

# ADMINISTRATIVE FORFEITURE [MODEL POLICY]

## POLICY

Duluth Township Police Department personnel shall follow state and federal laws regarding administrative forfeitures and the handling of seized property. This policy applies to agency personnel assigned to another agency's task force as well as personnel from outside agencies assigned to a task force managed by the Duluth Township Police Department.

## DEFINITIONS

**Ammunition:** has the meaning given to it in [MN Statute 609.02, subdivision 17](#).

**Controlled Substance:** has the meaning given to it in [MN Statute 152.01, subdivision 4](#).

**Conveyance Device:** has the meaning given to it in [MN Statute 609.531, subdivision 1\(a\)](#).

**Firearm:** has the meaning given to it in [MN Statute 609.666, subdivision 1\(a\)](#).

**Firearm Accessories:** means devices and attachments made to be used for or with a firearm. Firearm accessories may include, but are not limited to, holsters, gun cases, firearm optics, suppression devices, and firearm cleaning supplies.

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

**Forfeiture Reviewer:** means agency personnel responsible for reviewing all forfeiture cases and for being the liaison between the agency and prosecutor's office.

**Jewelry/Precious Metal/Precious Stones:** refers to items of jewelry such as rings, necklaces, and watches that reasonably appear to be made with 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.

**Money:** has the meaning given to it in [MN Statute 609.5314, subdivision 1\(d\)](#).

**Seizure:** refers to the act of law enforcement officials taking property, including but not limited to, money and vehicles, that have been used in connection with or acquired as a result of illegal activities.

## PROCEDURE

### SEIZED PROPERTY SUBJECT TO ADMINISTRATIVE FORFEITURE

The items described herein are subject to administrative forfeiture under [MN Statute 609.5314, subdivision 1](#).

- All money totaling \$1,500 or more, precious metals, and precious stones for which there is probable cause to believe they represent the proceeds of a controlled substance offense.
- All money found in proximity to controlled substances when there is probable cause to believe that the money was exchanged for the purchase of a controlled substance.
- All conveyance devices containing controlled substances with a retail value of \$100 or more if there is probable cause to believe that the conveyance device was used in the transportation or exchange of a controlled substance intended for distribution or sale.
- All firearms, ammunition, and firearm accessories.

### PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

When any property as described in the above section is seized, the peace officer making the seizure must ensure the required forfeiture forms are completed, that a receipt for the seized items is completed, and that the appropriate notifications are made within 60 days pursuant to [MN Statute 609.5314, subdivision 2](#).

The notice form contains information in English, Hmong, Somali, and Spanish concerning the right to obtain judicial review and the procedure to follow under [MN Statute 609.5314](#) for obtaining the review. The form must be dated and signed by the peace officer conducting the seizure. The agency case number must be included on the form. The individual from whom the property was 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 must 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 agency's custody.

The peace officer conducting the seizure shall ensure the original and pink copy of the seizure notices, seized property processing worksheets, property receipts, and reports are forwarded to the Forfeiture Reviewer within 10 days of seizure. The peace officer who conducted the seizure shall inform the Forfeiture Reviewer of the estimated retail value of drugs found in proximity to the asset seized.

**Money.** Peace officers shall not seize money having an aggregate value less than (amount determined by the agency) unless pre-recorded buy funds are included in the money seized. Money shall be counted by two peace officers while in the presence of one another, then the money must be placed in an envelope that is sealed and initialed/dated by the two peace officers. This processes should be documented via video recording. If video recording is not available, the peace officer shall document the reason(s) why a recording was not captured in their report. The property bag and/or inventory receipt shall then be signed/dated by the two peace officers who counted the money.

All forfeitable money seized will be turned over to the Forfeiture Reviewer or property/evidence room as soon as practical after the seizure. Prior to deposit with the Forfeiture Reviewer, [officers] shall examine all money seized to determine whether it contains any buy funds. [Officers] shall document the recovery of all buy funds and deposit those funds with the Forfeiture Reviewer or other designated person/entity to be returned to the appropriate unit's buy fund account.

[Officers] seizing money shall also prepare a property inventory. If money is seized from multiple individuals, a property inventory receipt shall be completed for each individual. The property inventory receipt shall specify the total amount of money seized from each individual. The agency property inventory shall also contain a detailed description of all money, checks, money orders, travelers checks and/or other financial instruments. The [officer] conducting the seizure shall ensure a copy of the completed property inventory receipt is provided to the Forfeiture Reviewer.

It is the seizing peace officer's responsibility to secure the money consistent with this agency's policy/procedure for seizing/forfeiting money.

**Jewelry/Precious Metals/Precious Stones.** Peace officers seizing jewelry, precious metal, or precious stones will write a detailed description of each item on the property inventory form/receipt prior to inventorying the items. A copy of the property receipt and any photographs of the item(s) shall be delivered to the Forfeiture Reviewer and kept with the case file. [Officers] seizing jewelry, precious metals, or precious stones shall deliver those items to the property/evidence room as soon as practical.

**Conveyance Devices.** Upon seizure for forfeiture, all conveyance devices shall immediately be either taken to a secure designated area or to an agency approved impound facility. [Officers] shall inventory the conveyance device and its contents in accordance with this agency's policies. [Officers] shall also complete the applicable forms and distribute them as appropriate. Copies of the appropriate forms shall also be provided to the Forfeiture Reviewer and kept with the case file.

**Firearms/Ammunition/Firearm Accessories.** When firearms, ammunition, or firearm accessories are seized, they shall be inventoried and delivered to the property/evidence room as soon as practical. The appropriate forms shall be completed and distributed as appropriate. Copies of the completed forms shall be provided to the Forfeiture Reviewer and kept with the case file.

## FORFEITURE REVIEWER

The Forfeiture Reviewer is responsible for ensuring forfeiture changes are forwarded to a supervisor for review.

### REPORTS

[Officers] seizing property shall complete a report. All reports must include a description of the items seized, where the property was turned-in/inventoried, the name of the individual served, the date the seizure form was served, the name of the serving [officer], and whether or not the individual signed the forfeiture form. All reports dealing with the seized property must be completed within 24 hours of the seizure unless the [officer] received permission from their direct supervisor to exceed the 24-hour requirement. In such instances, information regarding what item was seized, by whom, and where the property is being stored shall be documented in a location accessible by other agency personnel.

### TRAINING

Training will be provided by the agency in consultation with the prosecuting authority to personnel who may exercise the use of administrative forfeiture in the performance of their assigned duties. Such training will be conducted whenever the agency policy is changed or modified based upon administrative directives, legislative changes, and/or court decisions. Training may include, but is not limited to, agency policy, directives, and electronic or traditional classroom education.

### STATUTORY REFERENCES

- [MN STATUTE 152.01](#) – Definitions
- [MN STATUTE 609.02](#) – Definitions
- [MN STATUTE 609.531](#) – Forfeitures
- [MN STATUTE 609.5311](#) – Forfeiture of Property Associated with Designated Offenses
- [MN STATUTE 609.5312](#) – Forfeiture of Property Associated with Controlled Substances
- [MN STATUTE 609.5313](#) – Forfeiture by Judicial Action; Procedure
- [MN STATUTE 609.5314](#) – Administrative Forfeiture of Certain Property Seized in Connection with a Controlled Substance Seizure
- [MN STATUTE 609.5315](#) – Disposition of Forfeited Property
- [MN STATUTE 609.5316](#) – Summary Forfeitures
- [MN STATUTE 609.18](#) – Forfeiture of Vehicles Used in Drive-by Shootings
- [MN STATUTE 609.666](#) – Negligent Storage of Firearms

# ALLEGATIONS OF MISCONDUCT [MODEL POLICY]

## PURPOSE

The purpose of this policy is to inform all personnel and members of the public of the procedures for reporting, receiving, investigating, and resolving misconduct complaints regarding licensed peace officers employed by the Duluth Township Police Department. The provisions of this policy are applicable to the investigation and disposition of allegations of administrative misconduct. This policy does not apply to criminal investigations.

## POLICY

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

## DEFINITIONS

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

**Chief Law Enforcement Officer (CLEO):** has the same meaning given to it in [MN Administrative Rule 6700.0100, subpart 8](#).

**Complainant:** means a person who submits a complaint to the agency or CLEO alleging misconduct by a peace officer.

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

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

- oral reprimand,
- written reprimand,
- suspension,
- demotion, and/or
- discharge.

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

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

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

**Misconduct:** means 1) a violation of an agency policy or procedure governing peace officer conduct or 2) conduct by a peace officer that would be a violation of the POST Standards of Conduct per [MN Administrative Rule 6700.1600](#).

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

**Policy Failure:** means that the complaint revealed a policy failure. The allegation is factual, but the peace officer followed the agency's proper policy/procedure. The policy/procedure is proven to be deficient.

**Policies and Procedures:** refers to the administrative rules adopted by the agency regulating the conduct of agency personnel.

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

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

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

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

## **PROCEDURE**

### **ACCEPTANCE AND FILING OF COMPLAINTS**

Complaint forms must be made available to members of the public through agency personnel, at designated public facilities, and online. Complaints may be received in person, by telephone, in writing, or via the internet. A complainant may remain anonymous but should be advised that remaining anonymous may affect the investigation of the complaint. 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. Personnel must provide assistance to individuals who express the desire to lodge a complaint. The complainant must be advised of the procedures for submitting the complaint and be provided with a copy of their submitted complaint. The complainant should be asked to verify and attest that their complaint is complete and accurate to the best of their knowledge by signing the complaint form. If the complainant elects not to sign, this fact shall be documented and the complaint processed according to department policy. 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.

A CLEO or Receiving Authority may delegate the duties and responsibilities required of a CLEO by this policy to an appropriate designee(s).

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. The city administrator, manager, mayor, county attorney, county administrator, or board of county commissioners must refer investigations of alleged misconduct against a CLEO to a neutral, external investigative entity such as another law enforcement agency or a private investigative firm/organization. The external investigative entity shall not have a discernible conflict of interest.

### **INVESTIGATION OF A COMPLAINT**

Upon receipt of the complaint, the CLEO must make an initial determination as to whether or not the facts alleged require an administrative investigation. The CLEO's determination needs to be based on current agency policies and [MN Administrative Rule 6700.1600](#). 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 both be notified of this decision and the basis for the determination. If the complainant supplies additional information within thirty (30) days of that initial determination, the CLEO may re-review the complaint and choose to reverse the previous decision and order an administrative investigation.

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 a neutral, external investigative entity that has no discernible conflict of interest.

The complaint 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. 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. At the completion of the administrative investigation, the investigator shall prepare a report organized in the following manner:

- **Allegations.** The "allegations" section of the report should be an itemized summary of the acts of misconduct alleged in the complaint. The summary must also include all/any rules, procedures, orders, statutes, or constitutional provisions that would be violated if the allegations were to be sustained.
- **Investigation.** The "investigation" section of the report should be a chronological

summary of the investigation and include all pertinent facts obtained through interviews with the complainant, accused agency personnel, and all available witnesses. Written statements, descriptions, analysis of any physical evidence, and all other relevant information must be included in this section.

- **Conclusions.** The “conclusions” section of the report should detail the investigator’s findings and conclusions as to whether any misconduct occurred. If misconduct did occur, the report should state which provisions were violated and the underlying reasons for the investigator’s findings and conclusions.

All agency personnel must cooperate with administrative investigations. When the respondent is a licensed peace officer, the investigation must comply with the requirements of [MN Statute 626.89](#), the [*officer’s*] collective bargaining agreement, and any other applicable laws, administrative rules, or policies. The investigation should 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 given to the investigative process.

## REVIEW AND DISPOSITION

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 make a request for additional investigative work or make one or more of the following determinations regarding the complaint:

- unfounded,
- exonerated,
- not sustained,
- sustained, and/or
- policy failure.

The CLEO or Receiving Authority may postpone making a decision until any related criminal charges are resolved. If a determination is postponed, the complainant and respondent must be informed of the decision.

If the decision is “unfounded,” “exonerated,” “not sustained,” or “policy failure” the CLEO or Receiving Authority must notify the complainant and the respondent of the disposition as soon as practical. 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/or procedures violated,
- impose an appropriate remedial plan and/or disciplinary action, and
- advise the complainant of any public information regarding the disposition.

Prior to the implementation of any remedial and/or disciplinary action, the respondent must 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. When a “sustained” disposition is finalized, the respondent may appeal the disposition pursuant to the rules and law governing the accused member's employment.

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

## **MAINTENANCE AND DISCLOSURE OF DATA**

The public disclosure of any data connected to an investigative complaint process created or received by the agency in connection with this policy and procedure is governed by the provisions of the MN Government Data Practices Act. All data collected, created, received, or maintained by the agency in connection with this policy must be retained in accordance with the agency's “Record Retention Schedule.” Likewise, the placement of the disposition report or other data related to the complaint investigation in an employee's personnel file must be governed by the agency's personnel policy. The access to data collected, created, received, or maintained in connection with this policy may only be authorized by the CLEO, the “Responsible Authority,” the “Minnesota Government Data Practices Act,” or by a valid court order.

