

## **Chapter 3 - General Operations**

## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Minn. Stat. § 626.8452).

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Conducted Energy Device (TASER) policies.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Bodily harm** - Physical pain or injury.

**Deadly force** - Force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm, other than a firearm loaded with less lethal munitions, and used by a peace officer within the scope of official duties, in the direction of another person or a vehicle in which another person is believed to be, constitutes deadly force.

**De-escalation** - Taking action to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources are available to resolve the situation. The goal of de-escalation is to gain the voluntary compliance of individuals, when feasible, and thereby reduce or eliminate the necessity to use physical force.

**Feasible** - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

**Force** - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

**Great bodily harm** - Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

**Imminent** - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

**Totality of the circumstances** - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

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### **300.2 POLICY**

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Metro Transit Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

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

Any officer present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force (Minn. Stat. § 626.8452; Minn. Stat. § 626.8475).

Any officer who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances shall report these observations to a supervisor as soon as feasible (Minn. Stat. § 626.8452; Minn. Stat. § 626.8475).

#### **300.2.2 ADDITIONAL REQUIREMENTS**

An officer reporting a use of force by another law enforcement officer or member pursuant to this policy shall also make the report in writing to the Chief of Police within 24 hours (Minn. Stat. § 626.8475).

#### **300.2.3 PERSPECTIVE**

When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

### **300.3 USE OF FORCE**

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.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

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Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

#### 300.3.1 USE OF FORCE TO EFFECT AN ARREST

An officer may use reasonable force (Minn. Stat. § 609.06 and Minn. Stat. § 629.33):

- (a) In effecting a lawful arrest.
- (b) In the execution of a legal process.
- (c) In enforcing an order of the court.
- (d) In executing any other duty imposed by law.
- (e) In preventing the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime.
- (f) In restraining a person with a mental illness or a person with a developmental disability from self-injury or injury to another.
- (g) In self-defense or defense of another.

An officer who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose their right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

#### 300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit.

These factors include but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).

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- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and their ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness (Minn. Stat. § 626.8452).
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

#### 300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

#### 300.3.4 CAROTID CONTROL HOLD

A carotid control hold is a technique designed to control an individual by applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries (Minn. Stat. § 609.06, Subd. 3). The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However,

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due to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following (Minn. Stat. § 609.06; Minn. Stat. § 609.066):

- (a) At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.
- (b) Any individual who has had the carotid control hold applied, regardless of whether they were rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until such examination occurs.
- (c) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the individual lost consciousness as a result.
- (d) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (e) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

#### 300.3.5 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Metro Transit Police Department for this specific purpose.

#### 300.3.6 ALTERNATIVE TACTICS: DE-ESCALATION

The goal of de-escalation is to gain the voluntary compliance of subjects, when feasible, by reducing or eliminating the necessity to use physical force. Not all potentially violent confrontations can be de-escalated, but officers do have the ability to impact the direction and the outcome of many situations through sound tactics and decision making.

When reasonable under the totality of circumstances, officers should gather information about the incident, assess the risks, assemble resources, attempt to slow momentum, and communicate and coordinate a response. In their interaction with individuals, officers should use warnings, verbal persuasion, and other tactics and alternatives to higher levels of force.

Officers shall recognize that they may withdraw to a position that is tactically more secure or allows them greater distance to consider or deploy a greater variety of force options. Officers shall perform their work in a manner that avoids unduly jeopardizing their safety or the safety of others through poor tactical decisions.

When practical, supervisors will acknowledge and respond to incidents in a timely manner where use of force is probable.

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### 300.3.7 STATE RESTRICTIONS ON THE USE OF OTHER RESTRAINTS

Officers may not use any of the following restraints unless the use of deadly force is authorized (Minn. Stat. § 609.06; Minn. Stat. § 609.066):

- (a) A choke hold. For purposes of this policy, a choke hold only refers to the method of applying sufficient pressure to an individual to make breathing difficult or impossible, and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air.
  1. If applied, a choke hold is subject to the same guidelines and requirements as a carotid control hold.
- (b) Tying all of an individual's limbs together behind the person's back to render the person immobile.
- (c) Securing an individual in any way that results in transporting the person face down in a vehicle.

### 300.4 DEADLY FORCE APPLICATIONS

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified only 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 (Minn. Stat. § 609.066):

- (a) To protect the officer or another from death or great bodily harm.
- (b) To effect the arrest or capture, or prevent the escape, of an individual whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person unless immediately apprehended.

In both scenarios, the use of deadly force is only authorized provided that the threat (Minn. Stat. § 609.066):

- Can be articulated with specificity.
- Is reasonably likely to occur absent action by the officer.
- Must be addressed through the use of deadly force without unreasonable delay.

An officer shall not use deadly force against an individual based on the danger the individual poses to self unless the use of deadly force is justified (Minn. Stat. § 609.066).

Additionally, an officer should not use deadly force against a person whose actions are a threat solely to property.

#### 300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective and involve considerations and risks in addition to the justification for the use of deadly force.

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When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

#### **300.5 REPORTING THE USE OF FORCE**

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why they believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law. Officers will notate in report preparation the subject's apparent race and sex as well as the officer's own race and sex.

##### **300.5.1 NOTIFICATIONS TO SUPERVISORS**

Supervisory notification shall be made as soon as practicable following the application of any use of force in any of the following circumstances:

- (a) An individual was struck or kicked.
- (b) Any application of the conducted energy device or control device.
- (c) Any application of a restraint device other than handcuffs
- (d) The individual subjected to the force was rendered unconscious.
- (e) The application caused a visible injury.
- (f) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (g) The individual subjected to the force complained of injury or continuing pain.
- (h) The individual indicates intent to pursue litigation.
- (i) An individual alleges unreasonable force was used or alleges that any of the above has occurred.

##### **300.5.2 STATE REPORTING REQUIREMENTS**

The Chief of Police shall provide for the filing of a report with the Bureau of Criminal Apprehension (BCA) on a monthly basis and in the form required by BCA (Minn. Stat. § 626.5534).

There may be additional reporting requirements regarding misconduct (see the Standards of Conduct Policy) (Minn. Stat. § 626.8457).



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### **300.6 MEDICAL CONSIDERATIONS**

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until the individual can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain, or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

### **300.7 SUPERVISOR RESPONSIBILITIES**

When practicable, a supervisor should respond to a reported application of force resulting in visible injury. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
  1. If the incident involves the use of deadly force, the supervisor should follow the protocol under the Critical Incident policy and procedure.
- (b) Ensure that any injured parties are examined and treated.

