. General supervision of the K9 team when on duty and available, and when the K9 team is called out while off-duty to provide K9 services.
  - b. Review and inspection, bi-annually of the K9 team's training and deployment(Call Out) records.
  - c. Coordinating all community relation demonstrations.
  - d. Approval and coordination with other law enforcement agency's requests for assistance using the Faribault County Sheriff's Office K9 Unit.
- C. The individual K9 Handler may authorize the use of their assigned canine for narcotics detection, tracking or trailing, article search/evidence recovery, and handler/officer protection types of calls. It shall be the responsibility of the handler to ensure that practical safety precautions are taken at the time of the K9 deployment, including briefing to other law enforcement personnel, explaining the canine's abilities and limitations.
- D. In circumstances where the use of the K9 team is being considered, the final decision to deploy the K9 shall rest with the individual K9 Handler, as only the handler truly knows the

## FARIBAULT COUNTY SHERIFF'S OFFICE

abilities and limitations of their canine and their ability to safely and legally perform the task at hand.

- E. Once the K9 Handler has made the decision to deploy his/her canine on the scene of a law enforcement operation, the K9 Handler shall assume the responsibility for the control and operational management of the scene until the K9 deployment is complete, and/or they are relieved by a supervisor.

### Law Enforcement K9 Team Deployment

- A. Tracking/Trailing of Lost/Missing Persons, suicidal persons, and suspects who flee from law enforcement.

Ground scent tracking and wind scent trailing can be useful for following lost/missing individuals, suicidal individuals, and/or fleeing suspects when the presence of other persons, vehicles or extreme weather conditions do not impair the scent. Personnel requesting the assistance of the K9 team, to assist in this type of search, should secure an appropriate perimeter if possible to avoid contamination of the scent trail.

- B. The Faribault County Sheriff's Office K9 is a dual purpose certified canine, but the dog will not be used to apprehend a fleeing suspect, unless authorized by a supervisor.

### Narcotics Detection

- A. Types of Controlled Substances

The Faribault County K9 Handler is equipped with a certified narcotics detection canine and he/she is prepared to assist in the detection of the following controlled substances:

<u>K9 Zeus</u>	<u>K9 Kilo</u>
<ul style="list-style-type: none"><li>• <b>Marijuana (K9 Zeus Only)</b></li><li>• <b>Hashish (K9 Zeus only)</b></li><li>• Cocaine HCl and Cocaine Base (Powdered and "Crack" Cocaine)</li><li>• Heroin</li><li>• Methamphetamine</li><li>• MDMA</li><li>• Other controlled substances containing derivatives of the above</li></ul>	<ul style="list-style-type: none"><li>• Cocaine HCl and Cocaine Base (Powdered and "Crack" Cocaine)</li><li>• Heroin</li><li>• Methamphetamine</li><li>• MDMA</li><li>• Other controlled substances containing derivatives of the above</li></ul>

- B. Areas of Deployment

The Faribault County K9 may be deployed in the following situations, but not limited to:

- Narcotics sniffs during vehicle stops,
- To build probable cause for search warrants,
- Drug interdiction in public areas,
- Searches relative to search warrant executions,
- Community relation demonstrations,
- Article Searches/Evidence Recovery,
- Assistance of other law enforcement agencies in any of the above or below scenarios,
- Other searches of private businesses and homes that are authorized by the Sheriff, or the Chief Deputy in the Sheriff's absence,
- Tracking/Trailing of lost/missing persons, suicidal persons and fleeing suspects,

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- j. Handler/Officer Protection scenarios, such as arrest warrants, and tracking of fleeing suspects;

Any other deployment scenario that isn't listed above, please ask the K9 handler if his/her dog can be deployed in the manner that you need,

The Faribault County Sheriff's Office canine is a certified dual purpose/patrol dog, through the Dogs for Law Enforcement organization, and any other utilization of the dog that isn't listed above must be approved through a supervisor.

### C. Possessing Controlled Substances for Training

It shall be the policy of the K9 Unit that no deputy shall possess controlled substances for training purposes, with the following exceptions:

- That the deputy possesses a valid Drug Enforcement Administration Agency permit to keep and store controlled substances, or...
- That the controlled substances have been seized by a bona fide law enforcement agency and are legally possessed and made available for the purposes of training by that agency.
- All other narcotics related training shall be conducted using scent articles provided by a person possessing a valid DEA permit, and through the use of pseudo narcotics. Any handler may possess and use pseudo narcotics.

### Training and Monthly Reports

- A. The K9 Handler shall be required to certify his/her K9 by a bona fide trainer before it is authorized to be deployed for active duty.
- B. The K9 Handler shall attend weekly and/or monthly maintenance training with his/her assigned canine.
- C. The K9 Handler shall maintain files on his/her dog using a preapproved training form. These files shall be made available upon request, and for inclusion in the dog's permanent file, and for audit and review purposes.
- D. K9 Unit training reports, field deployment (Call Out) and narcotics reports will not be destroyed without the specific permission of the sheriff, or chief deputy in his absence. These records are the property of the department and not the individual handler.

### General Purpose

- A. Any certified deputy meeting or exceeding the posted requirements may apply for a posted vacancy in the K9 Unit.
- B. The handler assigned to the K9 Unit shall obtain dog food, maintain vet records and provide general care for their assigned K9 at the department's expense.
- C. The handler will ensure that no unauthorized people tease or otherwise harass their canine, unless specifically directed to do so in a training environment.
- D. Handler's will ensure that law enforcement personnel working in the immediate proximity of the police service canine shall heed all directions given by the handler and that their actions will not compromise the safety of the handler or the deployment mission. The handler may stop or cancel the deployment at any time if they notice a significant safety issue.

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- E. Anytime the K9 team is called out while off duty, the K9 Handler shall notify their immediate supervisor as soon as reasonably possible.