## **POST BOARD REPORTING REQUIREMENTS**

According to [MN Administrative Rule 6700.1610](#), a licensed peace officer must self-report any Standards of Conduct violations to the POST Board. The rule also states that an unlicensed person with knowledge of peace officer misconduct constituting grounds for action under [MN Statute, chapter 14](#), or [MN Administrative Rule 6700.1600](#), may report the violation to the Board.

According to [Administrative Rule 6700.1615](#), subpart 2, when a CLEO confirms that a peace officer employed by the agency has violated a board-required policy or the Standards of Conduct, the CLEO must report the violation to the POST Board in a timely manner.

[MN Statute 626.8457](#), subdivision 3, requires CLEOs to report to the POST Board any confirmed allegations of misconduct by a peace officer of their agency. CLEOs must report the incident to the board as soon as a determination has been made that a violation occurred. CLEOs must update the information submitted to the board within 30 days after the final disposition of a complaint or investigation has been issued. Law enforcement agencies and political subdivisions are prohibited from entering into a confidentiality agreement that would prevent disclosure of the data identified in [MN Statute 626.8457](#), subdivision 3, paragraph (b) to the POST Board. Any such confidentiality agreement is void as to the requirements of this section.

[MN Statute 626.8457](#), subdivision 4, requires CLEOs to cooperate with the POST Board after receiving written notification from the board that it is investigating an allegation of

misconduct within its regulatory authority. Cooperation includes providing an individual peace officer's public and private data related to the allegation(s) of misconduct when requested by the board.

## **STATUTORY REFERENCES**

- [MN STATUTE 626.8457](#) – Professional Conduct of Peace Officers
- [MN STATUTE 626.89](#) – Peace Officer Discipline Procedures Act
- [MN STATUTES; CHAPTER 14](#) – Administrative Procedure
- [ADMINISTRATIVE RULE 6700.1600](#) – Standards of Conduct
- [ADMINISTRATIVE RULE 6700.1610](#) – Reporting Obligations and Cooperation
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies
- [ADMINISTRATIVE RULE 6700.2200](#) – Development of Written Procedures
- [ADMINISTRATIVE RULE 6700.2300](#) – Affirmation of Compliance
- [ADMINISTRATIVE RULE 6700.2400](#) – Copies of Procedures
- [ADMINISTRATIVE RULE 6700.2500](#) – Documentation of Complaints
- [ADMINISTRATIVE RULE 6700.2600](#) – Processing of Complaints

# AVOIDING RACIAL PROFILING [MODEL POLICY]

## POLICY

The Duluth Township Police Department is committed to impartial policing and reinforcing procedures that assure the public we are providing service and enforcing laws in a fair and equitable manner to all.

## DEFINITIONS

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

## PROCEDURES

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

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

To prevent the perception of bias, when interacting with suspects, victims, or other members of the community, [*officers*] must:

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

## **DUTY TO REPORT**

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

## **VIOLATIONS**

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

## **TRAINING**

All agency personnel must review this policy annually.

## **STATUTORY REFERENCES**

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

# **PREDATORY OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION [MODEL POLICY]**

## **POLICY**

It is the policy of Duluth Township Police Department to protect the public by disclosing information on predatory offenders residing in the agency's community. This agency will decide what information to disclose and who to disclose it to, based on the predatory offender's assigned risk level and the relevant state statute.

## **DEFINITIONS**

**Immediate Household:** has the meaning given to it in [MN Statute 244.052](#), subdivision 1(2).

**Likely to Encounter:** has the same meaning given to it in [MN Statute 244.052](#), subdivision 4(c).

**Predatory Offender or Offender:** means a person who is required to register as a predatory offender under [MN Statute 243.166](#).

**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).

**Primary Address:** has the meaning given to it in [MN Statute 243.166](#), subdivision 1a(k).

**Offender Risk Level:** means the risk assessment score a predatory offender is assigned by the end-of-confinement review committee which indicates the presence of identified predictive risk factors that may contribute to re-offending in a same or similar fashion. The three risk levels a predatory offender can be assigned are:

- Level 1
- Level 2
- Level 3

*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, with the exception of designated healthcare facilities ([MN Statute 243.166](#), subdivision 4(b)).

**Registrant:** means the predatory offender or offender subject to registration.

**Risk Assessment Scale:** means the scale the Commissioner of Corrections uses to assign weights to the various risk factors listed in [MN Statute 244.052](#), subdivision 3(g), and specifies the risk level to which offenders with various risk assessment scores shall be assigned.

## PROCEDURE

### REGISTRATION

When an individual arrives to register with this agency, [officers] should ask what state the offense was committed in and if the individual has previously registered elsewhere. [Officers] shall verify that the individual is at the correct location to complete their registration - meaning that the registrant's primary address, work address, or school address are within this agency's jurisdiction. [Officers] can review the list of registrable offenses on the BCA's website or by referring to [MN Statute 243.166](#), subdivision 1b. In some cases, the agency may have received prior notice from the commissioner of corrections that a predatory offender would be coming to the agency to complete their registration.

If the individual is required to register, contact the BCA POR UNIT or login to the POR LE/ES portal to determine whether the individual has already registered and submitted a DNA sample. If the individual is already registered, complete a *Change of Information Form*. If the individual is not registered, complete a *Predatory Offender Registration Form*. If the individual is from or registered with another state, contact the state the individual is registered in and request a copy of the offender's original registration form, criminal complaint, and sentencing documents. All documents and photos can be downloaded and/or submitted via the BCA's MN Predatory Offender Registry Electronic Submissions (POR ES) portal.

Link: <https://dps.mn.gov/divisions/bca/bca-divisions/investigative-services/specialized-investigative-services/predatory-crimes/predatory-crimes-law-enforcement/por-information-law-enforcement>

This agency strongly encourages its [officers] to verify the addresses of registrants living in this jurisdiction. [MN Statute 243.166](#) requires predatory offenders to register a new primary address at least 5 days before the person starts living at a new location. The statute also requires registrants to provide written notice to the assigned corrections agent or to the law enforcement authority that has jurisdiction over the person's primary address that the person is no longer living or staying at an address, immediately after the person is no longer staying there. Statute requires the predatory offender to submit these written notices in person. Homeless registrants within this agency's jurisdiction, or any agency's jurisdiction, are required to check in/register with law enforcement on a weekly basis.

If an [officer] finds that a registrant is not living at their registered primary address, contact the BCA POR UNIT or login to the POR ES portal to determine whether a *Change of Information Form* was submitted. If it was not, the registrant may be charged with failure to notify authorities of a change in residence. To make this charge, contact the BCA POR UNIT to request a prosecution packet. Submit the packet to the county attorney's office to file formal charges. Prior to submitting any formal charging paperwork, [officers] shall verify that the registrant is no longer residing at his/her last address. If possible, [officers] should collect evidence of the registration violation in the form of a formal statement from friends, co-workers, neighbors, caretakers, etc. of the registrant.

For questions concerning predatory offender registration refer to the Bureau of Criminal Apprehension (BCA)'s Predatory Offender Registration via the link above for detailed information, or contact the Predatory Offender Unit (BCA POR UNIT) by calling (651) 793-7070 or 1-888-234-1248.

### **COMMUNITY NOTIFICATION**

Law enforcement agencies receive information from the BCA and DOC regarding the assigned risk level of predatory 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 a registrant is placed or resides in one of the DOC licensed residential facilities (halfway houses) such as those operated by RS-Eden, Alpha House, 180 Degrees, Damascus Way, or Bethel Work Release (contact the DOC RA/CN unit for a current list of designated halfway houses). If a predatory offender or registrant leaves a DOC licensed facility, [officers] shall not disclose any information until the law enforcement agency is notified the registrant will move to a residential location within the agency's jurisdiction. If public notice (level 2 or 3) is required on an unhoused registrant, that notice should include as much specificity as possible, for example, "in the vicinity of (location, landmark, intersection)."

**Level 1 Notification.** This agency and its [officers] may disclose the information it maintains on level 1 predatory offenders to other law enforcement agencies. The agency may disclose registrant information received from the DOC to any victims of or witnesses to the offense committed by the registrant. This agency and its [officers] shall disclose registrant information to the victims of the offense committed by the registrant who have made a disclosure request for enhanced notification as well as the adult members of the registrant's immediate household. For more information regarding level 1 offender notification, refer to [MN Statute 244.052](#), subdivision 4(b) (1).

*See Appendix A: Confidential Fact Sheet - For Law Enforcement Agency Use Only*

**Level 2 Notification.** This agency and its [officers] may make the same disclosures for a level 2 predatory offender as a level 1. Registrant information may also be disclosed to agencies and groups that the registrant is likely to encounter for the purpose of securing those institutions and protecting individuals in their care while they are on or near the premises of the institution. These agencies/groups include the staff members of public and private education institutions, day care establishments, and establishments that

primarily serve individuals likely to be victimized by the registrant. [Officers] shall make notification determinations based on the registrant's pattern of offending or victim preferences as documented in the information provided by the DOC or DHS. Level 2 predatory offender information may also be provided to property assessors, property inspectors, code enforcement officials, and child protection officials who are likely to visit the registrant's home while carrying out their work duties. For more information regarding level 2 predatory offender public notifications, refer to [MN Statute 244.052](#), subdivision 4(b)(2).

*See Appendix B: Fact Sheet - Notification of Relocation in Minnesota*

**Level 3 Notification.** This agency shall disclose level 3 predatory offender information to the individuals and organizations that are eligible for disclosure for level 1 and 2 registrants. This agency shall also disclose level 3 registrant information to members of the community whom the registrant is likely to encounter, unless this agency determines that public safety would be compromised by the disclosure or that a more limited disclosure is necessary to protect the identity of the victim. For more information regarding level 3 registrant public notification, refer to [MN Statute 244.052](#), subdivision 4(b)(3).

The agency must make a good faith effort to complete the disclosure on a level 3 predatory offender within 14 days of receiving documents/notice from the DOC. The process of notification will be determined by this agency.

## **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 date of conviction; the risk level assigned to the offender, if any; and the profile of likely victims.

## **VICTIM NOTIFICATION**

This agency shall provide victims who have requested notification with information that is relevant and necessary to protect the victim and augment their safety planning efforts. The victim is not required to live within this agency's jurisdiction to receive notification. The DOC will provide victim contact information to the law enforcement agency when there is a victim/witness who has requested enhanced notification. Law enforcement personnel may directly contact the victim/witness. Community based victim advocacy resources may also be available to assist with locating a victim and with providing notification. Assistance is also available from the DOC RA/CN and Victim Services staff.

*See Appendix C: Victim Survivor Notification*

## **OUT OF STATE PREDATORY OFFENDERS AND OFFENDERS RELEASED FROM FEDERAL FACILITIES SUBJECT TO NOTIFICATION**

If an [officer] with this 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, or [officer], must contact the DOC. The DOC will review the governing law of the other state and, if comparable to Minnesota requirements, inform this agency that it may proceed with community notification in accordance with the level assigned by the other state. If DOC determines that the governing law in the other state is not comparable, community notification by this agency may be made consistent with that of a level 2 registrant.

If an [officer] or other member of this agency believes that a risk level assessment is needed, the agency may request an end-of-confinement review by the DOC. This agency shall provide the DOC any necessary documents required for assessing the predatory offender and assigning a risk level.

### *Note:*

- Neither this agency nor its [officers] shall disclose the identity or any identifying characteristics of the victims of or witness to a predatory offender's offense(s).
- A registrant who is the subject of a community notification meeting may not attend the meeting.
- This agency shall disclose information on a registrant as required by statute for as long as the offender is required to register under [MN Statute 243.166](#).
- When a registrant for whom notification was made no longer resides, is employed, or is regularly found in this agency's jurisdiction, the agency shall inform the entities and individual initially informed of the registrant's status.

For questions regarding community notification or the risk level assigned, 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 is also available to assist agencies with conducting public notification meetings when a registrant who is subject to notification moves into a law enforcement jurisdiction.

## **STATUTORY REFERENCES**

- [MN STATUTE 243.166](#) – Registration of Predatory Offenders
- [MN STATUTE 243.167](#) – Registration Under Predatory Offender Registration Law for Other Offenses
- [MN STATUTE 244.10](#) – Sentencing Hearing; Deviation from Guidelines
- [MN STATUTE 244.052](#) – Predatory Offenders; Notice
- [MN STATUTE 244.053](#) – Notice of Release of Certain Offenders
- [MN STATUTE 253D.32](#) – Scope of Community Notification
- [MN STATUTE CHAPTER 13](#) – Government Data Practices
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies



# CONFIDENTIAL INFORMANTS [MODEL POLICY]

## POLICY

The purpose of this policy is to inform Duluth Township Police Department personnel of how the recruitment, control, and use of confidential informants must occur.