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- (c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:
  - 1. The content of the interview should not be summarized or included in any related criminal charges.
  - 2. The fact that a recorded interview was conducted should be documented in a report.
- (d) If medical care has been provided, the supervisor will ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the individual may pursue civil litigation.
  - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

#### 300.7.1 LIEUTENANT RESPONSIBILITY

The lieutenant shall review each use of force by any personnel within their command to ensure compliance with this policy and to address any training issues.

### **300.8 TRAINING**

Officers shall receive training on this policy, including the learning objectives as provided by the Board of Peace Officer Standards and Training (POST), and demonstrate their knowledge and understanding at least annually (Minn. Stat. § 626.8452, Subd. 3).

Subject to available resources, officers should receive periodic training on guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

#### 300.8.1 STATE-SPECIFIC TRAINING REQUIREMENTS

Warrior-style training, as defined in Minn. Stat. § 626.8434, whether provided directly by the Department or through a third party, is prohibited (Minn. Stat. § 626.8434).

#### 300.8.2 TRAINING REQUIREMENTS

Required annual training shall include:

- (a) Legal updates.

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- (b) De-escalation tactics, including alternatives to force.
- (c) The duty to intercede.
- (d) The duty to request and/or render medical aid.
- (e) Warning shots (see the Firearms Policy).
- (f) All other subjects covered in this policy (e.g., use of deadly force, chokeholds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings).

#### **300.9 POLICY REVIEW**

The Chief of Police or the authorized designee should annually review and update this policy to reflect developing practices and procedures.

## Use of Force Review Boards

### 302.1 PURPOSE AND SCOPE

This policy establishes a process for the Metro Transit Police Department to administratively review the use of force by its employees.

The purpose of the Use of Force Review Board is to review such incidents and determine whether policy, training, weapon or equipment issues should be addressed. The Board shall only forward a report to the Chief of Police recommending policy changes, training needs, weapons or equipment upgrades.

### 302.2 POLICY

The Metro Transit Police Department will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

### 302.3 REMOVAL FROM LINE DUTY ASSIGNMENTS

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

### 302.4 REVIEW BOARD

The Use of Force Review Board will meet on a quarterly basis or be convened as necessary to review the following:

- Any incident where an officer discharges any firearm, on- or off-duty, including accidental discharges. This does not include firearms training, euthanizing injured animals or during legally recognized recreational activity.
- Any incident where an officer has had force used against them which has caused death, great bodily harm or serious injury.
- Any incident where the officer has used force which resulted in death, great bodily harm or serious injury.
- Any incident where an officer has been disarmed.
- Any other incident with an unusual occurrence and/or critical incident.

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

#### 302.4.1 COMPOSITION OF THE BOARD

The Training Coordinator should select five Use of Force Review Board members from the following, as appropriate:

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- Representatives from each training discipline (e.g. Use of Force, Taser, Firearms etc)
- Non-administrative supervisor
- A peer officer

The Training Coordinator will serve as chairperson on the Use of Force Review Board.

### 302.4.2 RESPONSIBILITIES OF THE BOARD

The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident. This review will be separate and distinct from any investigation (criminal or internal) of the incident.

The board does not have the authority to recommend discipline.

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

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

At the conclusion of any review, copies of all relevant reports and information will be gathered by the Training Coordinator, compiled into a written report and filed with the Chief of Police. The report shall be for the exclusive and sole use of the Chief of Police. The Chief of Police will determine how the report and recommendations are to be used.

## Handcuffing and Restraints

### 306.1 PURPOSE AND SCOPE

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

### 306.2 POLICY

The Metro Transit Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

### 306.3 USE OF RESTRAINTS

Only members who have successfully completed Metro Transit Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include, but are not limited to:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

#### 306.3.1 RESTRAINT OF DETAINEES

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

#### 306.3.2 RESTRAINT OF PREGNANT PERSONS

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

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

#### **306.3.3 RESTRAINT OF JUVENILES**

A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

#### **306.3.4 NOTIFICATIONS**

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the jail.

#### **306.4 HANDCUFFS OR PLASTIC CUFFS**

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

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.

In most situations handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the individual or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.

#### **306.5 SPIT GUARDS**

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

Spit guards may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Officers utilizing spit guards should ensure that the spit guard is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide

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

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

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

### **306.6 AUXILIARY RESTRAINT DEVICES**

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

### **306.7 LEG RESTRAINT DEVICES**

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Only restraint devices approved by the department shall be used. The RIPP Hobble is authorized for use by members of this Department.

In determining whether to use the leg restraint, officers should consider:

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.
- (b) Whether it is reasonably necessary to protect the suspect from his/her own actions (e.g., hitting his/her head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).

#### **306.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS**

When applying leg restraints the following guidelines should be followed:



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- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (f) When transported by ambulance/paramedic unit, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

#### **306.8 REQUIRED DOCUMENTATION**

If a person is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints.

If a person is arrested, the use of handcuffs or other restraints shall be documented in the related report.

Officers should document the following information in reports, as appropriate, when restraints other than handcuffs are used on a person:

- (a) The factors that led to the decision to use restraints.
- (b) Supervisor notification and approval of restraint use.
- (c) The types of restraint used.
- (d) The amount of time the person was restrained.
- (e) How the person was transported and the position of the person during transport.
- (f) Observations of the person's behavior and any signs of physiological problems.
- (g) Any known or suspected drug use or other medical problems.

#### **306.9 TRAINING**

Subject to available resources, the Training Manager should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

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- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.
- (b) Response to complaints of pain by restrained persons.
- (c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.
- (d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

## Conducted Energy Device

### 308.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the conducted energy device (CED).

### 308.2 POLICY

The CED is used in an attempt to control a violent or potentially violent individual. The appropriate use of such a device may result in fewer serious injuries to officers and suspects.

### 308.3 ISSUANCE AND CARRYING CEDS

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

The Training Unit should keep a log of issued CED devices and the serial numbers of cartridges/magazines issued to members.

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

Officers shall only use the CED and cartridges/magazines that have been issued by the Department. Cartridges/magazines should not be used after the manufacturer's expiration date.

Uniformed officers who have been issued the CED shall wear the device in an approved holster.

Officers who carry the CED while in uniform, shall carry it in a holster on the side opposite the duty weapon.

- (a) All CEDs shall be clearly distinguishable to differentiate them from the duty weapon and any other device.
- (b) For single-shot devices, whenever practicable, officers should carry an additional cartridge on their person when carrying the CED.
- (c) Officers should not hold a firearm and the CED at the same time.

Non-uniformed officers may secure the CED in a concealed, secure location in the driver's compartment of their vehicles.

#### 308.3.1 USER RESPONSIBILITIES

Officers shall be responsible for ensuring that the issued CED is properly maintained and in good working order. This includes a function test and battery life monitoring, as required by the manufacturer, and should be completed prior to the beginning of the officer's shift.