**FARIBAULT COUNTY SHERIFF'S OFFICE**  
**1700 IN-VEHICLE VIDEO EQUIPMENT POLICY**

Issued Date:	01/2001
Revised Date:	02/2004, 04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

The purpose of this policy is to establish a set of guidelines for an officer to follow, which will provide for the uniform use of the in-vehicle video recording system, and will result in the acceptance of the video recording as evidence in a court of law.

It shall be the policy of the **Faribault County Sheriff's Office** that the in-vehicle video recording equipment will be used to document activities surrounding vehicle stops, vehicle pursuits, emergency vehicle operation, and arrest situations and, in addition, to document any circumstance that the officer determines beneficial to record or as directed by the Sheriff.

**PROCEDURE:**

**Setting up the Equipment.**

It shall be the officer's responsibility to make sure equipment is in working order at the start of the officer's shift. The officer will attach the remote microphone to his/her person and make sure that battery is charged and it is in working order.

It is desirable that the microphone be worn in such a way that it is not easily detected by the public, thus causing a person to act in a way that they would not normally act. In a two-officer squad, both officers should wear a remote microphone.

The squad driver is the officer responsible for the operation of the system and shall have his/her remote microphone on during such operation. It will be at the discretion of the second officer whether or not to activate his/her remote microphone.

**Use of Equipment:**

The in-vehicle video recording system is designed to be activated in any of the following three ways:

1. By activating the manual switch,
2. By activating the vehicle's emergency lights, or
3. By activating the remote microphone.

On a traffic stop, the video recording system will be activated either at the time a violation is witnessed or at the time the emergency lights are activated, at the discretion of the officer. In either event, the video recording system will be operated continuously until such time as the violator leaves the scene of the traffic stop.

On an arrest situation, the video recording may be turned off when the officer and the arrestee enter the Sheriff's Office and are thus recording on video at that facility. In any other situation, the video will run as long as the officer deems necessary, but in no event will the video be turned off before the incident being recorded has run its course.

**Care of the In Vehicle Video System:**

1. Video recordings will be uploaded to Sheriff's Office systems and suggested by the manufacturer

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### Use of Video Tapes.

1. All videotapes and recordings upon the videotapes are the property of the **Faribault County Sheriff's Office**.
2. Videotape recordings may be used as evidence in court proceedings arising from the incidents being recorded.
3. Videotape recordings may be used as a tool by the Sheriff's Office to educate its deputies in the correct or incorrect procedures being depicted.
4. Videotape recordings may be used in a disciplinary action arising out of a complaint of misconduct lodged against an officer(s).
5. Videotape recordings may be used by the Sheriff to evaluate a deputy's conformance to Department policies and procedures.

### Videotapes as Evidence:

1. When notice has been received that a recording is required as evidence in a court proceeding, the tape housing such recording will be removed from the rotation and a copy of the event will be made and delivered to the prosecuting attorney. The fee for reproducing the videotape for use by other parties involved will be \$200 dollars. This fee has been approved by the Faribault County Board of Commissioners and will be in effect until changed.

The original tape will remain in the custody of the **Faribault County Sheriff's Office** except under the order of the court. This original will be given evidence tag number under the incident by the evidence technician and returned to the evidence locker "In-Vehicle Video Tapes" with evidence tag affixed.

If notice is not received by the **Faribault County Sheriff's Office** within 60 days of the incident, the possibility that the recording may already have been erased. Under no circumstances will an original recording be erased subsequent to receiving a notice that the recording is required in a court proceeding.



# FARIBAULT COUNTY SHERIFF'S OFFICE

## 1701 BODY WORN CAMERA POLICY

Issued Date:	11/2023
Revised Date:	11/2023, 01/2024
Approved By:	Michael Gormley, Sheriff Scott Adams, Chief Deputy

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### PURPOSE AND SCOPE

This policy provides guidelines for the use of Body Worn Cameras by members of this department while in the performance of their duties (Minn. Stat. § 626.8473). Body Worn Cameras include all recording systems whether body-worn, handheld or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Faribault County Sheriff's Office, undercover operations, wiretaps or eavesdropping (concealed listening devices) unless captured by a Body Worn Cameras.

The Sheriff or Sheriff's designee may supersede this policy by providing specific instructions for BWC use to individual officers, or providing specific instructions pertaining to particular events, including but not limited to political rallies and demonstrations. The Sheriff or designee may also provide specific instructions on standard operating procedures for BWC use to Officers assigned to specialized details, such as carrying out duties in courts or guarding prisoners or patients in hospitals and mental health facilities.

### DEFINITIONS

Definitions related to this policy include:

**MGDPA or Data Practices Act** - refers to the Minnesota Government Data Practices Act, Minn. Stat. §13.01, et seq.

**Data Subject** - The image or voice of any person recorded by a BWC, except of the officer wearing the BWC that captured the data.

**Data Transfer** - The movement of digital data from a BWC device to the agency digital evidence storage location.

**Digital Evidence** - Digital data files from BWC or any other agency device capable of capturing audio, video, photographs and stored in digital format that have an evidentiary value.

**Evidentiary value** - means that the information may be useful as proof in a criminal prosecution, related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against law enforcement agency or officer.

**General citizen contact** - means an informal encounter with a citizen that is not and does not become law enforcement-related or adversarial, and a recording of the event would not yield information relevant to an ongoing investigation. Examples include, but are not limited to, assisting a motorist with directions, summoning a tow truck, or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.

**Official Duties** - For the purposes of this policy, means that the officer is on duty and performing law

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enforcement services on behalf of this agency

**Body Worn Camera (BWC)** – A camera system that is worn on an individual officer's person that records and stores audio and video data.

**Records Retention Schedule** - refers to the General Records Retention Schedule for Minnesota Cities.

**Adversarial** - means a law enforcement encounter with a person that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.