## DEFINITIONS

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

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

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

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

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

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

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

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

## PROCEDURES

### INITIAL SUITABILITY DETERMINATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **STATUTORY REFERENCES**

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

# **CRIMINAL CONDUCT ON SCHOOL BUSES [MODEL POLICY]**

## **POLICY**

Duluth Township Police Department personnel shall respond to and investigate allegations of criminal conduct occurring on school buses within our jurisdiction. Personnel shall work and consult with school officials, transportation personnel, parents, and students when responding to these incidents, while being focused on student safety and appropriate enforcement of the law. Personnel shall work in cooperation with any other law enforcement agency that also has jurisdiction. This policy is not intended to interfere with or replace school disciplinary policies relating to misconduct on school buses.

## **PROCEDURE**

Agency personnel shall:

- respond to calls for assistance from any citizen, school, or bus transportation company official regarding criminal conduct on a school bus.
- investigate reports of crimes committed on school buses by using procedures like those followed in other criminal investigations as appropriate for juveniles and/or adults.
- issue citations, release suspects pending further investigation, or apprehend and transport suspects who were engaged in criminal activity while on a school bus.
- submit investigative reports for review, approval, and consideration of charges as required by law and agency policy.
- conduct follow-up investigative work when requested by someone with proper authority within the agency or from the prosecutor's office.
- provide the appropriate school with information regarding the incident, as required or authorized by law.

## **STATUTORY REFERENCES**

- [MN STATUTE 121A.28](#) – Law Enforcement Records
- [MN STATUTE 260B.171](#) – Records
- [MN STATUTE 169.448](#) – Other Buses
- [MN STATUTE 169.4581](#) – Criminal Conduct on School Bus
- [MN STATUTE 169A.31](#) – Alcohol-related School Bus or Head Start Bus Driving
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies

# DOMESTIC ABUSE RESPONSE AND ARREST [MODEL POLICY]

## POLICY

The Duluth Township Police Department recognizes domestic abuse as a serious problem in society. This agency aims to protect victims of domestic abuse by ensuring its peace officers understand domestic abuse statutes and approach domestic abuse situations with sensitivity and understanding. Peace officers will utilize this policy when responding to incidents of domestic abuse. This agency will aggressively enforce the laws without bias or prejudice.

## DEFINITIONS

**Child:** has the meaning given to it in [MN Statute 260C.007, subdivision 4](#).

**Complainant:** refers to an individual making a complaint or reporting a crime.

**Domestic Abuse:** has the meaning given to it in [MN Statute 518B.01, subdivision 2\(a\)](#).

**Domestic Abuse No Contact Order (DANCO):** refers to an order issued by a judge under [MN Statute 629.75](#) in criminal court. DANCOs may be issued as a pretrial condition of release and/or as a condition of probation. Violating a DANCO is a crime.

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

**Domestic Call:** refers to a call for service or a request for service made to a law enforcement agency regarding a domestic disturbance.

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

**Harassment:** has the meaning given to it in [MN Statute 609.749, subdivision 2\(c\)](#).

**Harassment Restraining Order (HRO):** refers to an order issued by a judge under [MN Statute 609.748](#) in civil court where a petitioner requests a court order prohibiting another person from having contact with them. The petitioner of an HRO does not have to be a family or household member to the respondent. Violating an HRO is a crime.

**Order for Protection (OFP):** refers to an order issued by a judge under [MN Statute 518B.01, subdivision 5](#), in civil court. Violating an OFP is a crime.

**Petitioner:** refers to an individual who initiates legal proceedings by filing a petition with the court.

**Primary Aggressor:** refers to the person who, based on the totality of the circumstances, is determined to be the primary perpetrator of domestic abuse, as opposed to a person who used force in self-defense or who has been primarily subject to abuse.

**Qualified Domestic Violence-Related Offense (QDVRO):** has the meaning given to it in [MN Statute 609.02, subdivision 16](#).

**Respondent:** refers to the person against whom a court action or protective order is sought.

**Stalking:** has the meaning given to it in [MN Statute 609.749, subdivision 5](#).

## **PROCEDURE**

### **RECEIVING A DOMESTIC REQUEST FOR SERVICE**

**Receiving a Domestic Request for Service.** Domestic requests for service are considered high priority calls and must be treated accordingly by dispatchers and [officers]. Dispatchers must assign, minimally, two [officers] to a known or suspected domestic abuse call. If only one [officer] is available, reasonable attempts must be made to obtain another [officer]. After receiving a domestic call, [officers] must respond promptly according to the information they received (e.g., is the situation active/ongoing, is the incident being reported several days after the event, or are the victim(s) in a safe location away from the suspect). Domestic requests for service may be received via text message to 911 or by other means.

**Information to be Obtained.** The dispatcher receiving a domestic request for service should attempt to collect pertinent information from the caller and relay the information to the responding [officers]. The dispatcher receiving a domestic abuse call should attempt to gather the following information:

- the nature of the incident,
- the address of the incident, including apartment number (if applicable),
- the telephone number(s) by which the caller can be reached,
- whether weapons are involved or present in the dwelling,
- whether someone is injured and the nature of the injury,
- whether alcohol or drugs are involved,
- information about the suspect (e.g., presence, description, direction of flight, mode of travel, etc.),
- the relationship between the caller and the suspect,
- whether there have been previous calls involving the caller and suspect,

- whether there is an active order for protection (OFP), harassment restraining order (HRO), or criminal pre-trial or probationary domestic abuse no contact order (DANCO),
- whether children are present, and
- whether there are non-English speaking, mobility impaired, or hearing-impaired individuals present.

If the caller is the victim, the dispatcher should attempt to keep the caller on the telephone for as long as possible and tell the caller when they 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 [officers]. Dispatchers should ask callers if it is safe for them to talk and if so, for how long.

If, for any reason, the dispatcher is unable to remain on the line with the caller and the responding [officers] are some distance away from the call location, the dispatcher should attempt to periodically call the complainant back, if the caller said it is okay to do so, to check on their well-being. If the complainant was available by telephone, but later becomes unreachable or the dispatcher encounters a persistent busy signal, that information should be relayed to the responding [officers].

## **RESPONDING TO A DOMESTIC CALL**

**Driving to the Scene.** Peace officers must respond directly and without unreasonable delay to the scene. [Officers] should evaluate tactical considerations related to the use of emergency lights and sirens when responding.

**Initial Contact.** Upon arriving at the scene of a domestic abuse call, the responding [officers] must identify themselves as peace officers, explain their presence, and request entry into the home. The [officers] must ask to speak with the individuals involved in the situation. When reasonable, practical, and safe to do so, [officers] should separate (sight/sound) all individuals involved prior to taking any 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] must ensure all occupants inside or at the call location are safe to the extent they are able.

**Entry.** If refused entry, the [officers] should be persistent about seeing and speaking alone with the complainant. If access to the complainant is refused the [officers] should request dispatch contact the caller via phone. If access is still refused and the [officers] have reason to believe someone is in imminent danger, [officers] are permitted to force entry. If the [officers] are refused entry, and have no legal grounds to force entry, but have reasonable grounds to believe a crime has been committed, the [officers] may apply for a search warrant.

**First Aid.** After securing the scene, responding peace officers shall provide first aid and offer EMS (as applicable). [Officers] may preemptively request EMS and put them on standby while responding to the scene in an effort to minimize medical personnel response time.

## **INVESTIGATION**

After securing the scene and providing any necessary first aid, peace officers must begin an investigation and assess the evidence to determine if there is probable cause that evidences a crime has been committed. During the investigation, when feasible, [officers] must attempt to interview the parties directly involved as well as any witnesses to the incident as necessary for the investigation. If the witness, victim, or suspect is a child, [officers] should consider whether an interview should take place at another location or be handled by another organization. [Officers] must collect and/or document any evidence at that scene. As part of the evidence collection process, [officers] must consider:

- taking photos of the scene,
- photographing the condition of clothing of the individuals involved,
- photographing any property damage,
- photographing physical injuries or the presence of petechiae (peace officers should be aware that injuries appear differently on different complexions and under flash photography),
- completing a lethality assessment (as applicable),
- recording and documenting excited utterances made by the victim and/or the suspect,
- documenting the demeanor of the victim and/or the suspect,
- collecting medical records including the victim's statements to paramedics, nurses and doctors,
- recording interviews with witnesses including children who may have been present,
- documenting evidence of any prior domestic abuse related incidents,
- documenting any existing OFPs, HROs or DANCOs, and
- documenting any other existing court order restricting contact between the suspect and victim.

When establishing probable cause, peace officers may consider their observations as well as any statements made by the parties/witnesses involved.

**Suspect Gone on Arrival.** If there is probable cause to make an arrest, [officers] should make reasonable attempts to locate and arrest the suspect. [Officers] should consider checking the suspect's place of employment and residences the suspect is known to frequent (e.g., the residences of family/friends or other properties the suspect may own).

## ARREST CONSIDERATIONS

Arrest determinations must be based on probable cause that evidences a crime has been committed. [Officers] shall not base arrest determinations on the following factors:

- the 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 or criminal cases involving the same victim or suspect,
- denial by either party that the abuse occurred when there is evidence of domestic abuse and probable cause has been established,
- 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.

**Primary Aggressor and Dual Arrests.** The *(name of law enforcement agency)* discourages dual arrest, however, such arrests are not explicitly prohibited. When there are allegations that each party assaulted the other, the peace officer shall determine whether there is sufficient evidence to conclude one of the parties is the primary aggressor. Such a determination should be based on, minimally, the following:

- the comparative extent of the injuries inflicted,
- the presence of fear of physical injury because of past or present threats,
- were actions taken in self-defense or to protect oneself,
- patterns of power of control (financial/technological/psychological),
- the history of domestic abuse perpetrated by one party against the other, or
- the existence or previous existence of an order for protection.

In situations where the primary aggressor is identifiable, but charges also seem appropriate for the other individual involved, a report should be sent for consideration of charges to the prosecutor's office in lieu of a physical (dual) arrest. In their report, [officers] should explain how the [officer] identified a specific individual as the primary aggressor. In extreme cases or for instances in which a primary aggressor cannot be identified, a dual arrest may be made. In the event a dual arrest is made, when feasible, [officers] should transport the individuals in separate vehicles.

**Victims Declining Arrest or Prosecution.** If [an officer] establishes probable cause and determines a domestic abuse crime has been committed, they may make an arrest. The

arrest may be made regardless of a victim's request not to arrest or prosecute the suspect. When [an officer] encounters a victim who wishes to decline charges, the [officer] should explain to the victim that arrest and prosecutorial determinations are given to law enforcement and prosecutors by state statute. [Officers] can offer to include a victim's request to decline charges in their report, however, victims should be made aware prosecutorial determinations will be made by the prosecuting attorney's office based on evidence.

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

In general, [officers] cannot effect probable cause arrests for misdemeanors that did not occur in their presence. This is not the case for crimes of domestic assault. According to [MN Statute 629.341](#), peace officers are immune from civil liability when making a domestic abuse arrest so long as they act in good faith and exercise due care when making the arrest determination. For misdemeanor offenses, according to [MN Statute 629.341](#), peace officers may arrest a person anywhere, without a warrant, if the [officer] has probable cause to believe that, within the preceding 72 hours excluding the day probable cause was established, the individual assaulted, threatened (with a dangerous weapon), or committed an act intended to cause fear in another of immediate body harm or death if the victim is a "family or household member."

According to [MN Statute 629.72](#), notwithstanding any other law or rule, an arresting [officer] may not issue a citation in lieu of effecting the arrest of an individual being charged or arrested for harassing or stalking, domestic abuse, a violation of an order for protection, or a violation of a domestic abuse no contact order.

**Level of Arrest for Fifth Degree Assault and Domestic Assault: Misdemeanor, Gross Misdemeanor and Felony.** [Officers] should be aware there are many domestic abuse related crimes that are eligible for enhancement based on an individual's previous criminal convictions. Fifth Degree Assault and Domestic Assault are deemed misdemeanor offenses. When enhancement factors are present, these offenses may be charged as a gross misdemeanor or felony.

- *Gross Misdemeanors*
  - [MN Statute 609.224, subdivision 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 qualified domestic violence-related offense (QDVRO) conviction or adjudication of delinquency in Minnesota, or any similar law of another state.
  - If the charge is Domestic Assault ([MN Statute 609.2242](#)) and the victim is a family or household member and the crime occurs within ten years of a QDVRO 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 threats of violence against any person within two years, a gross misdemeanor may also be charged.
- *Felonies*
  - If a person commits Fifth Degree Assault against the same victim within ten years of the first of any combination of two or more QDVRO convictions or adjudications of delinquency, the assault becomes a felony. The same enhancement applies to Fifth Degree Assault 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 [MN Statute 609.2247, subdivision 2](#), whoever assaults a family or household member by strangulation is guilty of a felony.