CEDs that are damaged or inoperative, or cartridges/magazines that are expired or damaged, shall be returned to the Training Unit for disposition. Officers shall submit documentation stating the reason for the return and how the CED or cartridge/magazine was damaged or became inoperative, if known.

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### **308.4 VERBAL AND VISUAL WARNINGS**

A verbal warning of the intended use of the CED should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

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

If, after a verbal warning, an individual fails to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, activate any warning on the device, which may include display of the electrical arc, an audible warning, or the laser in a further attempt to gain compliance prior to the application of the CED. The laser should not be intentionally directed into anyone's eyes.

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

### **308.5 USE OF THE CED**

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

If sufficient personnel are available and can be safely assigned, an officer designated as lethal cover for any officer deploying a CED may be considered for officer safety.

#### **308.5.1 APPLICATION OF THE CED**

The CED may be used when the circumstances reasonably perceived by the officer at the time indicate that such application reasonably appears necessary to control a person who:

- (a) Is violent or is physically resisting.
- (b) Has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, themselves, or others.
- (c)

Mere flight from a pursuing officer, without additional circumstances or factors, is not good cause for the use of the CED to apprehend an individual.

The CED shall not be used to physically torment, to elicit statements, or to punish any individual.

#### **308.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS**

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

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

Any CED capable of being applied in the drive-stun mode (i.e. direct contact without probes as a primary form of pain compliance) should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

### 308.5.3 TARGETING CONSIDERATIONS

Recognizing that the dynamics of a situation and movement of the subject may affect target placement of probes, when practicable, officers should attempt to target the back, lower center mass, and upper legs of the subject, and avoid intentionally targeting the head, neck, area of the heart, or genitals. If circumstances result in one or more of the probes inadvertently striking an area outside of the preferred target zone, the individual should be closely monitored until examined by paramedics or other medical personnel.

### 308.5.4 MULTIPLE APPLICATIONS OF THE CED

Once an officer has successfully deployed two probes on the subject, the officer should continually assess the subject to determine if additional probe deployments or cycles reasonably appear necessary. Additional factors officers may consider, include but are not limited to:

- (a) Whether it is reasonable to believe that the need to control the individual outweighs the potentially increased risk posed by multiple applications.
- (b) Whether the probes are making proper contact.
- (c) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (d) Whether verbal commands or other options or tactics may be more effective.

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### 308.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers should take appropriate actions to control and restrain the individual as soon as reasonably practicable to minimize the need for longer or multiple exposures to the CED. As soon as practicable, officers shall notify a supervisor any time the CED has been discharged. If needed for evidentiary purposes, the expended cartridge, along with any probes and wire, should be submitted into evidence (including confetti tags, when equipped on the device). The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

### 308.5.6 DANGEROUS ANIMALS

The CED may be deployed against an animal if the animal reasonably appears to pose an imminent threat to human safety

### 308.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department CEDs while off-duty.

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

## **308.6 DOCUMENTATION**

Officers shall document all CED discharges in the related arrest/crime reports and the CED report forms. Photographs should be taken of any obvious probe impact or drive-stun application sites and attached to the CED report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, audible warning, laser activation, and arcing the device, other than for testing purposes, will also be documented on the report form. Data downloads from the CED after use on a subject should be done as soon as practicable using a department approved process to preserve the data.

### 308.6.1 CED REPORT FORM

As applicable based on the device type, items that shall be included in the CED report form are:

- (a) The brand, model, and serial number of the CED and any cartridge/magazine.
- (b) Date, time, and location of the incident.
- (c) Whether any warning, display, laser, or arc deterred a subject and gained compliance.
- (d) The number of probes deployed, CED activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the CED was used.
- (f) The type of mode used (e.g., probe deployment, drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.

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- (k) Whether the subject sustained any injuries.
- (l) Whether any officers sustained any injuries.

The Training Manager should periodically analyze the report forms to identify trends, including deterrence and effectiveness.

The Training Manager or Designee should also conduct audits of CED device data downloaded to an approved location and reconcile CED report forms with recorded activations. CED information and statistics, with identifying information removed, should periodically be made available to the public.

### 308.6.2 REPORTS

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

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

### 308.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel or officers trained in probe removal and handling should remove CED probes from a person's body. Used CED probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

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

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

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications shall be transported to a medical facility for examination, or medically evaluated prior to booking.

If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio/video

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recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody, that the individual has been subjected to the application of the CED (see the Medical Aid and Response Policy).

### **308.8 SUPERVISOR RESPONSIBILITIES**

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the CED may be used. A supervisor should respond to all incidents where the CED was activated.

A supervisor should review each incident where a person has been exposed to a CED. The device's internal logs should be downloaded by a supervisor and saved with the related arrest/crime report. The supervisor should arrange for photographs of probe sites to be taken and witnesses to be interviewed.

### **308.9 TRAINING**

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

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

A reassessment of an officer's knowledge and/or practical skills may be required at any time, if deemed appropriate, by the Training Manager or Designee. All training and proficiency for CEDs will be documented in the officer's training files.

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

Officers who do not carry CEDs should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Training Manager or Designee is responsible for ensuring that all members who carry CEDs have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of CEDs during training could result in injuries and should not be mandatory for certification.

The Training Manager or Designee should include the following training:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.



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- (c) Performing weak-hand draws or cross-draws until proficient to reduce the possibility of unintentionally drawing and firing the firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes to the head, neck, area of the heart, and groin.
- (e) Scenario-based training, including virtual reality training when available.
- (f) Handcuffing a subject during the application of the CED and transitioning to other force options.
- (g) De-escalation techniques.
- (h) Restraint techniques that do not impair respiration following the application of the CED.
- (i) Proper use of cover and concealment during deployment of the CED for purposes of officer safety.
- (j) Proper tactics and techniques related to multiple applications of CEDs.

### **308.10 DOWNLOADING DEVICE INFORMATION**

In addition, officers must change the CED battery after each CED device deployment that requires a report per this policy in order to download incident data. Officers should change their CED battery monthly. All CED device deployment information will be maintained in accordance with applicable retention periods. A firing log may be retained for longer if other circumstances exist and can be articulated (e.g., civil litigation, critical incident, criminal investigation, etc.)

CED devices may also be downloaded following a particular incident if the Chief of Police or their designee determines that it may be necessary.

## Officer-Involved Shootings and Deaths

### 309.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of another action of an officer.

In other incidents not covered by this policy, the Chief of Police may decide that the investigation will follow the process provided in this policy.

### 309.2 TYPES OF INVESTIGATIONS

Officer-involved shootings and deaths involve several separate investigations. The investigations may include:

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.