**Unintentionally recorded footage** - is video recording that results from an officer's inadvertence or neglect in operating the officer's BWC, provided that no portion of the resulting recording has evidentiary value. Examples of unintentionally recorded footage includes, but not limited to, recording made in the station house locker rooms, restrooms, and recordings made while officers were engaged in conversations of non-business, personal nature with the expectation that the conversation was not being recorded.

### MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time or while acting in an official capacity of this department, regardless of ownership of the device, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

### MEMBER RESPONSIBILITIES

Prior to going into service, each patrol officer will be responsible for making sure that he/ she is equipped with a body worn camera issued by the Department, and that the camera is in good working order (Minn. Stat. § 13.825). If the camera is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor, designee, or coordinator and obtain a functioning device as soon as reasonably practicable.

Officers should ensure the BWC is worn in one of the approved locations to record events.

#### A. Approved BWC wear locations:

1. On the vertical button edge of a uniform shirt or outer jacket.
2. On a dedicated tab of a uniform shirt or outer jacket.
3. On a dedicated tab located on outer body armor carrier.
4. On the pocket of an outer body armor carrier.
5. Other locations can be approved by the Sheriff or Designee.

The following members are not required to wear a body worn camera:

1. Members on special or investigative assignments (SWAT, K9, UAV, drug task force, welfare

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fraud, etc.)

2. Members that are off duty and are called out to respond to incidents.
3. Members that are not assigned a body worn camera, whether or not they are in uniform and/or covering patrol duties (ex. Part-time deputies, Welfare Fraud Investigator in duty uniform covering a patrol shift, Chief Deputy responding to an incident, etc.)
4. Designated members at designated special events (ex. Faribault County Fair, etc.)
5. During adverse weather events as determined by the Sheriff, Chief Deputy, and/or the Sheriff's designee.
6. Members designated by the Sheriff, Chief Deputy, and/or the Sheriff's designee.

Any member assigned to a non-uniformed position may carry an approved body worn camera at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the BWC in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a BWC, the assigned member shall record his/her name, employee number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording (Minn. Stat. § 626.8473). Members should include the reason for deactivation.

### **ACTIVATION OF THE AUDIO/VIDEO RECORDER**

This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations.
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- (c) Self-initiated activity in which a member would normally notify Dispatch.
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

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At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

### **CESSATION OF RECORDING**

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident. The recording may also be stopped when entering a secure detention facility, mental health facility, hospitals and medical calls where the recording would hold no evidentiary value.

### **SURREPTITIOUS RECORDINGS**

Minnesota law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (Minn. Stat. § 626A.02).

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Sheriff or the authorized designee.

### **SPECIAL GUIDELINES FOR RECORDING**

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

- A. Officers have discretion to record any police-citizen encounter regardless if the recording would yield information having evidentiary value, unless such recording is otherwise expressly prohibited.
- B. To use their BWC to take recorded statements from persons believed to be victims and witnesses of crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.
- C. Officers need not record persons being provided medical care unless there is reason to believe the recording would document information having evidentiary value. When responding to an apparent mental health crisis or event, BWC shall be activated as necessary to document any use of force and the basis for it, and any other information having evidentiary value, but need not be activated when doing so would serve only to record symptoms or behaviors believed to be attributable to the mental health issue.
- D. Officers should use their BWC and Squad camera to record their transportation and the physical transfer of persons in their custody to hospitals, detox and mental health care facilities, juvenile detention centers, and jails, but otherwise should not record in these facilities unless the officer anticipates witnessing a criminal event or being involved in or witnessing an adversarial encounter or use-of-force incident.
- E. Officers should avoid when possible, recording law enforcement restricted data on a BWC that may be in a verbal, written or electronic format. Examples including, but not limited to: school or medical

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information, computer screen containing confidential CJIS information such as: Driver's Licenses, criminal histories.

### **EXPLOSIVE DEVICES**

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

### **PROHIBITED USE OF Body Worn Cameras**

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on- duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Sheriff or designee. Any member who uses a personally owned recorder for department- related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

### **IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or mark the recordings in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an under-cover officer or confidential informant.
- (g) The recording or portions of the recording may be protected under the Minnesota Data Practices Act.

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Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

### RETENTION REQUIREMENTS

Portable recordings may be considered criminal investigative data subject to public disclosure (Minn. Stat. § 13.82, Subd. 7). All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 90 days.

### DOWNLOADING AND LABELING

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



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

D. Labeling and flagging designations may be corrected or amended based on additional information.

### **REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource (See the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report. However, transcription of the event may be used as part of the detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation. Any instructor or supervisor can review footage for training purposes.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.



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- (c) In compliance with the Minnesota Data Practices Act request, if permitted or required by the Act, including pursuant to Minn. Stat. § 13.82, Subd. 15, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (See the Records Maintenance and Release Policy). Recordings that are clearly offensive to common sensibilities should not be publicly released unless disclosure is required by law or order of the court (Minn. Stat. § 13.82, Subd. 7; Minn. Stat. § 13.825, Subd. 2).

### COORDINATOR

The Sheriff or the authorized designee should designate a coordinator responsible for (Minn. Stat. § 626.8473; Minn. Stat. § 13.825):

- (a) Establishing procedures for the security, storage and maintenance of data and recordings.
  - 1. The coordinator should work with the Custodian of Records and the member assigned to coordinate the use, access and release of protected information to ensure that procedures comply with requirements of the Minnesota Government Data Practices Act (MGDPA) and other applicable laws (Minn. Stat. § 13.01 et seq.) (See the Protected Information and the Records Maintenance and Release policies).
- (b) Establishing procedures for accessing data and recordings.
  - 1. These procedures should include the process to obtain written authorization for access to non-public data by FRC members and members of other governmental entities and agencies.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging or marking events.
- (e) Establishing an inventory of BWC including:
  - 1. Total number of devices owned or maintained by the Faribault County Sheriff's Office.
  - 2. Daily record of the total number deployed and used by members and, if applicable, the precinct or district in which the devices were used.
  - 3. Total amount of recorded audio and video data collected by the devices and maintained by the Faribault County Sheriff's Office.
- (f) Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9.
- (g) Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Faribault County Sheriff's Office that expands the type or scope of surveillance capabilities of the department's BWC.