## **REPORTS AND FORMS**

Peace officers must write a report after responding to a domestic call. If the [officer] did not arrest or seek an arrest warrant even though an arrest was authorized, a detailed explanation of the reasons for the [officer's] decision not to arrest must be documented. The report must then be forwarded to the prosecutor's office for consideration of formal charges. Domestic abuse related reports must, when feasible or applicable, include the following information:

- detailed statements from the victim, suspect, and any witnesses,
- a description of injuries,
- information about past abuse,
- a summary of the lethality assessment,
- a description of the scene,
- identification of the primary aggressor if applicable,
- information on the existence of any language barriers,
- the identification of elderly victims or those with disabilities,
- a summary of prior convictions relevant to charging enhancements,
- a general summary of the suspect's criminal history, and
- a list of evidence.

If necessary, a domestic call must be turned over to the appropriate investigator for further follow-up when needed. If an arrest is made, the [officer] must examine the defendant's criminal history record and, if there is evidence of a QDVRO conviction, advise the prosecutor's office of any potential charging enhancements. If there is probable cause to warrant charges on an individual not determined to be the primary aggressor, the peace officer must thoroughly document all relevant information in the report and refer it to the prosecutor for review and consideration of criminal charges.

## LETHALITY/RISK ASSESSMENT

Domestic abuse situations often involve heightened emotional responses from the individuals involved because of not only the present circumstances, but the historical context. Historical context is especially important for assessing the potential risk of future domestic violence against an individual victim. Lethality/risk assessments are a tool [officers] can use to explore a victim's/suspect's abuse history and gauge the risk of future abuse. [Officers] should complete a lethality/risk assessment, approved by the agency, and include the assessment with their report. The assessment should be sent to the prosecuting attorney's office for review. Minimally, the following questions should be included in the agency's assessment.

- Does the suspect have access to a firearm, or is there a firearm in the home?
- Has the suspect ever used or threatened to use a weapon against you or your children/family members?
- Has the suspect ever attempted to strangle you, cut off the circulation in your neck, or impede your breathing in any way. This may include covering your mouth and/or nose.
- Has the suspect ever threatened or tried to kill you?
- Has physical violence increased in frequency or severity in recent months?
- Has the suspect ever forced or coerced you to have sexual relations against your will?
- Does the suspect control or try to control most or all your daily activities?
- Does the suspect monitor or surveil most or all your daily activities?
- Is the suspect constantly or violently jealous?
- Has the suspect ever threatened to commit suicide?
- Do you believe the suspect will assault you again?
- Has the suspect assaulted you in the past?
- Do you believe the suspect will try to kill you?
- Are there any pending or prior OFPs, HROs, or other criminal or civil cases involving the suspect?
- Has the suspect previously violated an OFP, HRO, DANCO, or other order in which you were the petitioner or protected party?

The questions included in the agency's assessment should be evidence informed – meaning that the questions are derived from practical experience and/or research. Agencies are encouraged to develop an assessment referral protocol. Minimally, the protocol, should include referring the assessment to the prosecuting attorney's office and a local advocacy program. After an assessment is completed, [officers] should inform the victim of the outcome, or score, of the assessment. [Officers] should ask the victim if they would like assistance contacting a victim's rights advocacy center for assistance.

## OTHER DOMESTIC ABUSE RELATED CRIMES

### STALKING

It is a felony to engage in stalking 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 the victim under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim. Stalking charges should be considered when, within a 5-year period, an individual commits or attempts to commit two or more of the criminal acts described in [MN Statute 609.749, subdivision 5\(b\)\(1\) through \(17\)](#).

Reports on incidents of stalking must include historical information about/between the individuals involved as well as the emotions the conduct stirred, if any, in the victim(s). This information is necessary to demonstrate patterns of behavior and to satisfy the elements of the crime. Such information is especially important when one of the acts being used to bring forth a charge of stalking was previously attempted but not charged or, possibly, previously reported. Examples of stalking behaviors include, but are not limited to:

- Surveillance
  - Waiting for the victim outside of their office, gym, or other frequented locations.
  - Using tracking software on the victim's devices.
  - Going through the victim's mail or trash.
  - Attaching a tracking device on the victim's vehicle or home.
- Life Invasion
  - Repeated unwanted contact via telephone, text messages, emails, etc.
  - Sending or leaving unwanted gifts.
  - Initiating contact through third parties.
  - Harassing the victim's friends or family.
- Intimidation
  - Using a weapon as a threat.
  - Forcing confrontations.
  - Threatening to harm or kill the victim, themselves, friends, family, pets, or others the victim cares about.
  - Threatening to share or post private information, photos, or videos of the victim.
- Interference
  - Spreading rumors about the victim.
  - Ruining or attempting to ruin the victim's reputation.
  - Taking and/or sharing photos or videos of the victim without their consent.
  - Posting deepfake photos or videos online of the victim.

For additional information regarding stalking behaviors, [officers] can refer to the Stalking Prevention Awareness and Resource Center's (SPARC) [website](#) and [law enforcement information sheet](#).

## **HARASSMENT**

A person commits a harassment crime if they:

- directly or indirectly, or through third parties, manifest a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;
- follow, monitor, or pursue another, whether in person or through any available technological or other means;
- return to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;
- repeatedly make telephone calls, send text messages, or induce a victim to make telephone calls to the actor, whether or not conversations ensue;
- make or cause the telephone of another repeatedly or continuously to ring;
- repeatedly mail or deliver or causes the delivery by any means, including electronically, of letters, telegrams, messages, and packages, through assistive devices for people with vision impairments or hearing loss, or any communication made through any available technologies or other objects;
- knowingly make 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; or
- use another's personal information, without consent, to invite, encourage or solicit a third party to engage in a sexual act with the person.

Harassment crimes are elevated to a gross misdemeanor if the conduct was committed with the intent to kill, injure, harass, or intimidate another person if the conduct 1) places the other person in reasonable fear that the person's family or household members will be subject to substantial bodily harm, 2) places the person in reasonable fear that the person's family or household members will be subject to substantial bodily harm, or 3) causes or would reasonably be expected to cause substantial emotional distress to the other person. Harassment crimes may also be elevated to a felony if the provisions of [MN Statute 609.749, subdivision 3 or 4](#) are met.

Acts constituting a violation of harassment or stalking, when committed in two or more counties, may be prosecuted in any county in which one of the acts was committed for all acts in violation of [MN Statute 609.749](#).

## **VIOLATION OF COURT ORDERS**

Peace officers must verify whether any of the following orders discussed herein exist before, during, or after an arrest (OFF, HRO, or DANCO). Methods of verification include

visually inspecting a paper or digital copy of the order or obtaining verification from the court or law enforcement agency that issued or served the order. If there is an active court order and the suspect violated the order, the [officer's] incident report must include information regarding the order, such as the name of the county where the order was originally issued and the court file number. In the report, [officers] should explicitly identify what provision the suspect violated in the court order.

**Order for Protection (OFP).** A peace officer must arrest and take into custody, without a warrant, any person who the peace officer has probable cause to believe violated a condition of an OFP granted by the court pursuant to [MN Statute 518B.01](#). Such an arrest must be made even if the violation of the order did not take place in the presence of the peace officer. A violation of an OFP is a misdemeanor but the charge is enhanceable to a gross misdemeanor if the offense occurred within ten years of a previous QDVRO conviction or adjudication. OFP violation charges are enhanceable to a felony if 1) the individual violated the OFP within ten years of the first of two or more previous QDVRO conviction/adjudication or 2) the individual violated the OFP while possessing a dangerous weapon as defined in [MN Statute 609.02, subdivision 6](#).

According to [MN Statute 518B.01, subdivision 18\(a\)\(2\)](#), an OFP is not voided if the respondent was invited by the petitioner to the petitioner's residence. Likewise, an OFP is not void if the petitioner initiates contact with the respondent. There is not a time limitation to effect a warrantless arrest for a violation of an OFP.

**Harassment Restraining Order (HRO).** A peace officer must arrest and take into custody a person who the peace officer has probable cause to believe has violated a harassment restraining order granted by the court pursuant to [MN Statute 609.748, subdivisions 4 and 5](#), if the [officer] can establish probable cause and verify the existence of the order. A person who violates an HRO is guilty of a misdemeanor. This offense is enhanceable to a gross misdemeanor if the violation occurs within ten years of a QDVRO conviction. Per [MN Statute 609.748, subdivision 6\(d\)](#), the offense is enhanceable to a felony if the person knowingly violates the order:

- within 10 years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications;
  - because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability (as defined in [MN Statute 363A.03, subdivision 12](#)), age, or national origin;
  - by falsely impersonating another;
  - while possessing a dangerous weapon;
  - 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 [MN Statute 609.415, subdivision 3](#), 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

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

**Domestic Abuse No Contact Order (DANCO).** A peace officer must arrest, without a warrant, and take into custody a person who the peace officer has probable cause to believe has violated a DANCO issued pursuant to [MN Statute 629.75](#). The arrest must be made even if the violation did not occur in the presence of the peace officer. A pretrial DANCO is sometimes continued at the time of sentencing with a new DANCO issued as a condition of probation. This DANCO may be valid for the full probationary period indicated in the order. The court may rescind a DANCO at any time. A victim's production of a copy of a court order, that appears valid, absent contrary evidence, provides a prima facie basis for arrest whenever there is probable cause to believe a violation of the order has occurred.

When investigating a domestic abuse incident, peace officers must, when applicable, consider whether additional crimes have been committed. Other crimes that should be considered are trespassing, criminal damage to property, disorderly conduct, witness tampering, burglary, and/or assault.

### **CRIME VICTIM RIGHTS AND SERVICES**

If for some reason it is not possible to effect the arrest of a suspect during a domestic abuse incident (for example, the suspect fled the scene), [officers] should, when feasible, consider staying at the scene until the likelihood for further violence has been substantially reduced or eliminated. If the suspect is gone on arrival, [officers] are encouraged to talk to the victim about how to safely contact law enforcement if the suspect returns or their whereabouts are determined. [Officers] are encouraged to provide guidance to victims on how to ensure their own immediate safety (e.g. staying with a family member or friend, having a family member stay with them, or staying at a shelter). If a domestic advocacy program exists in the area, the responding [officer] should initiate contact on behalf of the victim with their permission. [MN Statute 629.342](#) provides that when a peace officer does not make an arrest, the peace officer must provide immediate assistance to the victim, which includes obtaining any necessary medical treatment, and provide the victim a notice of rights pursuant to [MN Statute 629.341, subdivision 3](#).

**Assistance to Non-English-Speaking Victims or Victims with Communication Disabilities.** The peace officer shall use the resource list established by this law enforcement agency to contact a person to assist in cases where the individuals involved in the domestic call, including the witnesses, are non-English-speaking, hearing-impaired, or have other communication limitations. The [officer] should avoid the use of friends, family, or neighbors as the primary interpreter for the investigation. Consideration: Is there a bilingual speaking [officer] who could assist?

**Notice of Crime Victim's Rights.** The peace officer must give the victim of a domestic abuse incident a copy of the agency's crime victim notification form. [Officers] are

encouraged to verify the victim understands the victim's rights information they have been provided. The agency will routinely review the form to ensure it is current and in compliance with all applicable MN laws. The Department of Public Safety, Office of Justice Programs, produces the crime victim's rights notice and serves as the contact for victim's rights information.

**Services.** The peace officer or agency should contact the local domestic abuse program as soon as possible on all domestic abuse situations for which there is probable cause for an arrest and provide the name, phone number, and address of the victim and a brief factual account of the events that transpired. This section shall not apply if the dissemination of certain data is prohibited by the Minnesota Government Data Practices Act.

**Child Victims.** If a child is present during a domestic abuse incident or if the child is the victim of domestic abuse, the responding [officer] must determine whether the child has been subject to physical abuse, psychological abuse, sexual abuse, or neglect as defined by [MN Statute 260E.03](#). If a peace officer finds a child in an environment which endangers the child's health or welfare or which will endanger the child's welfare, the child should be taken into protective custody pursuant to [MN Statute 260C.175](#). When cases involve children, [officers] must comply with the reporting requirements of [MN Statute 260E, Reporting of Maltreatment of Minors](#). If the child has been injured, the [officer] must escort the child to the nearest hospital for treatment. This can be accomplished by following EMS transport, riding with EMS transport, or by the [officer] transporting the child as appropriate.