### 309.3 DEFINITIONS

Terms as used in this policy shall have the following definition:

**Administrative Investigating Agency:** The Metro Transit Police Internal Affairs Unit is the administrative investigating agency unless otherwise designated by the Chief of Police or their designee. The Internal Affairs Unit is responsible for the administrative investigation of the critical incident which includes checking for adherence to policy, identifying policy failures, tactical and training issues, and potential civil liability issues. The Use of Force Review Board will also be activated for this investigation in accordance with Policy 302.

**Criminal Investigating Entity:** An outside law enforcement agency will serve as the criminal investigative entity unless otherwise designated by the Chief of Police or their designee.

**Critical Incident:** An incident involving any of the following situations occurring in the line of duty:

- (a) The use of deadly force by or against a Metro Transit police officer.
- (b) Death of or great bodily harm to a Metro Transit police officer.
- (c) Death of or great bodily harm to a person who is in the custody or control of a Metro Transit police officer.
- (d) Any action by a Metro Transit police officer that causes or is intended to cause death.

**Deadly Force:** Force which the actor uses with the purpose of causing or which the actor should reasonably know creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm, other than a firearm loaded with less lethal munitions, and used by a peace officer within the scope of official duties, in the direction of another person or at a vehicle in

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which another person is believed to be, constitutes deadly force. "Less lethal munitions" means projectiles which are designed to stun, temporarily incapacitate, or cause temporary discomfort to a person (Minn. Stat. § 609.066, subd. 1).

**Escort:** Officers assigned by the Incident Commander at the scene to stay with an involved officer and any witness officers until relieved by investigators.

**Great Bodily Harm:** Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm (Minn. Stat. § 609.02, subd. 8).

**Incident Commander:** THE MTPD officer at the scene who has taken command and control of the scene.

**Incident Report:** A report or statement that sets forth the officer's account of the incident.

**Involved Officer:** An officer who appears to have engaged in conduct defined as a critical incident.

**Lead Investigator:** The investigator in charge of the criminal investigation or their designee at the scene.

**Mental Health Professional (MHP):** An Employee Assistance Program (EAP) professional who may be called upon to meet with officers involved in critical incidents.

**Public Safety Statement:** A mandatory statement from involved officers which provides information necessary to ensure public safety. This may include, but is not limited to, questions about the direction in which an involved officer fired their firearm, the location of injured people, the location of dangerous weapons, and information on any suspects still at large. The list of questions is included in the MTPD's Procedure Manual.

**Voluntary Statement:** A statement given by involved and witness officers to investigators which is voluntary and outlines details associated with the critical incident.

**Witness Officer:** An officer who witnesses a critical incident but did not engage in any conduct resulting in a critical incident.

**309.3.1 COOPERATION WITH BUREAU OF CRIMINAL APPREHENSION INVESTIGATIONS**  
The Department will fully cooperate with and promptly respond to requests for information from the Bureau of Criminal Apprehension regarding an officer-involved death investigation (Minn. Stat. § 626.5534).

### **309.4 INVESTIGATION PROCESS**

The following procedures are guidelines used in the investigation of an officer-involved shooting or death.

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### **309.5 CRIMINAL INVESTIGATION**

The Prosecuting Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting involving injury or death.

If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the Prosecuting Attorney's Office to avoid duplicating efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) MTPD supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interview of MTPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of the officer's choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally, or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

#### **309.5.1 INVOLVED OFFICERS AT THE SCENE**

- (a) The MTPD Incident Commander will determine which officers are involved officers. The Incident Commander will promptly assign an escort officer to stay with each involved officer until directed by a supervisor or investigator. One escort will be assigned to each involved officer.
- (b) Involved officers will not talk to anyone at the scene about the incident except the Incident Commander (for the purpose of giving a public safety statement) and the lead investigator.
- (c) Involved officers should not be unreasonably denied access to a union representative and legal counsel, and may talk to them at the scene.
- (d) Involved officers should not be placed in the back seat of a police vehicle.
- (e) As soon as practical, and with the permission from the Incident Commander, the escorts will take the involved officers to the involved officer's room. Escorts will be keep the involved officers separate from any other involved and witness officers.

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- (f) Unless a supervisor has reason to believe that the officer may pose a threat to themselves or to others, or unless directed by the lead investigator or their designee, the involved officer's firearm should not be taken at the scene.

### 309.5.2 INVOLVED OFFICER'S ROOM

Once transported to the involved officer's room:

- (a) Involved officers shall not be unreasonably denied access to:
  1. Food and drink
  2. Restroom facilities
  3. Telephone
  4. A union representative or other legal counsel
  5. A representative from EAP
  6. A police chaplain or other clergy
- (b) Involved officers will make their firearms available for inspection and will surrender their firearm and any other requested equipment, including their department-issued cell phone, to the lead investigator. Custody of the body-worn camera will be taken pursuant to MTPD Policy 451 once the criminal investigating entity has determined it is appropriate to do so. If personnel from the criminal investigating entity are not available to take custody of the firearm, an MTPD supervisor may, at the direction of the lead investigator, take custody of the firearm and equipment, package label them as evidence, and submit them to Property and Evidence intake. Involved officers shall be provided with replacement firearms and equipment as soon as reasonably possible.
- (c) After having the opportunity to consult with legal counsel, involved officers or their legal counsel will inform the lead investigator of the involved officer's willingness to give a voluntary statement. Officers should be encouraged to make a voluntary statement only after a period of rest and preferably not prior to 48 hours after the incident.
- (d) Officers will not view any video data of the incident including, but not limited to, body-worn camera, squad video, or other public safety cameras prior to giving a statement.
- (e) Before involved officers are released, they will be asked to provide a blood sample (Minn. Stat. § 181.951). Involved officers will be escorted to the designated medical facility where the blood sample will be using official State of Minnesota blood collection kits. After a health professional obtains the sample, it will be turned over to the criminal investigating agency as evidence. For chain of custody and integrity reasons, neither the involved officer nor their union representative should have access to the blood sample kit or collected sample.

### 309.5.3 AFTER INCIDENT CARE

Administrative Leave:

Involved officers will be placed on a mandatory paid administrative leave for a minimum of three calendar days following the critical incident, whether a full- or part-time officer. The Chief of Police or their designee will contact a part-time officer's home agency to advise them of the incident.

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The officer may request, or the Chief of Police or their designee may order, additional days of administrative leave. Prior to returning to work, the involved officer will speak with EAP or a mental health professional to ensure they are ready to return to duty. The Captain of Patrol is responsible for making sure the mental health professional has cleared the employee to return to work. An officer shall not work a scheduled shift, overtime shift, or extra-duty position while on administrative leave. An officer may work an approved, non-uniform, non-law enforcement off-duty position while on administrative leave if permitted by the Chief or their designee.