The criterion for the Coordinator listed above for a, b, c, d and e has been addressed in this BWC policy. The Coordinator, Sheriff, or designee will address items f and g when needed.

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## RETENTION OF RECORDINGS

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 90 days.

If an individual captured in a recording submits a written request, the recording may be retained for an additional time period. The coordinator, Sheriff, or designee should be responsible for notifying the individual prior to destruction of the recording (Minn. Stat. § 13.825). This is addressed in further detail in the "Data Retention" section of this policy.

## RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings that is not specifically covered in this policy, shall be processed in accordance with the Records Maintenance and Release Policy.

## ACCESS TO RECORDINGS

Except as provided by Minn. Stat. § 13.825, Subd. 2, audio/video recordings are considered private or nonpublic data.

Any person captured in a recording may have access to the recording. If the individual requests a copy of the recording and does not have the consent of other non-law enforcement individuals captured on the recording, the identity of those individuals must be blurred or obscured sufficiently to render the subject unidentifiable prior to release. The identity of on-duty peace officers may not be obscured unless their identity is protected under Minn. Stat. § 13.82, Subd. 17.

### A. Data subjects:

Under Minnesota law, the following are considered data subjects for purposes of administering access to BWC data:

1. Any person or entity whose image or voice is documented in the data.
2. The officer who collected the data.
3. Any other officer whose voice or image is documented in the data, regardless of whether that officer is or can be identified by the recording.

### B. BWC data is presumptively private.

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

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

### C. Confidential data.

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

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### **D. Public data.**

The following BWC data is public:

1. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous.
2. Data that documents the use of force by a peace officer that results in substantial bodily harm.
3. Data that a data subject requests to be made accessible to the public, subject to redaction. Data on any data subject (other than a peace officer) who has not consented to the public release must be redacted [if practicable]. In addition, any data on undercover officers must be redacted.
4. Data that documents the final disposition of a disciplinary action against a public employee. However, if another provision of the Data Practices Act classifies data as private or otherwise not public, the data retains that other classification. For instance, data that reveals protected identities under Minn. Stat. § 13.82, subd. 17 (e.g., certain victims, witnesses, and others) should not be released even if it would otherwise fit into one of the public categories listed above.

### **E. Access to Body Worn Camera data by non-employees.**

Officers shall refer members of the media or public seeking access to BWC data to the Sheriff, designee, or Faribault County Attorney who shall process the request in accordance with the MGDPA and other governing laws. In particular:

1. An individual shall be provided with access and allowed to review recorded BWC data about him- or herself and other data subjects in the recording, but access shall not be granted:
  - a. If the data was collected or created as part of an active investigation.
  - b. To portions of the data that the agency would otherwise be prohibited by law from disclosing to the person seeking access, such as portions that would reveal identities protected by Minn. Stat. § 13.82, subd. 17.
2. Unless the data is part of an active investigation, an individual data subject shall be provided with a copy of the recording upon request, but subject to the following guidelines on redaction:
  - a. Data on other individuals in the recording who do not consent to the release must be redacted.
  - b. Data that would identify undercover officers must be redacted.
  - c. Data on other officers who are not undercover, and who are on duty and engaged in the performance of official duties, may not be redacted.

### **F. Access by peace officers and law enforcement employees.**

No employee may have access to the department's BWC data except for legitimate law enforcement or data administration purposes:

1. Agency personnel may access and view stored BWC data only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Officers may review BWC recorded data of an incident which they recorded, for the purpose of preparing a report, giving a statement, or providing testimony about the incident.

## **FARIBAULT COUNTY SHERIFF'S OFFICE**

2. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC digital data recorded or maintained by this agency onto public and social media websites. Agency personnel shall document their reasons for accessing stored BWC data at the time of each access.
3. Agency personnel shall refer members of the media or public seeking access to BWC recorded data to the responsible authority/data practices designee, who will process the request in accordance with the MGDPA and other governing laws. Employees seeking access to BWC recorded data for non-business reasons may make a request for it in the same manner as any member of the public.
4. Officers may display portions of BWC data to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82, subd. 15, as may be amended from time to time. Officers should limit these displays, including but not limited to: showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio but not displaying video, to protect against the incidental disclosure of individuals whose identities are not public.
5. BWC digital data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.
6. BWC data may be shared with other law enforcement agencies only for legitimate law enforcement purposes that are documented in writing at the time of the disclosure.

### **DATA SECURITY SAFEGUARDS**

- A. All security measures employed by Evidence.com shall be in effect for data management
- B. Officers shall only use agency designated digital data storage, as approved by the Sheriff or designee.
- C. Personally owned devices, including but not limited to computers and mobile devices, shall not be programed or used to access or view or record agency BWC digital data, without prior approval from the Sheriff or designee.
- D. Officers shall not intentionally edit, destroy, erase or in any manner alter BWC digital data unless otherwise expressly authorized by the Sheriff or designee.
- E. As required by Minn. Stat. § 13.825, subd. 9, as may be amended from time to time, this agency shall obtain an independent biennial audit of its BWC program.

### **AGENCY USE OF DATA**

The following purposes are approved by the Sheriff as having a legitimate and specified law enforcement purpose, for the access to the BWC recorded data as provided by Minnesota Statute 13.825, subd 7(b).

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- A. The Sheriff or Designee may randomly review BWC usage by each officer to whom a BWC is issued or available for use, to ensure compliance with this policy, ensure equipment is operating properly and to identify any performance areas in which additional training or guidance is required.
- B. In addition, the Sheriff and other assigned personnel may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.
- C. Nothing in this policy limits or prohibits the use of BWC data as evidence of misconduct or as a basis for discipline.
- D. Officers should contact their supervisors to discuss retaining and using BWC footage for training purposes. Officer objections to preserving or using certain footage for training will be considered on a case-by-case basis.
- E. Field training officers may review BWC recorded data, recorded by them or their trainee, with trainees for the purpose of providing coaching and feedback on the trainee's performance.