## STATUTORY REFERENCES

- [CHAPTER 13](#) – Government Data Practices
- [CHAPTER 260E](#) – Reporting of Maltreatment of Minors
- [MN STATUTE 260C.175](#) – Taking Child Into Custody
- [MN STATUTE 518B.01](#) – Domestic Abuse Act
- [MN STATUTE 609.185](#) – Murder in the First Degree
- [MN STATUTE 609.19](#) – Murder in the Second Degree
- [MN STATUTE 609.195](#) – Murder in the Third Degree
- [MN STATUTE 609.20](#) – Manslaughter in the First Degree
- [MN STATUTE 609.205](#) – Manslaughter in the Second Degree
- [MN STATUTE 609.221](#) – Assault in the First Degree
- [MN STATUTE 609.222](#) – Assault in the Second Degree
- [MN STATUTE 609.223](#) – Assault in the Third Degree
- [MN STATUTE 609.2231](#) – Assault in the Fourth Degree
- [MN STATUTE 609.224](#) – Assault in the Fifth Degree
- [MN STATUTE 609.2242](#) – Domestic Assault
- [MN STATUTE 609.2245](#) – Female Genital Mutilation; Penalties
- [MN STATUTE 609.2247](#) – Domestic Assault by Strangulation

- [MN STATUTE 609.25](#) – Kidnapping
- [MN STATUTE 609.255](#) – False Imprisonment
- [MN STATUTE 609.342](#) – Criminal Sexual Conduct in the First Degree
- [MN STATUTE 609.343](#) – Criminal Sexual Conduct in the Second Degree
- [MN STATUTE 609.344](#) – Criminal Sexual Conduct in the Third Degree
- [MN STATUTE 609.345](#) – Criminal Sexual Conduct in the Fourth Degree
- [MN STATUTE 609.3451](#) – Criminal Sexual Conduct in the Fifth Degree
- [MN STATUTE 609.3458](#) – Sexual Extortion
- [MN STATUTE 609.377](#) – Malicious Punishment of a Child
- [MN STATUTE 609.3775](#) – Child Torture
- [MN STATUTE 609.582](#) – Burglary
- [MN STATUTE 609.713](#) – Threats of Violence
- [MN STATUTE 609.748](#) – Harassment; Restraining Order
- [MN STATUTE 609.749](#) – Harassment; Stalking; Penalties
- [MN STATUTE 609.78](#) – Emergency Telephone Calls and Communications
- [MN STATUTE 617.261](#) – Nonconsensual Dissemination of Private Sexual Images
- [MN STATUTE 617.262](#) – Nonconsensual Dissemination of a Deep Fake Depicting Intimate Parts or Sexual Acts
- [MN STATUTE 629.341](#) – Allowing Probable Cause Arrests for Domestic Violence; Immunity from Liability
- [MN STATUTE 629.75](#) – Domestic Abuse no Contact Order
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies

## CHARGING TABLE

The table below was created to assist [officers] with their probable cause arrest determinations. The table identifies which crimes a previous QDVRO conviction acts as an enhancement for. To determine the offense level and corresponding statute, start on the left side of the table by identifying the offense, then move to the right. [Officers] should confirm the information in this table with statute to verify the statute.

*"Qualified domestic violence-related offense" refers to a violation of or an attempted violation of an order for protection, first-degree murder, second-degree murder, third-degree murder, first-degree manslaughter, second-degree manslaughter, first-degree assault, second-degree assault, third-degree assault, fourth-degree assault, fifth-degree assault, domestic assault, female genital mutilation, domestic assault by strangulation, kidnapping, false imprisonment, first-degree criminal sexual conduct, second-degree criminal sexual conduct, third-degree criminal sexual conduct, fourth-degree criminal sexual conduct, sexual extortion, malicious punishment of a child, burglary in the first degree, threats of violence, violation of harassment restraining order, harassment, stalking, interference with an emergency call, nonconsensual dissemination of private sexual images, 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.*

Offense	Victim	Conviction Look Back Period	Previous Conviction w/in Look Back Period or Qualifying Element	Offense Level	Statute
5 <sup>th</sup> Degree Assault	Any Victim			Misdemeanor	609.224, sub. 1
		w/in previous 3 years	QDVRO	Gross Misdemeanor	609.224, sub. 2(b)
		w/in previous 3 years	QDVRO (x2)	Felony	609.224, sub. 4(b)
	Same Victim	w/in previous 10 years	QDVRO	Gross Misdemeanor	609.224, sub. 2(a)
		w/in previous 10 years	QDVRO (x2)	Felony	609.224, sub. 4(a)
Domestic Assault	Family or Household Member			Misdemeanor	609.2242, sub. 1
		w/in previous 10 years	QDVRO	Gross Misdemeanor	609.2242, sub. 2
		w/in previous 10 years	QDVRO (x2)	Felony	609.2242, sub. 4

Violation of an Order for Protection	Family or Household Member			Misdemeanor	518B.01, sub. 14(b)
		w/in previous 10 years	QDVRO	Gross Misdemeanor	518B.01, sub. 14(c)
		w/in previous 10 years	QDVRO (x2)	Felony	518B.01, sub. 14(d)(1)
			*** commits act while possessing a dangerous weapon ***	Felony	518B.01, sub. 14(d)(2)
Violation of a Harassment Restraining Order	Any Victim			Misdemeanor	609.748, sub. 6(b)
		w/in previous 10 years	QDVRO	Gross Misdemeanor	609.748, sub. 6(c)
		w/in previous 10 years	QDVRO (x2)	Felony	609.748, sub. 6(d)(1)
			***because of actual or perceived protected class status***	Felony	609.748, sub. 6(d)(2)
			***by falsely impersonating another***	Felony	609.748, sub. 6(d)(3)
			***while possessing a dangerous weapon***	Felony	609.748, sub. 6(d)(4)
		***intent to affect juror, judicial proceeding, etc.***	Felony	609.748, sub. 6(d)(5)	
Victim under 18 and respondent is more than 36 months older			Felony	609.748, sub. 6(d)(6)	

Malicious Punishment of a Child	A Child		***less than substantial bodily harm***	Gross Misdemeanor	609.377, sub. 2
		w/in previous 5 years	1 <sup>st</sup> – 5 <sup>th</sup> Degree Assault, Domestic Assault, 1 <sup>st</sup> – 4 <sup>th</sup> Degree Criminal Sexual Conduct, or Threats of Violence	Felony	609.377, sub. 3
			***substantial bodily harm***	Felony	609.377, sub. 5
			***great bodily harm***	Felony	609.377, sub. 6
	A Child Under 4 Years Old		***harm to head, eyes, neck, or multiple bruises to the child’s body***	Felony	609.377, sub. 4
Harassment	Any Victim			Gross Misdemeanor	609.749, sub. 2(c)(1-8)
		w/in previous 10 years	QDVRO	Felony	609.749, sub. 4(a)
			***because of actual or perceived protected class status***	Felony	609.749, sub. 3(a)(1)
			***by falsely impersonating another***	Felony	609.749, sub. 3(a)(2)
			***while possessing a dangerous weapon***	Felony	609.749, sub. 3(a)(3)
			***intent to affect juror, judicial proceeding, etc.***	Felony	609.749, sub. 3(a)(4)
	Victim Under 18 and actor is more than 36 months older			Felony	609.749, sub. 3(a)(5)
			***sexual or aggressive intent***	Felony	609.749, sub. 3(b)

# EYEWITNESS IDENTIFICATION PROCEDURES [MODEL POLICY]

## POLICY

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

## PURPOSE

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

## DEFINITIONS

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

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

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

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

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

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

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

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

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

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

## PROCEDURES

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

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

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

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

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

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

*Sometimes a person may look different in a photograph than in real life because of different hair styles, facial hair, glasses, a hat or other changes in appearance. Keep in*

*mind that how a photograph was taken or developed may make a person's complexion look lighter or darker than in real life.*

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

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

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

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

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

## **PHOTOGRAPHIC ARRAYS**

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

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

- Use contemporary photos.
- Do not mix color and black and white photos.
- Photo arrays should consist of six individuals- the suspect and five fillers.
- Use photos of the same size and basic composition.
- Never mix mug shots with other photos and ensure consistent appearance of photograph backgrounds and sizing.
- Do not include more than one photo of the same suspect.
- Cover any portions of mug shots or other photos that provide identifying information on the subject – and similarly cover other photos used in the array.
- Where the suspect has a unique feature, such as a scar, tattoo, or mole or distinctive clothing that would make him or her stand out in the photo array, filler photographs should include that unique feature either by selecting fillers who have the same features themselves or by altering the photographs of fillers to the extent necessary to achieve a consistent appearance.
- Avoid the use of fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
- Fillers should not be reused in arrays for different suspects shown to the same witness.

- Fillers should be reasonably similar in age, height, weight, and general appearance and be of the same sex and race, in accordance with the witness's description of the offender.
- If there is more than one suspect, include only one in each photo array.
- Place the suspect in different positions in each photo array for each witness.

**Presenting a Photo Array.** The primary investigating [*officer*] is responsible for ensuring these described procedures are followed.

- Inform the witness that the suspect may or may not be in the photo array.
- During a photo array presentation, no one who is aware of the suspect's identity should be present.
- Photo arrays should be presented by a blind administrator.
- If a blind administrator is not available, a blinded administrator may present the photo array 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 they 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 themselves so that they cannot see inside the folders as they are viewed by the witness.
- The photo array should be preserved, together with full information about the identification process, as part of the case file and documented in a report.
- The witness should be asked if he or she recognizes the person in the photo before moving onto the next photo. If an identification is made before all of the photos are shown, the administrator should tell the witness that he or she must show the witness all of the photos and finish showing the sequence to the witness, still asking after each photo if the witness recognizes the person in the photo.
- If possible, the array should be shown to the witness only once. If, upon viewing the entire array the witness asks to see a particular photo or the entire array again, the witness should be instructed that he or she may view the entire array only one additional time. If a second viewing is permitted, it must be documented.
- Witnesses should not be permitted to see or be shown any photos of the suspect prior to the photo array.

#### *Appendix A: Sequential Photo Display Form*

### **LINE-UPS**

**Creating the Line-up.** When using a line-up, [*officers*] should follow the basic guidelines described in this policy.

- 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.
- Line-ups should, minimally, consist of six individuals - the suspect and five fillers.
- Fillers should be reasonably similar in age, height, weight, and general appearance and be of the same sex and race, in accordance with the witness's description of the offender.
- Avoid the use of fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
- Create a consistent appearance between the suspect and the fillers with respect to any unique or unusual feature (e.g., scars, tattoos, facial hair) used to describe the perpetrator by artificially adding or concealing that feature on the fillers.
- If there is more than one suspect, include only one in each line-up.
- Place the suspect in different positions in each line-up for each witness.

**Conducting the Line-up.** The primary investigating [*officer*] is responsible for ensuring the procedures described herein are followed.

- Scheduling the line-up on a date and at a time that is convenient for all concerned parties, to include the prosecuting attorney, defense counsel, and any witnesses.
- Ensuring compliance with any legal requirements for transfer of the subject to the line-up location if the individual is incarcerated at a detention center.
- Making arrangements to have persons act as fillers.
- That the witness was informed the suspect may or may not be in the line-up prior to the live line-up.
- Ensuring that the suspect's right to counsel is scrupulously honored and that he or she is provided with counsel if requested. Obtaining proper documentation of any waiver of the suspect's right to counsel.
- Allowing counsel representing the suspect sufficient time to confer with his or her client prior to the line-up and to observe the manner in which the line-up is conducted.
- Only the suspect's attorney may be present for a line-up.
- Witnesses should not be permitted to see or be shown the suspects or their photos prior to the line-up.

## **SHOW-UPS**

**Conducting a Show-up.** The use of show-ups should be avoided whenever possible. The use of a line-up or photo array procedure is preferred. 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.
- Remind the witness not to talk about the show-up to other witnesses until law enforcement or prosecutors deem it permissible.
- Document the time and location of the show-up, the [*officers*] present, the result of the procedure, and any other relevant information.

## STATUTORY REFERENCES

- [MN STATUTE 626.8433](#) – Eyewitness Identification Policies Required
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies

Sequential Photo Display Form

SEQUENTIAL PHOTO DISPLAY FORM
(Witness Side)

Dept.: C.N.: OFFENSE: Line-up ID#

WITNESS: DOB ADMINISTRATOR:

DATE: TIME: INVESTIGATOR ASSIGNED:

READ TO WITNESS BEFORE PHOTO DISPLAY:

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

(SELECT ONE OF THESE OPTIONS AND READ.)

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

Please initial here if you understand these instructions.

(WITNESS TO INITIAL)

TO BE COMPLETED BY WITNESS AFTER PHOTO DISPLAY:

The sequential photo line-up I was shown consisted of photos.

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

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

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

Date: Time:

Witness signature

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

**SEQUENTIAL PHOTO DISPLAY FORM**  
(Administrator Side)

**C.N.** \_\_\_\_\_ **Witness:** \_\_\_\_\_ **Line-up ID #** \_\_\_\_\_

Administrator  does  does not know identity of suspect.

---

**Instructions to administrator (READ BEFORE SHOWING PHOTO DISPLAY):**

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

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

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

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

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**To be completed during and after photo display:**

Comments made by the witness about any photograph during the photo display (note photo number):

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

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

Sequential line-up was shown  once / \_\_\_\_\_ times

\_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Administrator's signature

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

# LIGHTING EXEMPTION FOR LAW ENFORCEMENT VEHICLES [MODEL POLICY]

## POLICY

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

## DEFINITIONS

**Illumination Devices:** means the headlights, taillights, and watercraft lights vehicles are required to be equipped with and use according to statute.

**Vehicle:** means every self-propelled vehicle and every watercraft that is owned, leased, or otherwise the property of this agency and used in the performance of [*an officer's*] law enforcement duties.