### Mental Health:

Officers are encouraged to seek mental health care as needed.

### **309.6 WITNESS OFFICERS**

The following procedures apply to managing involved officers following a critical incident.

#### 309.6.1 WITNESS OFFICERS AT THE SCENE

- (a) The Incident Commander will determine which officers are witness officers. As soon as possible, the Incident Commander shall assign an escort to each witness officer. If possible, one escort shall be assigned to each witness officer. Witness officers will be separate from involved and other witness officers.
- (b) Witness officers will not talk to anyone at the scene about the incident except the Incident Commander and the lead investigator to provide details to enable the primary responders and investigators to secure the scene, facilitate the investigation, apprehend suspects, and provide for officer and civilian safety at the scene.
- (c) To ensure that all evidence and witnesses are located and preserved, witness officers should voluntarily meet with the lead investigator at the scene to give them a brief overview of the incident, identify evidence, and provide other information deemed necessary to ensure the continuity of the investigation. The lead investigator will prioritize the order and urgency of witness officer interviews and will communicate the priorities to the Incident Commander and any union representative who is present or accessible.
- (d) Witness officers should not be unreasonably denied access to a union representative and legal counsel, and may talk to them at the scene.
- (e) As soon as practical, witness officers will be released from the scene by the lead investigator and transported by their assigned escort officer to the designated witness officer's room. Witness officers shall be advised they are to wait at this location for an opportunity to meet with legal counsel, a police chaplain and/or EAP representative.

#### 309.6.2 WITNESS OFFICER'S ROOM

Once transported to the witness officer's room:

- (a) Witness officers shall not be unreasonably denied access to:
  1. Food and drink
  2. Restroom facilities

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3. Telephone
  4. A union representative or other legal counsel
  5. A representative from EAP
  6. A police chaplain or other clergy
- (b) Witness officers shall be afforded an opportunity to meet with the police chaplain, the responding EAP representative, and to consult with legal counsel or union board representatives prior to providing a statement.
- (c) If requested, witness officers will make their firearms available for inspection and will surrender their firearm and any other requested equipment, including their department-issued cell phone, to the lead investigator. Custody of the body-worn camera will be taken pursuant to MTPD Policy 451 once the criminal investigating entity has determined it is appropriate to do so. If personnel from the criminal investigating entity are not available to take custody of the firearm, an MTPD supervisor may, at the direction of the lead investigator, take custody of the firearm and equipment, package label them as evidence, and submit them to Property and Evidence intake. Involved officers shall be provided with replacement firearms and equipment as soon as reasonably possible.
- (d) Witness officers may be released from their duty shift on the advice of the lead investigating agency.

### 309.6.3 AFTER INCIDENT CARE

#### Administrative leave:

A witness officer may request to be placed on paid administrative leave for may be placed on paid administrative leave by the Chief of Police or their designee for up to three calendar days following the critical incident. The decision to grant the request shall be made at the sole discretion of the Chief of Police or their designee and that decision shall be promptly communicated to the witness officer by the Captain of Patrol or the Captain's designee. If a witness officer is placed on administrative leave, the officer shall speak with an EAP or other mental health profession prior to returning to work to ensure that they are ready to return to duty. If an officer is granted paid leave, the officer shall not work a uniformed off-duty job or overtime on while on administrative leave. An officer may work an approved, non-uniform, non-law enforcement off-duty job while on administrative leave at the sole discretion of the Chief of Police or their designee.

#### Mental Health:

Officers are encouraged to seek mental health care as needed.

## **309.7 CONSULTATION WITH LEGAL COUNSEL**

### 309.7.1 INVOLVED AND WITNESS OFFICERS

Involved and witness officers are entitled to consult with legal counsel during the pending critical incident investigation, including any court proceedings or other pertinent meetings and interviews.

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### 309.7.2 OFFICER OF GENERAL COUNSEL AND RISK MANAGEMENT

It is common for critical incidents to result in civil lawsuits being filed against the Metropolitan Council, Metro Transit and Metro Transit police officers. If an officer is served with a lawsuit, they will notify OGC and Risk Management as soon as possible and consult the Council's Employee Defense and Indemnification Procedure ([HR5-1f](#)). It is very important that, in order to properly defend against any potential lawsuit following a critical incident, OGC and Risk Management have access to incident case information as soon as possible. For this reason, both witness and involved officers will be required to meet with and otherwise cooperate with the OGC and Risk Management when appropriate to aid in the defense of any case that may arise from a critical incident.

### 309.8 INTERNAL INVESTIGATION

The Internal Affairs Unit is responsible for conducting an administrative investigation of all critical incidents in alignment with MTPD Policy 1020: Personnel Complaints. It is generally advisable to conduct and complete a criminal investigation prior to beginning an administrative investigation. The department's Use of Force Review Board will be also be activated for this investigation as outlined in MTPD Police 302: Use of Force Review Board.

#### 309.8.1 AUDIO AND VIDEO RECORDINGS OF USE OF FORCE INCIDENTS INVOLVING DEATHS OF INDIVIDUALS

When a person dies as a result of the use of force by an officer, the Department shall (Minn. Stat. § 13.825, Subd. 2; Minn. Stat. § 626.8473, Subd. 3):

- (a) Allow certain individuals as identified in Minn. Stat. § 13.825, upon request, to inspect all portable recording system data that documents the incident within five days of the request pursuant to the provisions of Minn. Stat. § 13.825.
- (b) Release all portable recording system data that documents the incident within 14 days of the incident pursuant to the provisions of Minn. Stat. § 13.825.

The Chief of Police should work with the Custodian of Records when redactions or denials are necessary (Minn. Stat. § 13.825, Subd. 2; Minn. Stat. § 626.8473, Subd. 3).

### 309.9 DEBRIEFING

Following an officer-involved shooting or death, the Metro Transit Police Department should conduct both a Critical Incident Stress Debriefing and a tactical debriefing. See the Wellness Program Policy for guidance on Critical Incident Stress Debriefings.

### 309.10 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from Chief of Police, the lead criminal investigating agency, and other personnel or stakeholders as appropriate.

No involved MTPD officer shall make any comment to the media.

Department members receiving inquiries regarding critical incidents occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the MTPD's Public Information Officer..



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## *Officer-Involved Shootings and Deaths*

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### **309.11 REPORTING**

If an officer discharges a firearm in the course of duty, the Chief of Police shall notify the Commissioner of Public Safety within 30 days of the reason for and the circumstances surrounding the discharge of the firearm (Minn. Stat. § 626.553).

## Firearms

### 311.1 PURPOSE AND SCOPE

This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance and firearms training.

This policy does not apply to issues related to the use of firearms that are addressed in the Use of Force or Officer-Involved Shootings and Deaths policies.