### DATA RETENTION

- A. All data compiled by a body worn cameras will be subject to the following data retention schedules. When a particular recording is subject to multiple classifications and retention periods, it shall be maintained for the longest applicable period. All data will be retained for a minimum of 90 days. There is no exceptions for erroneously recorded or non-evidentiary data.
- B. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous, must be maintained for a minimum period of one year.
- C. Certain kinds of BWC data must be retained for six years:
  - 1. Data that documents the use of deadly force by a peace officer, or force of a sufficient type or degree to require a use of force report or supervisory review.
  - 2. Data documenting circumstances that have given rise to a formal complaint against an officer.
- D. Other data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period.
- E. Subject to Part F (below), all other BWC footage that is classified as non-evidentiary, becomes classified as non-evidentiary, or is not maintained for training shall be destroyed after 90 days. Upon written request by a BWC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.
- F. The department will post this policy on its website.

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(a) **Evidence-Criminal: Three-year retention period**

The information has evidentiary value with respect to an actual or suspected criminal incident or charging decision.

(b) **Evidence-Force: Six-year retention period**

Whether or not enforcement action was taken, or an arrest resulted, the event involved the application of deadly force by a peace officer, or force of a sufficient type or degree to require a use of force report or supervisory review of this or another agency.

(c) **Evidence-Property: One-year retention period**

Whether or not enforcement action was taken, or an arrest resulted, an officer seized property from an individual or directed an individual to dispossess property.

(d) **Evidence-Administrative: Six-year retention period**

The incident involved an adversarial encounter or resulted in a complaint against the officer.

(e) **Evidence-Other: Three-year retention period**

The recording has potential evidentiary value for reasons identified by the officer at the time of labeling.

(f) **Not Evidence: 90-day retention period**

The recording does not contain any of the foregoing categories of information and has no apparent evidentiary value. Recordings of general citizen contacts and unintentionally recorded footage are not evidence.

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Data listed below will have the following retention period.

Uncategorized - Until Manually Deleted	Evidence (Long Term) - Until Manually Deleted
Adversarial / Complaint - 6 Years	Juvenile Contact – 180 Days
Assault – 3 Years	Motor Vehicle Accident - 3 Years
Assist (General/Civil) - 120 Days	Property Seizure/Release - 3 Years
Assist (Other Agency) - 180 Days	Pursuit (Motor Vehicle) - Until Manually Deleted
Burglary - 3 Years	Suspicious Circumstance/Person/Vehicle - 90 Days
Disturbance - 90 Days	Test / Accidental - 90 Days
Domestic (Arrest) - 3 Years	Traffic Citation - 3 Years
Domestic (No Arrest) - 180 Days	Traffic Warning - 90 Days
Drug Task Force Contact – 180 Days	Training - 180 Days
Drugs/Narcotics - 3 Years	Transport - 180 Days
DWI - 3 Years	Vehicle Search - 180 Days
Evidence (Criminal) - 6 Years	Warrant Service – 180 Days
Evidence (Force) - 6 Years	

### ACCOUNTABILITY

Any member who accesses or releases recordings without authorization may be subject to discipline (See the Standards of Conduct and the Protected Information policies) (Minn. Stat. § 626.8473).

### TRAINING

The Faribault County Sheriff's Office shall provide all employees responsible for the operation, handling, and management of the BWC equipment and data files with training to ensure compliance with this policy.



# FARIBAULT COUNTY SHERIFF'S OFFICE

## 1800 MEDICAL EXAMINER POLICY

Issued Date:	01/1998
Revised Date:	11/2001, 04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

### **PURPOSE:**

In 1989 the office Faribault County Medical Examiner was established to replace the office of County Coroner.

Current law outlining the duties of Medical Examiner are given in Minnesota State Statute 390.

The purpose as stated MINN STAT 390.31.1 is to *“provide a simplified system for the investigation of the death of any person when the county attorney determines that an investigation is necessary and provide for professional assistance to those making the investigation. It is declared to be in the public interest for medical doctors to conduct the medical investigations deemed necessary under the supervision of the county attorney and, if a trial is deemed necessary, that it be held in a court of record.”*

### **PROCEDURE:**

#### **Cases Which Must Be Reported To The Medical Examiner And County Attorney (MN §390.32):**

The following deaths shall be reported to and investigated by the Sheriff or his deputies who shall in turn report all such deaths to the Medical Examiner and the County Attorney:

- 1) violent deaths, whether apparently homicidal, suicidal, or accidental, including but not limited to deaths due to thermal, chemical, electrical, or radiational injury, and deaths due to criminal abortion, whether apparently self induced or not;
- 2) deaths under unusual or mysterious circumstances;
- 3) deaths of persons whose bodies are to be cremated, dissected, buried at sea, or otherwise disposed of so that the bodies will later be unavailable for examination; and
- 4) deaths of inmates of public institutions who are not hospitalized for organic disease and whose deaths are not of any type referred to in clause 1) or 2).
- 5) Deaths that occur during, in association with, or as the result of diagnostic therapeutic, or anesthetic procedures;
- 6) Deaths due to neglect;
- 7) Sudden death of person not disabled by recognizable disease or who was not being seen by or treated by physician for underlying disease which may have caused death;
- 8) Stillbirths of 20 weeks or longer gestation unattended by physician;
- 9) Suspected sudden infant death syndrome;
- 10) Suspected or known death due to AIDS;
- 11) Any other death in which there is doubt as to whether it is a medical examiner's case should be reported and discussed with the medical examiner.