## PROCEDURE

A peace officer shall operate a vehicle with its illumination devices on as described and guided by statute when:

- on an interstate highway,
- traveling at speeds greater than what is reasonable and prudent under existing weather, road, and traffic conditions,
- traveling faster than the posted speed limit, and
- the peace officer is an active participant in the pursuit of a motor vehicle in violation of [MN Statute 609.487](#)- Fleeing Peace Officer; Motor Vehicle; Other.

When the circumstances described above do not apply, a peace officer may apply the lighting exemption statute ([MN Statute 169.541](#)) and stop or interrupt the use of their vehicle illumination devices if 1) the peace officer does so in the performance of their duties, 2) the conduct is reasonable, and 3) the peace officer reasonably believes that turning off a vehicle's illumination devices is necessary under the circumstances to investigate a criminal violation or suspected criminal violation. The types of violations being investigated may be state laws, rules, orders or local laws, ordinances, or regulations.

## STATUTORY REFERENCES

- [MN STATUTE 84.87](#) – Operation; Regulations by Political Subdivisions
- [MN STATUTE 84.928](#) – Operation Requirements; Local Regulation
- [MN STATUTE 86B.511](#) – Lights
- [MN STATUTE 169.48](#) – Vehicle Lighting
- [MN STATUTE 169.541](#) – Lighting Exemption for Law Enforcement; Standards

- [MN STATUTE 169.65](#) – Specifications for Lighting and Other Devices
- [ADMINISTRATIVE RULE 6110.1200](#) – Navigation of Watercraft on the Waters of the State; Safety Equipment

# RESPONSE TO REPORTS OF MISSING AND ENDANGERED PERSONS

## [MODEL POLICY]

### POLICY

Duluth Township Police Department personnel shall respond to and investigate all reports of missing and/or endangered persons as defined in [MN Statute 299C.52](#), subdivision 1(c) and (d) (Minnesota Missing Children and Endangered Persons Program or Brandon's Law). This policy addresses investigations of persons who are missing and/or endangered, and includes the procedures required by MN Statute [299C.52](#).

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

### DEFINITIONS

**Child:** has the meaning given it in [MN Statute 299C.52](#), subdivision 1(a).

**DNA:** has the meaning given it in [MN Statute 299C.52](#), subdivision 1(b).

**Endangered:** has the meaning given to it in [MN Statute 299C.52](#), subdivision 1(c). Any of the following circumstances indicate that a missing person is at risk of physical injury or death, and therefore endangered:

- Missing because of a confirmed abduction, or under circumstances that indicate that the person's disappearance was not voluntary.
- Missing under known dangerous circumstances.
- Missing more than 30 days.
- Under the age of 21 and at least one other factor in this paragraph is applicable.
- Evidence the person needs 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.
- Does not have a pattern of running away or disappearing.
- Mentally impaired (has an intellectual disability or substantial psychotic disorder).
- Evidence the person may have been abducted by a noncustodial parent.
- Has been the subject of past threats or acts of violence.
- Evidence the person is lost in the wilderness, backcountry, or outdoors where survival is precarious and immediate, effective investigation and search and rescue efforts are critical.

Any other factor this agency has determined indicates 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/or endangered (this may include information that the missing person suffers from anxiety, depression, PTSD, mental impairment, or an active addiction to or abuse of alcohol, prescribed medications, or controlled substances.

**MMBWG:** refers to the Missing and Murdered Black Women and Girls Office of the Minnesota Department of Public Safety.

**MMIR:** refers to the Missing and Murdered Indigenous Relatives Office of the Minnesota Department of Public Safety.

**Missing:** has the meaning given to it in [MN Statute 299C.52](#), subdivision 1(d).

**Missing Person Networks:** are databases or computer networks available to law enforcement and are suitable for obtaining information related to missing person investigations. This includes the National Crime Information Center (NCIC), the National Missing and Unidentified Persons System (NamUs), the National Center for Missing and Exploited Children (NCMEC), the Minnesota Justice Information Services (MNJIS), the Minnesota Missing and Unidentified Persons Clearinghouse, and the Minnesota Crime Alert Network.

**Unmanned Aerial Vehicles or UAV:** has the same meaning given to it in [MN Statute 626.19](#), subdivision 1(a)(3).

## **PROCEDURE**

This agency will respond according to the following six types of general procedures (when relevant):

- Initial Response
- Initial Investigation
- Investigation
- 30-day Benchmark
- Prolonged Investigation
- Recovery / Case Closure

### **INITIAL RESPONSE**

As required by [MN Statute 299C.53](#), subdivision 1(a), “A law enforcement agency shall accept without delay any report of a missing person” when the report is made in person. An agency may also accept reports by telephone or other electronic means to the extent the reporting is consistent with the agency’s policies or practices. A report shall be accepted regardless of where the person was last seen, where the person resides, or any

question of jurisdiction. When taking a missing person report, [officers] shall complete the tasks listed below as applicable.

- An [officer] shall conduct a preliminary investigation to determine whether the person is missing and/or endangered.
- When necessary, obtain interpretative services.
- Interview the person who made the initial report. If that person is a child, interview the child's parent(s) or guardian(s).
- Determine when, where, and by whom the missing person was last seen.
- Interview the individual(s) who last had contact with the missing and/or endangered person.
- Obtain a detailed description of the missing and/or endangered person, abductor, vehicles, etc., and ask for a recent photo of the person and any other persons or items of importance.
- Obtain cell phone number(s) for the missing person and suspect(s).
- Collect and preserve the missing and/or endangered person's cellphone(s), tablet(s), and computer(s).
- Broadcast an "Attempt to Locate" (ATL) or similar alert if the person is under the age of 18 years and/or there is evidence that the missing person is endangered, and the broadcast would not further endanger the missing person. The alert should be broadcast as soon as is practical but in no event more than one hour after determining the missing person is under the age of 18 years or may be endangered.
- Immediately enter the missing person's complete descriptive and critical information into the appropriate category of the National Crime Information Center's (NCIC) Missing Person File.
  - As required by [34 U.S.C. 41307](#), law enforcement shall, as soon as possible, enter missing children less than 21 years of age into the NCIC and NamUs databases.
  - As required by [MN Statute 299C.53](#), subdivision 1(b), if the person is determined to be missing and/or endangered, the agency shall as soon as possible enter identifying and descriptive information about the person into the NCIC.
- Enter complete descriptive information regarding suspects/vehicle in the NCIC system.
- If needed, request investigative and supervisory assistance as soon as practical.
- Update additional responding personnel.
- Communicate known details promptly and as appropriate to other patrol units, local law enforcement agencies, and surrounding law enforcement agencies. Use the International Justice & Public Safety Network (Nlets), the Minnesota Crime Alert Network, and MNJIS KOPS Alert to alert regional, state and federal law enforcement agencies.
- Notify the family of services available through the Minnesota Missing/Unidentified Persons Clearinghouse.

- Secure the crime scene and/or last known location of the missing person and attempt to identify and interview persons in the area at the time of the incident.
- Obtain and protect uncontaminated missing person scent articles for possible use by search canines.
- Activate protocols for working with the media (AMBER Alert, Minnesota Crime Alert Network).
- As required by [MN Statute 299C.53](#), subdivision 1(b), consult with the Minnesota Bureau of Criminal Apprehension (BCA) if the missing person is determined to be endangered. Request assistance as necessary.
- Implement multi-jurisdictional coordination/mutual aid plan when:
  - the primary agency has limited resources,
  - the investigation crosses jurisdictional lines, or
  - jurisdictions have pre-established task forces or investigative teams.
- Based on the preliminary investigation, determine whether a physical search is required.

### **INITIAL INVESTIGATION**

During the initial investigation, an investigator or [*officer*] should be assigned to the case for the purposes of coordinating and overseeing the investigation/search. The investigator or [*officer*] shall ensure the following steps are taken.

- Seek assistance from the BCA, Missing and Murdered Black Women and Girls Office, Missing and Murdered Indigenous Relatives Office or other state agencies.
- Seek assistance from culturally based community organizations.
- Assign an investigator as a family liaison and primary point of contact for the family and create a communication plan for keeping the family updated.
- Provide general information to the family/reporting party or designee about the investigation; only to the extent that disclosure would not adversely affect locating and protecting the missing person, apprehending a suspect, and future prosecution.
- Conduct a canvass of the neighborhood and of vehicles in the vicinity.
- Send emergency phone subpoenas to phone providers for the missing person's and suspect's phone(s).
- Arrange for news media and social media coverage.
- Maintain records of all communications/messages.
- Ensure that everyone at the scene is identified and interviewed separately.
- Search the home/building/property where the incident took place, and conduct a search of all surrounding areas. Obtain consent or a search warrant as necessary.

### **INVESTIGATION**

If the missing and/or endangered person is not located during the initial investigation, the investigator or [*officer*] overseeing the investigation shall ensure the following steps are taken (as applicable).

- Set up the command post/operation base in an appropriate location (i.e., away from the person’s residence). assign responsibilities to personnel such as Command Post Supervisor, Media Specialist, Search Coordinator, Investigative Coordinator, Communication [*Officer*], and Support Unit Coordinator. Consider appointing two liaison [*officers*]; one will remain at the command post and one at the victim’s residence. The role of the liaison [*officer*] at the victim’s residence will include facilitating support and advocacy for the family.
- Establish the ability to “trap and trace” all incoming calls.
- Set up a tip line (phone line, website, app, etc.) for developing and investigating leads.
- Attempt to determine the missing person’s location through GPS-enabled devices and any social media accounts they may have.
- Establish a geo-fence at any potential last known time and location points or crime scene to identify any devices that were in that geographic area during that time.
- Identify, secure, and collect all home/business/public surveillance video from last known location and crime scene sites.
- Compile a list of known sex offenders in the region.
- In cases of infant abduction, investigate claims of home births made in the area.
- In cases involving children, obtain child protective agency records for reports of child abuse.
- Review records for previous incidents related to the missing person and prior police activity in the area, including prowlers, indecent exposure, attempted abductions, etc.
- Obtain the missing person’s medical and dental records, fingerprints, and DNA when practical or within 30 days.
- Create a Missing Person Profile with detailed information from interviews and records from family and friends describing the missing person’s health, relationships, personality, problems, life experiences, plans, equipment, etc.
- Update the NCIC file with any additional information regarding the missing person, suspect(s), and/or vehicle(s).
- Interview delivery personnel, utility company employees, taxi drivers, post office personnel, sanitation workers, etc.
- For persons under the age of 21, contact the National Center for Missing and Exploited Children (NCMEC) for photo dissemination and other case assistance.
- If the missing person is believed to be a Black female, contact the Missing and Murdered Black Women and Girls Office for assistance and to utilize their available resources.
- If the missing person is believed to be an Indigenous person, contact the Missing and Murdered Indigenous Relatives Office for assistance and to utilize their available resources.
- Determine if outside help is needed and utilize local, state, and federal resources related to specialized investigative needs including:
  - available Search and Rescue (SAR) resources,
  - investigative resources,

- interpretative services,
- telephone services (traps, traces, triangulation, etc.), and
- media assistance (local and national).
- Secure electronic communication information such as the missing person's cell phone number, email address, and social networking accounts.

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

If the person is still missing 30 days after being entered 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):

- DNA samples from family members and, if possible, from the missing person,
- dental information and x-rays,
- additional photographs and video that may aid the investigation or identification,
- fingerprints, and
- other specific identifying information.

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

### **PROLONGED INVESTIGATION**

During a prolonged missing and/or endangered person investigation, the primary investigator or [*officer*] assigned shall, when practical, do the following to maintain transparency and further develop the investigation.

- Maintain contact with the family and/or the reporting party or designee.
- Use truth verification devices with parents, spouse, and other key individuals.
- Re-read all reports and transcripts of interviews, revisit the crime scene, review all photographs and videos, re-interview key individuals and re-examine all physical evidence collected.
- Review all potential witness/suspect information obtained in the initial investigation and consider background checks on anyone of interest identified during the investigation.
- Periodically check pertinent sources of information about the missing person for any activity such as phone, bank, internet, or credit card activity.
- Develop a timeline and other visual exhibits.
- Critique the results of the on-going investigation with appropriate investigative resources.
- Arrange for periodic media coverage.
- Utilize rewards and crime-stoppers programs.
- Update NCIC Missing Person File information.

- Re-contact the National Center for Missing and Exploited Children (NCMEC) for age progression assistance.

## **RECOVERY/CASE CLOSURE**

**Alive.** When a missing and/or endangered person is located and alive, personnel shall ensure the following steps are taken when applicable.

- Verify that the located person is the reported missing person.
- If appropriate, arrange for a comprehensive physical examination of the person.
- Conduct a careful interview of the person, document the results of the interview, and involve all appropriate agencies.
- 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.)
- Consider the need for reunification assistance, intervention, counseling, or other services for either the found person or family/reporting party.
- Cancel alerts (Minnesota Crime Alert, AMBER Alert, etc.); remove case from NCIC (as required by [MN Statute 299C.53](#), subdivision 2), NamUs and other information systems; and remove posters and other publications from circulation.
- Perform a constructive post-case critique. Assess the procedures used and update the department's policy and procedures as appropriate.