This policy only applies to those members who are authorized to carry firearms.

#### 311.1.1 AUTHORIZATION TO CARRY FIREARMS

All licensed personnel shall successfully complete department training regarding the use of force, deadly force, and the use of firearms before being issued a firearm or being authorized to carry a firearm in the course of their duties (Minn. Stat. § 626.8452, Subd. 3; Minn. Stat. § 626.8463).

### 311.2 POLICY

The Metro Transit Police Department will equip its members with firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons. The Department will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

### 311.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the member's Division Commander. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

#### 311.3.1 HANDGUNS

The authorized department-issued handgun is the Glock 17.

The following additional handguns are approved for on-duty use by part-time sworn officers:

(a) Handgun

1. Beretta, Colt, Glock, H&K, Kahr, Kel Tec, Ruger, SIG Sauer, Smith & Wesson, Springfield and Walther.

(b) Caliber

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9mm.

Any officer carrying a secondary handgun must comply with the approved list at 311.3.1(a) with the following calibers:

.380, 9mm,.357 SIG,.40 and.45

.38 Special

.357 Magnum

or any other caliber approved by the Chief of Police.

All handguns must either be double action or have a de-cocking mechanism. The handgun must have a manufacturer's specified barrel length between 2 1/2 and 5 1/2 inches. Other barrel lengths must be pre-approved by the Training Coordinator. For officers choosing Smith & Wesson semi-automatics, only second generation (three digit model number) or newer will be approved.

### 311.3.2 PATROL RIFLES

The authorized department-issued patrol rifle is the Smith and Wesson M&P 15 / Bushmaster M4.

Members may deploy the patrol rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

- (a) Situations where the member reasonably anticipates an armed encounter.
- (b) When a member is faced with a situation that may require accurate and effective fire at long range.
- (c) Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.
- (d) When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- (e) When a member reasonably believes that a suspect may be wearing body armor.
- (f) When authorized or requested by a supervisor.
- (g) When needed to euthanize an animal.

When not deployed, the patrol rifle shall be properly secured in a locking weapons rack in the patrol vehicle with the:

- Chamber empty
- Bolt forward
- 20 or 30 round magazine (loaded with 18 or 28 rounds) inserted into the magazine well

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- Dust cover closed
- Selector switch in the safe position

### 311.3.3 PERSONALLY OWNED DUTY FIREARMS

Members desiring to carry an authorized but personally owned duty firearm must receive written approval from the Chief of Police or the authorized designee. Once approved, personally owned duty firearms are subject to the following restrictions:

- (a) The firearm shall be in good working order and on the department list of approved firearms.
- (b) The firearm shall be inspected by the Armorer prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (c) Prior to carrying the firearm, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the firearm functions properly.
- (d) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Armorer, who will maintain a list of the information.

### 311.3.4 AUTHORIZED SECONDARY HANDGUN

Members desiring to carry department or personally owned secondary handguns are subject to the following restrictions:

- (a) The handgun shall be in good working order and on the department list of approved firearms.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the Department.
- (d) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (e) The handgun shall be inspected by the Armorer prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (f) Ammunition shall be the same as department issue. If the caliber of the handgun is other than department issue, the Chief of Police or the authorized designee shall approve the ammunition.
- (g) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.
- (h) Members shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Armorer, who will maintain a list of the information.

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### 311.3.5 AUTHORIZED OFF-DUTY FIREARMS

The carrying of firearms by members while off-duty is permitted by the Chief of Police but may be rescinded should circumstances dictate (e.g., administrative leave). Members who choose to carry a firearm while off-duty, based on their authority as peace officers, will be required to meet the following guidelines:

- (a) A personally owned firearm shall be used, carried and inspected in accordance with the Personally Owned Firearms requirements in this policy.
  - 1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (c) It will be the responsibility of the member to submit the firearm to the Armorer for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Armorer.
- (d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Armorer that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (e) The member will successfully qualify with the firearm prior to it being carried.
- (f) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Armorer, who will maintain a list of the information.
- (g) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (h) Members shall only carry department-authorized ammunition
- (i) When armed, officers shall carry their badges and Metro Transit Police Department identification cards under circumstances requiring possession of such identification.

### 311.3.6 AMMUNITION

Members shall carry only department-authorized ammunition. Subject to availability, members shall be issued fresh duty ammunition in the specified quantity for all department-issued firearms during the member's firearms qualification. The current rotation is every other year. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Armorer when needed, in accordance with established policy.

Members carrying personally owned authorized firearms of a caliber differing from department-issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Armorer when needed, in accordance with established policy.

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### **311.4 EQUIPMENT**

Firearms carried on- or off-duty shall be maintained in a clean, serviceable condition. Maintenance and repair of authorized personally owned firearms are the responsibility of the individual member.

#### **311.4.1 REPAIRS OR MODIFICATIONS**

Each member shall be responsible for promptly reporting any damage or malfunction of an assigned firearm to the Training Coordinator.

Firearms that are the property of the Department or personally owned firearms that are approved for department use may be repaired or modified only by a person who is department-approved and certified as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance by the Training Coordinator.

Any repairs or modifications to the member's personally owned firearm shall be done at his/her expense and must be approved by the Armorer.

#### **311.4.2 HOLSTERS**

Only department-approved holsters shall be used and worn by members. Members shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun.

#### **311.4.3 TACTICAL LIGHTS**

Tactical lights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Armorer. Once the approved tactical lights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

#### **311.4.4 OPTICS OR LASER SIGHTS**

Optics or laser sights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Armorer. Any approved sight shall only be installed in strict accordance with manufacturer specifications. Once approved sights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

Except in an approved training situation, a member may only sight in on a target when the member would otherwise be justified in pointing a firearm at the target.

### **311.5 SAFE HANDLING, INSPECTION AND STORAGE**

Members shall maintain the highest level of safety when handling firearms and shall consider the following:

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Firearms Instructor. Members shall not dry fire or practice quick draws except under instructor supervision while at the range.

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- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (d) Rifles removed from vehicles or storage shall be loaded and unloaded using clearing barrels.
- (e) Members shall not place or store any firearm or other weapon on department premises except where the place of storage is locked. No one shall carry firearms into a jail or any part thereof when securing or processing an arrestee, but shall place all firearms in a secured location.
- (f) Members shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.
- (g) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Department or a Armorer approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Armorer will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

### 311.5.1 INSPECTION AND STORAGE

Handguns shall be inspected regularly and upon access or possession by another person. Rifles shall be inspected at the beginning of the shift by the member to whom the weapon is issued. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Inspection of the rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction or into clearing barrels.