#### **Investigation Procedures**

- 1) When a death which falls into any of the above categories occurs, the peace officer, physician, mortician, or other individual connected with the case should report it promptly to the Faribault County Sheriff's Office
  - a. A reportable death occurring at designated healthcare facilities within Faribault County can be directly discussed with the Medical Examiner who may or may not notify the Sheriff or County Attorney depending on the possible existence of criminal circumstances.

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- b. Upon notification of such a death, the Sheriff or his designee shall proceed to the body and take charge of same.
- 2) When reporting a case, please have the following information available if possible: name, age, address, sex, race, marital status, next of kin, summary of history, physical finds, physician and any other pertinent data.
- 3) The Sheriff or his designee may elect to call the Medical Examiner to the scene if in his judgment this may be helpful in the investigation of the death. Otherwise, the Sheriff shall discuss the case with the Medical Examiner at the Medical Examiner's Office to determine if additional medical investigation is necessary.
- 4) In cases that are applicable to the medical examiner, he shall find the cause of death, sign and file a death certificate.
- 5) In cases where the County Attorney may elect to conduct an inquest, the County Attorney shall promptly notify the Probate Judge of the need for an inquest and make all arrangements for it. At the inquest, the Probate Judge shall preside and the County Attorney shall conduct the inquest on behalf of the state. Upon conclusion of the inquest, the Probate Judge shall find the cause of death and sign and file a death certificate.
- 6) In a timely fashion, the Sheriff or his designee shall deliver a signed copy of his report of investigation to the County Attorney and the Medical Examiner. With this report and review the medical history with attending physicians and family, the medical examiner may elect to sign death certificate, with or without additional medical investigation. If necessary toxicological tests and autopsies will be conducted to clarify and determine the cause of death.
- 7) Although all cases described above must be reported, the Medical Examiner reserves the right to accept or decline jurisdiction. When jurisdiction in a specific case is declined, the attending physician signs the death certificate, and the disposition of the body is the responsibility of the next of kin.
- 8) Do not remove clothing or effects, handle the body, alter the scene (including moving of weapons or items on or near the body), or perform a postmortem examination except by specific authorization of the medical examiner or his investigators.
- 9) The Medical Examiner's Office should be contacted prior to harvesting any organs or tissues from the Medical Examiner's cases. The Medical Examiner's Office will provide information and assist interested persons so as to facilitate these anatomical gift donations.
- 10) Next of kin should be directed to contact the Sheriff or his designee for information as to the circumstances of death, cause of death, and concerns about the person's effects. The Sheriff may refer the family to the Medical Examiner. In many instances, the Medical Examiner will be contacting the family for information which may be helpful in the case. The next of kin should be informed that final disposition of the body is their responsibility and that they should contact a funeral home of their choice. The Sheriff's or his designee's Office is responsible for affecting the removal of unclaimed bodies.

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- 11) When the deceased is to be cremated and has not been autopsied, the funeral director is responsible for presenting a signed death certificate to the Medical Examiner prior to the cremation of the body. Verbal approval may be obtained from the Medical Examiner in certain situations.

### **Information And Services**

- 1) Information concerning the cause of death may be obtained from the Sheriff's Office. A copy of the Medical Examiner's Autopsy Report will be sent to the Sheriff and County Attorney. Any other person or agency must have authorization from the next of kin to obtain a copy of the autopsy and/or Medical Examiner's Report.
- 2) The Sheriff's Office or Medical Examiner's Office will be responsible for notifying the decedent's next of kin.

### **Helpful Notes And Suggestions**

- 1) The Sheriff and/or his deputies are the first line investigators for the Medical Examiner. They will be taking the initial calls and may be the only officials on the scene. They will do the background report.
- 2) Deaths should fit somewhere into one of the following three categories:
  - a. Death does not fit criteria to report to Medical Examiner; family is referred to funeral home. Death certificate signed by attending physician.
  - b. Death appears to fit criteria; report made to Medical Examiner. Medical Examiner does not accept jurisdiction of case. Family is referred to funeral home. Death certificate signed by attending physician.
  - c. Death fits criteria and report is made to Medical Examiner. Medical Examiner decides fate of body and may or may not visit scene.
    - i. Body examined by Medical Examiner at scene or hospital. Medical Examiner may wish to draw body specimens for toxicology examination. Medical Examiner may then release it to funeral home with or without permission to do drainage. Medical Examiner signs death certificate.
    - ii. Body examined by Medical Examiner and after reviewing case with Sheriff's Reports and conferring with County Attorney may decide to send body to appropriate medical lab for autopsy. Death certificate signed by Medical Examiner after securing results of autopsy.
    - iii. Copies of "Faribault County Medical Examiner and Sheriff's Death Investigative Report" shall be filled out and retained with copies being forwarded to appropriate offices. It is the Sheriff's duty to insure this is done.
    - iv. When sending bodies to the Medical Examiner, be certain they are tagged or somehow identifiable.
    - v. In cases of fatal accidents it is normally not necessary to involve the Medical Examiner until you send the body from the scene to his office/emergency room.

# FARIBAULT COUNTY SHERIFF'S OFFICE

## 1900 CIVIL DEFENSE SIREN POLICY

Issued Date:	09/1997
Revised Date:	11/2001; 04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

**PURPOSE:**

This procedural policy outlines the Faribault County Sheriff's Office anticipated reaction to the testing, emergency and/or requested sounding of tornado, fire and other emergency sirens for the associated communities within Faribault County.

**PROCEDURE:**

**Civil Defense** sirens in all communities falling within Faribault County will be tested by the Faribault County Sheriff's Department through the Civil Defense testing procedures on the first Wednesday of every month at approximately 1:00 p.m.

This will be the only siren testing done by the Faribault County Sheriff's Office, unless additional testing is requested in writing and approved by the Faribault County Sheriff.

All siren tests conducted independently by associated communities within Faribault County; including those involving attack sirens, must be reported to the Faribault County Sheriff's Office prior to the actual test.

Civil Defense sirens will be sounded at the request of the National Weather Service and/or area spotters in the event of an actual emergency.