**Unidentified Persons.** Agency personnel investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying themselves shall ensure the following steps are taken when applicable.

- Obtain a complete description of the person.
- Enter the unidentified person's description into the NCIC Unidentified Person File and the NamUs database.
- Use available resources, such as those related to missing persons, to identify the person.

**Deceased.** When an unidentified or potential missing and/or endangered person is recovered and deceased, agency personnel shall ensure the following steps are taken when applicable.

- Secure the crime scene.
- Contact the coroner, medical examiner, or forensic anthropologist to arrange for body recovery and examination.
- Collect and preserve any evidence at the scene.
- Consider the need for intervention, counseling, or other services for the family/reporting party or designee.
- Cancel alerts and remove the case from NCIC, NamUs and other information systems, and remove posters and other publications from circulation.

- Perform constructive post-case critique. Assess the procedures used and update the department's policy and procedures as appropriate.

## **UNMANNED AERIAL VEHICLES**

UAVs may be used without a search warrant during a search for a missing and/or endangered person so long as one of the exceptions listed in MN Statute 626.19, subdivision 3 applies to the circumstances of the case.

## **TRAINING**

All personnel shall receive training on this agency's missing and/or endangered persons policy and procedures during field training (or upon initial hire) and as updates occur.

## **STATUTORY REFERENCES**

- MINNESOTA MISSING PERSONS ACT
  - [MN STATUTE 299C.51](#) – Citation
  - [MN STATUTE 299C.52](#) – Minnesota Missing Children and Endangered Persons Program
  - [MN STATUTE 299C.53](#) – Missing Persons Report; Duties of Commissioner and Law Enforcement Agencies
  - [MN STATUTE 299C.535](#) – Request for Additional Information on Missing Person
  - [MN STATUTE 299C.54](#) – Missing Children Bulletin
  - [MN STATUTE 299C.55](#) – Training
  - [MN STATUTE 299C.56](#) – Release of Medical Data
  - [MN STATUTE 299C.565](#) – Missing Person Report
  - [MN STATUTE 299C.5655](#) – Missing Persons; Standardized Reports and Procedures
- [MN STATUTE 390.25](#) – Unidentified Deceased Persons
- [MN STATUTE 626.8454](#) – Manual and Policy for Investigating Cases Involving Children Who are Missing and Endangered
- [MN STATUTE 626.19](#) – Use of Unmanned Aerial Vehicles
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies
- [34 U.S.C. 41307](#) – Reporting Requirements for Missing Children

# PROFESSIONAL CONDUCT OF PEACE OFFICERS [MODEL POLICY]

## POLICY

It is the policy of the *Duluth Township Police Department* to investigate circumstances that suggest *[an officer]* has engaged in unbecoming conduct, and impose disciplinary action when appropriate. A criminal conviction is not required for the agency to impose disciplinary action on *[an officer]* who engages in conduct prohibited by this policy.

## PROCEDURE

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

### PRINCIPLE ONE

Peace officers shall conduct themselves, whether on or off duty, in accordance with the Constitution of the United States, the Minnesota State Constitution, and all applicable laws, ordinances, and rules enacted or established by a legal authority. Peace officers must understand and obey the laws defining the scope of their enforcement powers. Peace officers may only act in accordance with the powers granted to them. Peace officers shall obey the same laws they are entrusted to enforce.

- Peace officers shall not knowingly exceed their authority in the enforcement of the law.
- 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 when permitted in the performance of duty under proper authority.
- 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.
- 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.
- Peace officers will not, according to [MN Statute 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. Community cooperation with the police is a product of its trust that peace 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.

- Peace officers shall carry out their duties with integrity, fairness, and impartiality.
- 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.
- Peace officers shall truthfully, completely, and impartially report, testify and present evidence, including exculpatory evidence, in all matters of an official nature.
- Peace officers shall take no action knowing it will violate the constitutional rights of any person.
- 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.
- 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 an immediate supervisor who shall forward the information to the CLEO. If the peace officer's immediate supervisor committed the misconduct the peace 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. 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 regarding public assistance, disability, sexual orientation, or age.

- Peace officers shall provide every person in our society with professional, effective, and efficient law enforcement services.
- Peace officers shall not allow their law enforcement decisions to be influenced by race, color, creed, religion, national origin, gender, marital status, or status regarding 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. A peace officer's ability to perform his or her duties is dependent upon the respect and confidence communities have for the peace 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.

- 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.
  - 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.
- 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.
- 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.
- 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 procedures.
- Peace officers, in the course of performing their duties, shall not engage in any sexual contact or conduct constituting obscene behavior, except as permitted by department policy.
- 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.
- 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. 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.

- Peace officers shall exercise reasonable courtesy in their dealings with the public, other peace officers, superiors, and subordinates.
- 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.
- 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. 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.

- 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.
- 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.
- Peace officers shall refuse favors or gratuities which could reasonably be interpreted as capable of influencing official acts or judgments.
- 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 peace officers from conducting walk-throughs of such establishments as part of their regularly assigned duties.
- Peace officers shall not authorize the use of their names, photographs, or titles in a manner that identifies them as an employee of this agency in connection with advertisements for any product, commodity, or commercial enterprise.
- Peace officers shall 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.
- Peace officers shall not make endorsements of political candidates while on duty or while wearing the agency's official uniform.

This section does not prohibit peace 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. 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.

- 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.
- 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.
- 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.
- 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

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

- Peace officers shall not knowingly violate any legal restriction for the release or dissemination of information.
- 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.
- 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 Statute 626.89](#) and [MN Rules 6700.2000](#) to [6700.2600](#).

## STATUTORY REFERENCES

- [MN STATUTE 609.43](#) – Misconduct of Public Officer or Employee
- [MN STATUTE 626.8457](#) – Professional Conduct of Peace Officers
- [MN STATUTE 626.863](#) – Unauthorized Practice
- [MN STATUTE 626.89](#) – Peace Officer Discipline Procedures Act
- [ADMINISTRATIVE RULE 6700.1600](#) – Standards of Conduct
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies
- [ADMINISTRATIVE RULE 6700.2000](#) – Definitions
- [ADMINISTRATIVE RULE 6700.2100](#) – Scope
- [ADMINISTRATIVE RULE 6700.2200](#) – Development of Written Procedures
- [ADMINISTRATIVE RULE 6700.2300](#) – Affirmation of Compliance
- [ADMINISTRATIVE RULE 6700.2400](#) – Copies of Procedures
- [ADMINISTRATIVE RULE 6700.2500](#) – Documentation of Complaints
- [ADMINISTRATIVE RULE 6700.2600](#) – Processing of Complaints

# PUBLIC ASSEMBLY AND FIRST AMENDMENT ACTIVITY [MODEL POLICY]

## PURPOSE

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

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

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

## POLICY

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

## DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

## **PROCEDURES**

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

### **RESPONSE TO CROWD SITUATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The purpose of this section is to provide [*officers*] guidance on use of force determinations when dealing with non-compliant crowds and/or crowd dispersals. Nothing in this policy

prohibits an [officer] from using appropriate force in order to defend themselves or others as outlined by this agency's Use of Force policy or MN Statute.

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

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

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

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

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

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

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

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

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

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

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

**Conducted Energy Weapons (CEWs).** CEWs must not be used for the purposes of

crowd control, crowd containment, or crowd dispersal.

## **MEDIA**

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

## **LEGAL OBSERVERS**

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

## **STATUTORY REFERENCES**

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

# SEXUAL ASSAULT INVESTIGATIONS [MODEL POLICY]

## POLICY

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

This agency will aggressively enforce the laws without bias and prejudice based on race, marital status, sexual orientation, economic status, age, disability, gender, religion, creed, immigration status, or national origin.

## DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

## **PURPOSE**

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

## **PROCEDURE**

### **RESPONDING TO A SEXUAL ASSAULT CALL**

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

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

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

## INVESTIGATION

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

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

This agency recognizes that victims of sexual assault due to their age or physical, mental or emotional distress, are better served by utilizing trauma informed interviewing techniques and strategies. Such interview techniques and strategies eliminate the duplication of interviews and use a question-and-answer interviewing format with questioning being as nondirective as possible to elicit spontaneous responses. In recognizing the need for non-traditional interviewing techniques for sexual assault victims, [*officers*] should consider the following points.

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

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

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

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

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

- [Officers] should collect evidence or document information regarding the environment in which the assault took place, including indications of isolation and soundproofing.
- [Officers] should document any evidence of threats or any communications made by the suspect, or made on behalf of the suspect, to include those made to individuals other than the victim.
- In situations where it is suspected that drugs or alcohol may have facilitated the assault, [officers] should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, drug paraphernalia, or other related items.
- If the victim has declined a medical examination or a medical forensic examination will not be conducted, the [officer] should obtain victim consent and take photographs of visible physical injuries, including any healing or old injuries. Victim should be instructed on how to document any bruising or injury that becomes apparent in the hours or days after the altercation. [Officers] are encouraged to follow-up with the victim a day or two after the reported event to take additional photos if the victim consents.

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

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

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

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

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

**Minors and Vulnerable Adults.** This agency recognizes that victims are better served by utilizing interview techniques and strategies that eliminate the need for multiple interviews. Members of this agency will be alert for victims who would be best served by the use of specialized interview techniques. [Officers], in making this determination, should consider the victim's age, level of maturity, communication skills, intellectual capacity, emotional state, and any other observable factors that would indicate specialized interview techniques would be appropriate for a particular victim. When an [officer] determines that a victim requires the use of these specialized interview techniques, the [officer] should limit their actions to the following:

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

Essentially, initial responding [officers] should not attempt to interview the victim in these situations. Instead, [officers] should attempt to obtain basic information and facts about the situation, including the jurisdiction where the incident occurred and what crime(s) may have occurred. [Officers] should seek to obtain this information from parents, caregivers, the reporting party, or other adult witnesses, unless those individuals are believed to be the perpetrators.

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

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

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

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

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

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

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

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

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

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

## VICTIM RIGHTS

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

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

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

## EVIDENCE PRESERVATION

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

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

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

## STATUTORY REFERENCES

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

# USE OF FORCE [MODEL POLICY]

## POLICY

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

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

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

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

This policy applies to all licensed peace officers and part-time peace officers engaged in the discharge of official duties. This policy is to be reviewed annually. Any questions or concerns should be addressed with the immediate supervisor for clarification.

## DEFINITIONS

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

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

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

**Choke Hold:** has the meaning given to it in [MN Statute 609.06](#), subdivision 3(b).

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

**De-escalation:** acting or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

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

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

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

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

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

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

## **PROCEDURE**

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

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

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

- Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the [officer], or another person. In these situations, only the amount of force necessary to control the situation shall be used.
- Once the scene is safe and as soon as practical, [an officer] shall provide appropriate medical care, consistent with his or her training, to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.

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

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

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

### **LESS-LETHAL FORCE**

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

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

### **DEADLY FORCE**

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

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

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

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

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

### **DUTY TO INTERCEDE AND REPORT**

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

A peace officer who observes another peace officer use force that exceeds the degree of force permitted by law has the duty to report the incident in writing within 24 hours to the chief law enforcement officer of the agency that employs the reporting [officer]. This report shall be made even if the peace officer observed using excessive force is not employed by this agency.

### **TRAINING**

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

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

Before carrying an authorized device, all [officers] shall receive training and instruction on the use of the device including training as it relates to use of force situations. Such training and instruction shall continue on an annual basis. [Officers] shall only carry and use

authorized devices unless circumstances exist, which pose an immediate threat to the safety of the public or the [*officer*] that justify the use of a device or object, that has not been previously authorized, to counter such a threat. With agency approval, [*officers*] may modify, alter, or cause to be altered an authorized device in their possession or control.

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

### **STATUTORY REFERENCES**

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

# VEHICLE PURSUITS [MODEL POLICY]

## POLICY

Vehicle pursuits expose the public, peace officers, and offenders to a variety of risks including serious injury or death. Duluth Township Police Department personnel must consider a variety of factors, including the sanctity of human life, when making vehicle pursuit determinations.

## DEFINITIONS

**Blocking or Vehicle Intercept:** means a slow speed coordinated maneuver where two or more law enforcement vehicles simultaneously intercept and block the movement of a suspect vehicle, with the driver possibly unaware of the impending enforcement stop, with the goal of containment and preventing a pursuit. Blocking is not a moving or stationary roadblock.

**Boxing-in:** means a tactic designed to stop a violator's vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

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

**Chief Law Enforcement Officer or CLEO:** has the same meaning given to it in [Administrative Rule 6700.0100](#), subpart 8.

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

**Discontinue a Pursuit:** a pursuit is discontinued when the pursuing peace officer(s) turn off their emergency lights/siren, reduce speed to the posted speed limit, and notify dispatch that the pursuit has ended.