Personally owned firearms may be safely stored in lockers at the end of the shift. Department-owned firearms shall be stored appropriately. Handguns may remain loaded if they are secured in an appropriate holster. Rifles shall be unloaded in a safe manner

### 311.5.2 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Members should be aware that negligent storage of a firearm could result in civil and criminal liability (Minn. Stat. § 609.666; Minn. Stat. § 609.378).

### 311.5.3 ALCOHOL AND DRUGS

Firearms shall not be carried by any member, either on- or off-duty, who has consumed an amount of an alcoholic beverage, taken any drugs or medication, or has taken any combination thereof that would tend to adversely affect the member's senses or judgment.

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### **311.6 FIREARMS TRAINING AND QUALIFICATIONS**

All members who carry a firearm while on-duty are required to successfully complete regular training with their duty firearms. In addition to regular training, all members will qualify at least annually with their duty firearms (Minn. Stat. § 626.8452). Officers will also receive training on this policy, including the learning objectives as provided by POST, at least annually (Minn. Stat. § 626.8452, Subd. 3).

Members will qualify with off-duty and secondary firearms at least once a year.

Training and qualifications must be on an approved range course. At the end of the training, once cleared to leave, the officer will immediately clean the weapon. If no cleaning station is available, the officer must clean the weapon before their next shift.

At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

#### **311.6.1 NON-CERTIFICATION OR NON-QUALIFICATION**

If any member fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, that member shall submit a memorandum to his/her immediate supervisor prior to the end of the required training or qualification period.

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- (a) Additional range assignments may be scheduled to assist the member in demonstrating consistent firearm proficiency.
- (b) Members shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- (c) No range credit will be given for the following:
  1. Unauthorized range make-up
  2. Failure to meet minimum standards or qualify after remedial training

Members who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

### **311.7 FIREARM DISCHARGE**

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

In all other cases, written reports shall be made as follows:



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- (a) If on-duty at the time of the incident, the member shall file a written report with his/her Division Commander or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- (b) If off-duty at the time of the incident, a written report shall be submitted or recorded statement provided no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

### 311.7.1 DESTRUCTION OF ANIMALS

Members are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, department members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, conducted energy device, oleoresin capsicum (OC) spray, animal control officer). Nothing in this policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed, becomes impractical, or if the animal reasonably appears to pose an imminent threat to human safety.

### 311.7.2 INJURED ANIMALS

With the approval of a supervisor, a member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical.

### 311.7.3 WARNING AND OTHER SHOTS

Warning shots are prohibited. Shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the member reasonably believes that they appear necessary, effective and reasonably safe.

### 311.7.4 REPORTING FIREARMS DISCHARGE

The Chief of Police shall notify the Commissioner of Public Safety within 30 days of an on-duty firearm discharge, except when the discharge is in the course of training or destruction of animals (described in this policy). The notification shall contain information concerning the reason for and circumstances surrounding the discharge (Minn. Stat. § 626.553).

## 311.8 ARMORER / FIREARMS INSTRUCTOR DUTIES

The range will be under the exclusive control of the Armorer / Firearms Instructor. All members attending will follow the directions of the Armorer. The Armorer will maintain a roster of all members attending the range and will submit the roster to the Training Manager after each range date. Failure of any member to sign in and out with the Armorer may result in non-participation or non-qualification.

The range shall remain operational and accessible to department members during hours established by the Department.

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The Armorer has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by members of this department to verify proper operation. The Armorer has the authority to deem any department-issued or privately owned firearm unfit for service. The member will be responsible for all repairs to his/her personally owned firearm; it will not be returned to service until inspected and approved by the Armorer.

The Armorer has the responsibility for ensuring each member meets the minimum requirements during training shoots and, on at least a yearly basis, can demonstrate proficiency in the care, cleaning and safety of all firearms the member is authorized to carry.

The Armorer shall complete and submit to the Training Manager documentation of the courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been approved by the Department, a list of each member who completes the training. The Armorer should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Training Manager.

### **311.9 FLYING WHILE ARMED**

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to personnel who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

- (a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the Department based on the law and published TSA rules.
- (b) Officers must carry their Metro Transit Police Department identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature, and the signature of the Chief of Police or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver's license, passport).
- (c) The Metro Transit Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Metro Transit Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail the itinerary, and include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.

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- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification can be accomplished by early check-in at the carrier's check-in counter.
- (g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of the officer's assigned seat.
- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on the officer's person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Officers should resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative, or other management representative of the air carrier.
- (j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

### **311.10 CARRYING FIREARMS OUT OF STATE**

Qualified, active, full-time officers of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC § 926B):

- (a) The officer shall carry the officer's Metro Transit Police Department identification card whenever carrying such weapon.
- (b) The officer is not the subject of any current disciplinary action.
- (c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) The officer will remain subject to this and all other department policies (including qualifying and training).

Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base, or park. Federal authority may not shield an officer from arrest and prosecution in such locally restricted areas.

Active law enforcement officers from other states are subject to all requirements set forth in 18 USC § 926B.

## Vehicle Pursuits

### 313.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide officers with guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law, as well as minimize the potential for pursuit-related collisions. Vehicular pursuits require officers to exhibit a high degree of common sense and sound judgment. Officers must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing officers (Minn. Stat. § 626.8458 Subd. 1).

Minn. Stat. § 473.407 establishes the authority of the Metro Transit Police Department. Statute is clear that "the jurisdiction of the law enforcement agency is limited to offenses relating to council transit property, equipment, employees and passengers."

For this reason, officers are authorized to initiate a pursuit when it is reasonable to believe that a serious violent felony crime against a person has occurred and a suspect is attempting to evade arrest or detention by fleeing in a vehicle that has been given a signal to stop by a peace officer. Note that officers may not pursue a vehicle if the only reason for the pursuit, is that the driver or a passenger is suspected of having a felony warrant for their arrest.

Officers will not pursue vehicles if the identity of the suspect has been verified and there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.

Pursuits for serious violent offenses that are unrelated to MTPD's authority as outlined in state statute are prohibited unless exigent circumstances exist and it is articulable that the officer has a duty to respond as a licensed law enforcement officer.

### 313.2 DEFINITIONS

Definitions related to this policy include:

Serious violent felony - Criminal offenses and suspected offenses as believed or known by the officer(s) at the time of the incident. This includes:

- Homicide or attempted homicide
- Aggravated robbery, including carjacking, involving serious injury, a firearm, or weapon capable of causing great bodily harm or death
- Kidnapping
- Criminal sexual conduct involving serious injury, a firearm, or weapon capable of causing great bodily harm or death
- Aggravated assault with a firearm or weapon capable of causing great bodily harm or death
- Terrorist acts or actions that may cause mass casualties, including but not limited to:

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- Ramming attacks involving a vehicle toward people or property
- Active shooter threats or actions
- Possession of suspected explosives

**Terminate** - When the officer discontinues the use of all emergency equipment, slows the marked squad car to the posted speed limit and turns off the pursuit route at the next available intersection or exit point.