Testing of the Fire sirens in all communities falling within Faribault County will be the responsibility of the individual departments. Actual implementation of the fire sirens will also be the responsibility of the communities, not that of the Faribault County Sheriff's Office.

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## 2000 EVIDENCE LOCKER POLICY

Issued Date:	05/2000
Revised Date:	11/2001; 04/2023
Approved By:	Mike Gormley, Sheriff; Scott Adams, Chief Deputy

### **PURPOSE:**

This procedural policy outlines the Faribault County Sheriff's Office regulation of the control and access to the area of the L.E.C. referred to as the "Evidence Locker". This policy will also identify the classifications of property, the handling of each type while in the control of the Faribault County Sheriff's Department and then the release of each classification of property.

### **PROCEDURE:**

**Access:** From the date of this policy forward access to this area will be controlled by the Evidence Clerk. The Faribault County Sheriff, Chief Deputy, Administrative Clerk shall obtain control in the absence of the Evidence Clerk. Any and all other access will be prohibited.

### **Classifications of Property.**

**Evidence:** Property which may be related to crime or which may implicate or clear a person of criminal charge.

**Found Property:** Non evidentiary property which after coming into the custody of the agency, has been determined to be lost or abandoned and is not known or suspected to be connected with any criminal offense.

**Property held for Safekeeping:** Non-evidentiary property which is in the custody of the agency for temporary protection on behalf of the owner.

### **Procedures for Depositing Property - Evidence.**

#### **A. Duties Of Deputy Who Takes Property into Custody.**

1. The deputy shall, in every instance, place all property obtained in the course of his or her employment in the agency's property system **prior to going off duty**. In no instance shall an employee store property in a personal locker or other unauthorized location.
2. The deputy shall prepare a Property Record/Receipt. This Property Record/Receipt should be considered an inventory list and should be clearly marked with the ICR Case Number, description of the evidence, place evidence was found, date and time of recovery, suspect, offense, victim and officer responsible for the case. Chain of possession should be noted only if this chain varies from where evidence was found to the Evidence Locker. i.e.: recovered then sent to BCA Lab or recovered vehicles stored at an outside facility. If evidence has been sent to a facility outside of the L.E.C. this should be noted so an Evidence Number can be assigned and the chain of possession is never jeopardized.
  - a. Except as provided in "*Special Handling Procedures, In the Absence of the Evidence Clerk*" section below, the deputy shall submit the Property Record/Receipt with the property item in person to the evidence clerk.
3. There are certain items that require special packaging.
  - a. Blood – should be air-dried. Items can be hung in the evidence lockers on the lines provided. If the blood is already dry the item may be placed in a paper

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- bag. The bags should be marked with the ICR and a biohazard label and sealed as to not jeopardize the integrity of the evidence.
- b. Living plants – should be air-dried. Items cannot be sent to BCA lab for analysis until they are completely dry. Under no circumstances should living plants be packaged until they have been dried.
4. The deputy shall make appropriate inquiries to the State Department of Justice computer regarding serialized items of property to determine if the property is reported stolen.
  5. Special Handling Procedures
    - a. In the absence of the Evidence Clerk:
      1. The deputy shall place property items, together with the Property Record/Receipt, in a temporary storage property locker. Use as many temporary storage property lockers as needed. You may place all items from an ICR in the same locker, but use separate lockers for each ICR.

Temporary storage property lockers are located by the Deputy's Room of the Faribault County Sheriff's Department. The locker should be secured by locking the padlock once the item and Property Record/Receipt is placed inside the locker.

2. Any property that can be placed in an envelope can be dropped in the temporary envelope slot. Make sure the Property Record/Receipt is enclosed in the envelope to insure proper ICR to property identification. For example this slot could be used for money, valuables and narcotics. The envelope should be secured since this slot could be used for several small pieces of evidence. Note ICR on envelope.
  3. The deputy shall deposit large items (such as bicycles, tires, etc.) in the permanent evidence area or the Evidence Clerk's office.
    - a. The Evidence Clerk's office can be secured by locking and closing the door.
    - b. The deputy shall leave the Property Record/Receipt on the Evidence Clerk's desk to notify that a large item of property must be further processed if this evidence is not placed in the temporary storage property locker.
- b. When the Evidence Clerk is on duty:
    1. The deputy shall deliver property taken into custody to the Evidence Clerk.
    2. The Evidence Clerk shall examine money, valuables and narcotics and witness the placement of such property. Money shall be counted and the amount verified by two persons. A receipt will be filled out for money and signed by both parties.
  - c. Items requiring Special Handling:
    1. Firearms
      - a. A deputy delivering a firearm to the Evidence Section shall unload the firearm before entering the agency facility. If the firearm cannot be unloaded because of a malfunction or the deputy's unfamiliarity with the firearm, the deputy shall attach a note to the firearm describing the malfunction and/or a warning that the firearm has not



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been unloaded, before depositing the firearm with the Evidence Section.

- i. A deputy may not want a firearm unloaded because of the nature of a case i.e.: homicide. This firearm may contain other items of evidence i.e.: fingerprints and therefore will not be unloaded. If a deputy feels the importance of not unloading a firearm this should be noted and the weapon should be secured.
2. Flammables
  - a. Storage of Flammables will be accomplished by placing in Flammables/Explosives Cabinet.
3. Explosives and Perishable Items
  - a. Storage of Explosives will be accomplished by placing in Flammables/Explosives Cabinet.
  - b. Perishable items such as shoplifted food, etc. shall be photographed and returned to the owner or destroyed by the Evidence Clerk.