**Divided Highway:** means any highway that is separated into two or more roadways by a physical barrier or has a dividing middle section constructed to impede vehicular traffic.

**Flee:** has the same meaning given to it in [MN Statute 609.487](#), subdivision 1.

**Other Assisting Units:** refers to law enforcement units not actively involved in the pursuit who assist by deploying stop sticks, clocking intersections, making compelling paths, or otherwise working to minimize risk.

**Paralleling:** the practice of non-pursuing squad vehicles driving on streets near the active pursuit, in a manner that is generally parallel to the pursuit route. Parallel driving does not exempt officers from obeying traffic laws.

**Pursuit:** refers to an active attempt by a peace officer in an authorized emergency response vehicle to apprehend a driver of a motor vehicle who, having been given a visual and audible signal by a peace officer to bring their vehicle to a stop, increases speed, extinguishes motor vehicle headlights or taillights, refuses to stop the vehicle, or uses other means with intent to attempt to elude a peace officer.

**Portable Tire Deflation Device:** means a device that extends across the roadway and is designed to puncture the tires of the fleeing offender's pursued vehicle.

**Primary Unit:** means the law enforcement unit that initiates a pursuit or any other unit that assumes control of the pursuit.

**Pursuit Intervention Technique (PIT):** A driving maneuver designed to stop a fleeing motorist by applying precision vehicle-to-vehicle contact resulting in a predictable spin of the suspect's vehicle, bringing it to a stop.

**Ramming:** The deliberate act of colliding with a fleeing offender's vehicle with another vehicle to functionally damage or otherwise force the violator to stop.

**Support Unit(s):** refers to the secondary responding pursuit units whose responsibility it is to remain in close proximity to the pursuing vehicle(s) so that peace officers are immediately available to render aid or assistance to anyone who may require it as a result of the pursuit. Support units may also assume responsibility for radio traffic.

## **PROCEDURES**

The decision to pursue a fleeing motor vehicle should be based on the totality of the information and circumstances known to the [officer] at the time the decision is made without the benefit of hindsight. Peace officers pursuing a motor vehicle shall evaluate the risks to the public and other peace officers against the potential consequences of failing to apprehend the offender(s). When pursuing a motor vehicle, [officers] shall slow down and sound their siren or, minimally, display one red light to the front before cautiously proceeding through an area displaying a stop sign or red light. Speed limitations do not apply to an authorized emergency vehicle that is engaged in a pursuit. This does not relieve the driver of an authorized emergency vehicle from the duty to drive with due care/regard nor from the consequences of recklessly disregarding the safety of others. When the likelihood of a collision with another vehicle or pedestrian is higher, peace officers shall reduce their speeds and ensure the area is clear. During a pursuit, involved [officers] shall frequently evaluate the factors and conditions affecting a pursuit and discontinue when appropriate. No [officer] will be disciplined for discontinuing a pursuit.

## PURSUIT CONSIDERATIONS, TACTICS, AND RESPONSIBILITIES

A pursuit is justified when the risks of such a law enforcement action are outweighed by either 1) the immediate need to apprehend the suspect or 2) the risk the suspect poses to the public. When engaging in a pursuit, [officers] must consider the following factors:

- the severity or nature of the offense (for non-violent offenses, [officers] should consider discontinuing the pursuit),
- the speed of the pursuit,
- the area of the pursuit (including the geographical area, time of day, amount of vehicle/pedestrian traffic, and the [officer's] familiarity with the area),
- whether there are divided highways or one-way roads,
- weather conditions (rain, snow, visibility, road surface conditions),
- the presence and approach of intersections controlled by traffic signals, signs or other locations where there is an increased risk of a collision,
- the ability to identify the offender at a later time,
- the age of the suspect and occupants, and
- whether there are other individuals or suspects in the vehicle.

When the decision is made to engage in a pursuit, the [officer] shall continuously assess the pursuit and the present factors. When conducting their evaluation, [officers] should ask themselves the following questions.

- Does the immediate need to apprehend the offender outweigh the risk created by the pursuit?
- Do the dangers created by the pursuit exceed the dangers posed if the offender were to escape?

All emergency vehicles shall be driven in a safe manner and with due regard for public safety. 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.

**Primary Unit.** The primary [officer], or primary unit, shall notify dispatch of the pursuit and provide the following information when possible:

- travel direction/location/traffic and road conditions,
- reason for initial contact (violation),
- identity of the fleeing driver (if known),
- plate number, if available, and/or vehicle description, and
- speed of the fleeing vehicle.

During a pursuit, the primary unit shall, when feasible, provide any relevant information or evolving information to dispatch. No [officer] will intentionally make vehicle-to-vehicle contact with the suspect unless this action is in accordance with agency policy on use of force. Roadblocks must conform to the agency's policy on use of force as well. Only a law enforcement vehicle with emergency lights and a siren may be used as a pursuit vehicle. Unmarked and low-profile agency vehicles may engage in pursuits until a marked vehicle is able to take over as the primary unit. [Officers] shall not become engaged in a pursuit while operating a non-department (private) motor vehicle or department vehicles not equipped with the required emergency equipment.

**Support Unit(s).** Secondary officers, or support units, are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Support units directly involved in the pursuit should utilize their siren and/or emergency lights. When possible, non-pursuing personnel needed at the conclusion of the pursuit should respond in a non-emergency manner, obeying all traffic laws.

**Supervision of Pursuit Activities.** When feasible, pursuits should be monitored by a supervisor not directly involved in the pursuit. Supervisors should give a verbal acknowledgment over the radio after a pursuit is initiated that notifies the [officers] involved that a supervisor is monitoring their radio traffic and the pursuit conditions. While monitoring the pursuit, the supervisor shall attempt to gather the critical information necessary to evaluate the continuation of the pursuit and ensure the pursuit adheres to agency policy and state statute. If the pursuit is not justified under this policy or state statute, the supervisor shall discontinue the pursuit. The discontinuation of the pursuit shall be communicated to all involved units and the supervisor shall ensure the discontinuation is acknowledged by the pursuing [officers].

Supervisors should keep the following in mind while monitoring a pursuit:

- paralleling opportunities,
- channeling opportunities,
- compelling path opportunities,
- air support,
- available equipment (grapplers, spike strips, or other tire deflation devices),
- pursuit intervention techniques (PIT),
- blocking or vehicle intercept opportunities,
- boxing-in opportunities, and
- the availability of other apprehension or GPS tracking equipment.

**Post-Pursuit Chain of Command Notifications.** Post-pursuit chain of command notification is required. (Each agency must outline their post-pursuit notification procedures in its pursuit policy. The agency's requirements should be added to this section.)

**Dispatch Responsibilities.** Upon notification that a pursuit has been initiated, dispatch will be responsible for the following tasks.

- Coordinating pursuit communications among the involved units and personnel.
- Notifying and coordinating with other involved or affected agencies as needed and practicable.
- Ensuring that a supervisor, if available, is notified of the pursuit.
- Assigning an incident number to the pursuit and logging all pursuit activities.
- Broadcasting pursuit updates and other pertinent information as necessary.

**Care and Consideration of Victims.** If, during a pursuit, [an officer] observes or is made aware of an injury to an individual, the [officer] must immediately notify the dispatcher to have the appropriate emergency unit(s) respond. The aid [an officer] should render includes, but is not limited to, requesting an ambulance, rendering first aid until [officers] are no longer needed at the injury scene, and summoning additional units to the scene for assistance with the injured person and/or traffic control.

**Firearms.** The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging a firearm. [Officers] should not discharge firearms during an ongoing pursuit unless the conditions and circumstances meet the requirements authorizing the use of deadly force. Nothing in this section shall be construed to prohibit any [officer] from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

**Capture of Suspects.** Proper self-discipline and sound professional judgment are keys to the successful conclusion of a pursuit and the apprehension of evading suspects. Arrests shall be performed in accordance with this agency's policies and state statute.

**Pursuit Summary Report.** The supervisor and primary officer must file a pursuit summary report. The agency's CLEO must ensure the state's pursuit form is completed and submitted to the Commission of Public Safety within 30 days following the pursuit ([MN Statute 626.5532](#)). The report submitted to the Commission of Public Safety must include the following information:

- the reason(s) for the pursuit,
- the circumstances surrounding the pursuit,
- the alleged offense committed by the suspect,
- the length of the pursuit in distance and time,
- the outcome of the pursuit,
- a summary of any injuries or property damage resulting from the pursuit,
- the pending criminal charges against the driver, and
- any other information deemed relevant by the Commissioner of Public Safety.

**Evaluation and Critique.** After a pursuit, the [officers] and supervisor involved must evaluate the pursuit and make recommendations, if applicable, to the CLEO on ways to improve the agency's pursuit policy and tactics.

## **AIR SUPPORT**

When available and practical, aircraft assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, the primary and secondary ground units should consider whether the participation of an aircraft warrants their continued involvement in the pursuit. The air unit should coordinate the activities of resources on the ground, report progress of the pursuit, and provide [officers] and supervisors with details of upcoming traffic congestion, road hazards, or other pertinent information to evaluate whether to continue the pursuit. If ground units are not within visual contact and the air unit determines that it is unsafe to continue the pursuit, the air unit should recommend discontinuing the pursuit.

## **DISCONTINUING A PURSUIT**

The primary unit [officer] and supervisor must continually evaluate the risks and likelihood of a successful apprehension of the suspect. Personnel involved in the pursuit must consider discontinuing the pursuit when the any of the following conditions are present.

- The [officer] deems the conditions of the pursuit to be too great of a risk to the public to continue.
- A supervisor orders pursuing [officers] to discontinue.
- New information or communications indicate the pursuit is not in accordance with department policy.
- Disruptions in radio communications with dispatch and/or other responding units.
- Visual contact of the suspect is lost for a reasonable period of time and/or the direction of travel cannot be determined.
- The suspect is known and could be apprehended later – delaying apprehension does not create a substantial known risk of injury or death to another person.

## **INTERJURISDICTIONAL PURSUITS**

The primary unit or [officer] in a pursuit must update critical information to the dispatcher before leaving their jurisdiction. The primary unit must remain the primary unit in another jurisdiction unless the controlling pursuit authority transfers its authority. Upon receiving notification that the pursuit has entered another agency's jurisdiction, the dispatcher must forward all critical information possessed by the dispatcher to that agency. When a pursuit enters another agency's jurisdiction, the primary [officer] or supervisor, taking into consideration distance traveled, unfamiliarity with the area and other pertinent facts, should determine whether to ask the other agency to assume control of the pursuit. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary [officer] or supervisor ensure that notification is provided to dispatch and

to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether such jurisdiction is expected to assist.

If a pursuit by another agency enters this agency's jurisdiction, the dispatcher must notify the on-duty supervisor or another [officer] identified as the contact person for the agency and relay to them all pertinent pursuit information. Assistance may be provided if the pursuit conforms with this agency's policy and state statute.

### **INTERSTATE PURSUITS**

No pursuit will continue into another state unless agency personnel have received permission from their on-duty supervisor – if available and practical. Prior to, or as soon as possible after crossing the state line, the dispatcher must notify the appropriate out of state authority to coordinate the pursuit and the channels to be used for communications. So long as the conditions in this paragraph are met, agency personnel may continue a pursuit across state lines if the state has reciprocity. These states include North Dakota, South Dakota, Iowa, and Wisconsin.

### **TRAINING**

In accordance with POST requirements, all sworn agency personnel must be given initial and periodic updated training in the department's pursuit policy and safe emergency vehicle operation tactics. The CLEO shall provide in-service training in emergency vehicle operations and pursuit driving to every peace officer (including part-time licensed peace officers) who may become involved in a police pursuit given the [officer's] duties and responsibilities ([MN Statute 626.8458](#)). This training must comply with the learning objectives developed and approved by POST and must minimally consist of 8 hours of classroom and skills-based training. This training must be completed, minimally, once every five years. Refresher courses should be considered for personnel authorized to use the PIT maneuver, tire deflation devices, FPS tracking devices, and any other devices or tools used for pursuit intervention.

If the CLEO determines [an officer] will not be involved in police pursuits, given their duties and responsibilities, the CLEO must notify POST of the [officer's] exemption status.

## STATUTORY REFERENCES

- [MN STATUTE 169.03](#) – Emergency Vehicles
- [MN STATUTE 169.14](#) – Speed Limit, Zones; Radar
- [MN STATUTE 169.17](#) – Emergency Vehicle
- [MN STATUTE 609.487](#) – Fleeing Peace Officer; Motor Vehicle; Other
- [MN STATUTE 626.5532](#) – Pursuit of Fleeing Suspects by Peace Officers
- [MN STATUTE 626.65](#) – Uniform Act on Fresh Pursuit; Reciprocal
- [MN STATUTE 626.8458](#) – Vehicle Pursuits; Policies and Instruction Required
- [MN STATUTE 626.487](#) – Fleeing Peace Officer; Motor Vehicle; Other
- [MN STATUTE 6700.0100](#) – Definitions
- [ADMINISTRATIVE RULE 6700.1615](#) – Required Agency Policies