### B. Duties of Evidence Clerk

1. The Evidence Clerk shall process property received from the deputy or the temporary storage property lockers as soon as on duty or received.
2. The Property Record/Receipt information shall be used to create an Evidence tag. The Evidence tag shall be secured to property during processing.
3. The Evidence Clerk shall transfer property from Temporary Storage to the permanent evidence locker and create/update the computer records.
4. Any property needing to be sent to BCA Laboratory for processing should be clearly marked on the package and noted on the Property Record/Receipt so the Evidence Clerk will know to send the item out immediately. The computer entry will so note evidence out to BCA Lab for analysis.
5. Property from a vehicle being held in the Faribault County's storage facility
  - a. The Deputy will notify the Evidence Clerk of a seized vehicle in the Faribault County Storage garage. The Deputy will process the property from this vehicle. Any personal property, property not connected to the crime should be delivered to the Evidence Clerk or the Evidence Clerk should be notified that non-evidence personal property is still stored in the vehicle. In either case the Evidence Clerk can, by deputy authority, process the non-evidence personal property for release. See C-3-B for this procedure. Evidence from this vehicle will be processed as described previously.
  - b. Keys for the vehicles in the storage facility should be retained in the lock box.

### C. Retrieving Evidence for Court

1. If you need your evidence for court, notify the Evidence Clerk the day before. This way it can be assured that everyone has received the evidence in a timely manner and the paperwork is completed.
2. The Evidence Clerk shall update the computer as to chain of possession or the transfer of the evidence from the Evidence Locker to the Officer.

### Returning Property/Evidence to The Owner.

The Evidence Clerk will send a notice, by certified mail, to the identified person to insure a paper trail of the attempt. A thirty-day notice will be given in this notice for the owner to retrieve property. The



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person claiming the property will have to offer a valid driver's license or identification and sign a form to retrieve the property. If not retrieved within this period of time the evidence will become the property of the Faribault County Sheriff's Department and no further claim will be identified.

- A. Evidence:** Property that is evidence is never returned to the owner without the permission of the Officer, the County Attorney's Office and/or the Court. The officer is first asked for permission to release evidence. If the officer objects, the evidence remains in the officers evidence locker. If the officer has no objections a motion is created by the Evidence Clerk and forwarded to the County Attorney. If the County Attorney signs the motion it is then forwarded to the Court for approval by the judge. If the judge signs the motion it is returned to the Evidence Clerk for attempt of return. Evidence will only be returned to the owner if it is legal for the owner to possess. A motion to seize or destroy evidence that will not be returned will be processed in the same matter as above.

When property is returned the owner is required to show a valid driver's license or identification and sign a receipt. The Evidence Clerk shall update the chain of possession to show the return to the owner.

If evidence is being released to the owner at the direction of the County Attorney and prior to the completion of the court case, it is photographed in compliance with Minnesota State Statute 609.523-- "Return of Stolen Property to Owners". A certified notice will be sent giving the owner the above thirty days to retrieve. The owner is required to show a valid driver's license or identification and sign a receipt for this property.

- B. Found Property:** If a person (civilian) turns over an item to the Faribault County Sheriff's Office claiming it was found the following happens:
1. A waiting period of at least 90 days must expire with no one claiming ownership during that period of time.
  2. The serial number, if such, is run in the state computer to insure item not stolen.
  3. A notice is posted to all deputies to inform of the item and release. This will allow each deputy to check their cases for connection.
  4. A county-wide record check will be performed by the Evidence Clerk to insure the person (civilian) has not been convicted of a crime that would not allow him/her to possess the found item. i.e.: weapon.

When all conditions are met and no one has claimed the property and is not reported stolen, the Evidence Clerk will send a notice, by certified mail, to the identified person (civilian) to insure a paper trail of the attempt. A thirty day notice will be given in this notice for the person to retrieve the found property. The person claiming the property will have to offer a valid driver's license or identification and sign a form to retrieve the property. If not retrieved within this period of time the property will become that of the Faribault County Sheriff's Department and no further claim will be identified.

**C. Safekeeping:**

1. Orders for Protection. Items seized under Violent Crime control and Law Enforcement Act of 1994, 18 U.S.C. Statute 922(g)(8), concerning the shipping, transporting, possession, or receiving of firearms and ammunition. When the deputy is so ordered by the court to take into custody weapons for safekeeping the items for safekeeping will be placed into the computer under an ICR as evidence items. This will be done for tracking purposes. The Evidence Clerk will also set up a 90-day re-check flag in the computer. When this re-check flag is activated the Evidence Clerk will check the owner of the

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items in safekeeping in the state \_computer. This check will consist of the owner's driver's license number, name, date of birth. This check will identify if the "Order for Protection" is still active. As a secondary verification the Evidence Clerk will contact the Court Administrator's office of the docketed court to verify the order is in place or has been lifted. Both checks will be performed to ensure no human error has occurred. If still active the Evidence Clerk will set up another 90-day re-check flag in the computer. This will repeat until the "Order for Protection" is no longer in effect.

Once the "Order for Protection" or whatever caused the items to be placed in safekeeping has passed or expired the Evidence Clerk will send a notice, by certified mail, to the owner of the items to insure a paper trail of the attempt. A thirty day notice will be given in this notice for the person to retrieve the safekeeping property. The person claiming the property will have to offer a valid driver's license or identification and sign a form to retrieve the property. If not retrieved within this period of time the property will become that of the Faribault County Sheriff's Department and no further claim will be identified.

2. Non-evidence Personal Property. An inventory will be taken of the personal property. The inventory will be listed in the case file (computer). The Evidence Clerk will send a notice, by certified mail, to the owner of the items to insure a paper trail of the attempt. A thirty-day notice will be given in this notice for the person to retrieve the non-evidence personal property. The person claiming the property will have to offer a valid driver's license or identification and sign a form to retrieve the property. If not retrieved within this period of time the property will become that of the Faribault County Sheriff's Department and no further claim will be identified.

**FARIBAULT COUNTY SHERIFF'S OFFICE  
9900 CRIMINAL JUSTICE DATA COMMUNICATIONS NETWORK  
POLICY**

**SEE SEPARATE PDF FILE FOR FULL CJDN POLICY**