**Vehicle pursuit** - An event in which a peace officer initiates a vehicular stop and a driver resists the signal or order to stop by increasing speed, taking evasive action or otherwise refusing to stop the vehicle.

### 313.3 IMMEDIATE NOTIFICATIONS

Before engaging in a pursuit, officers will notify the Transit Control Center, who will make immediate notification to the local jurisdiction. TCC will also ensure that the shift supervisor has been notified and acknowledges the event. The supervisor will ensure that the reason for the pursuit follows policy before giving authorization, when possible and as appropriate. The supervisor should exercise good judgment in making that decision.

It is the policy of this department that a vehicle pursuit shall be conducted with full emergency lights flashing visible from the front and a siren that is continuously sounded to warn pedestrians or other drivers.(Minn. Stat. § 169.17 and Minn. Stat. § 169.68).

Operating an emergency vehicle in a pursuit with emergency lights and siren does not relieve the operator of an authorized emergency vehicle of the duty to drive with due regard for the safety of all persons and does not protect the driver from the consequences of a reckless disregard for the safety of others.

### 313.4 CONSIDERATIONS

#### 313.4.1 INITIATING A PURSUIT

The following factors individually and collectively shall be considered in deciding whether to initiate or continue a pursuit (Minn. Stat. § 626.8458 Subd. 2(2); Minn. R. § 6700.2701):

- (a) Does the suspect represent an imminent threat to public safety.
- (b) Safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic (e.g., school zones) and the speed of the pursuit relative to these factors.
- (c) Weather, traffic and road conditions that unreasonably increase the danger of the pursuit when weighed against the risks resulting from the suspect's escape.
- (d) Pursuing officer's familiarity with the area of the pursuit, the quality of radio communications between pursuing units and the dispatcher/supervisor, and the driving capabilities of the pursuing officer under the conditions of the pursuit.

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- (e) Vehicle speeds and performance capabilities of the squad car.
- (f) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages) when known.
- (g) Age of the suspect and occupants.
- (h) Availability of other resources, such as aircraft assistance.

### 313.4.2 TERMINATING A PURSUIT

Pursuits should be discontinued when the present risks of continuing the pursuit reasonably appear to outweigh the risks of the suspect's escape. Officers should consider the totality of the objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit. Officers must obey a lawful order to terminate the pursuit by a supervisor.

In addition to the factors listed above, the following factors should be considered when deciding whether to terminate a pursuit (Minn. Stat. § 626.8458 Subd. 2 (2); Minn. R. § 6700.2701):

- (a) Distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.
- (b) Pursued vehicle's location is no longer definitely known.
- (c) Officer's pursuit vehicle sustains damage or a mechanical failure that renders it unsafe to drive.
- (d) Pursuit vehicle suffers an emergency equipment failure that causes the vehicle to no longer qualify for emergency operation use.
- (e) Hazards to uninvolved bystanders or motorists.
- (f) If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, officers will discontinue the pursuit and apprehend the offender at a later time.
- (g) When radio communications are broken or inadequate.

When the danger that the continued pursuit poses to the public, the officers, or the subject is too great, balanced against the risk of allowing the suspect to remain at large, the pursuit will be terminated.

If the local jurisdiction terminates the pursuit, whether as a the primary or secondary vehicle, MTPD will also terminate the pursuit.

When the pursued vehicle is lost, the pursuit should be terminated and units should return to reasonable speed. The primary unit should broadcast pertinent information to assist other units in locating the vehicle. The primary unit will be responsible for coordinating any further search for either the pursued vehicle or suspects fleeing on foot.

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### 313.4.3 SPEED LIMITS

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the officer and supervisor. Evaluation of vehicle speeds shall take into consideration public safety, officer safety and the safety of the occupants of the fleeing vehicle.

Should high vehicle speeds be reached during a pursuit, officers and supervisors shall also consider these factors when determining the reasonableness of the speed of the pursuit:

- (a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.
- (b) Pursuit speeds have exceeded the driving ability of the officer.
- (c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

### 313.5 PURSUIT UNITS

Pursuit units should be limited to three vehicles (two units and a supervisor).

An officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would be insufficient to safely arrest the suspect(s).

All other officers shall stay out of the pursuit but should remain alert to its progress and location. Any officer who drops out of a pursuit should then turn off the emergency lights and siren and proceed at legal speeds, following the appropriate rules of the road.

Distinctively marked patrol vehicles should replace unmarked vehicles involved in a pursuit whenever practicable.

#### 313.5.1 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Vehicles not equipped with red light and siren are prohibited from initiating or joining in any pursuit.

#### 313.5.2 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing officer will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the violator's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect(s) without unreasonable danger to themselves or other persons (Minn. Stat. § 626.8458 Subd. 2 (4)).

The primary unit should notify Transit Control Center, requesting priority radio traffic and stating that a vehicle pursuit has been initiated. As soon as practicable, the officer should provide information including, but not limited to:

- (a) Reason for the pursuit.
- (b) Location and direction of travel.
- (c) Speed of the fleeing vehicle.
- (d) Description of the fleeing vehicle and license number, if known.

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- (e) Number of occupants.
- (f) The identity or description of the known occupants.
- (g) Weather, road and traffic conditions.
- (h) Identity of other agencies involved in the pursuit.
- (i) Information concerning the use of firearms, threat of force, injuries, hostages, or other unusual hazards.
- (j) Request for medical assistance for any person injured in the course of the pursuit (Minn. Stat. § 626.8458 Subd. 2 (6); Minn. R. § 6700.2701).

Unless relieved by a secondary unit, the officer in the primary unit shall be responsible for broadcasting the progress of the pursuit. Once a secondary unit, supervisor, or air support becomes available, the primary unit should turn over the responsibility of broadcasting the progress of the pursuit in order to minimize distractions and allow the primary unit to concentrate foremost on safe pursuit tactics (Minn. R. § 6700.2701).

### 313.5.3 SECONDARY UNITS RESPONSIBILITIES

The second officer in the pursuit is responsible for the following (Minn. R. § 6700.2701):

- (a) Immediately notifying the dispatcher of entry into the pursuit.
- (b) Remaining at a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit.
- (c) Broadcasting the progress of the pursuit unless the situation indicates otherwise.
- (d) Serve as backup to the primary unit once the subject has been stopped.

### 313.5.4 PURSUIT DRIVING TACTICS

The following are tactics for units involved in the pursuit (Minn. Stat. § 626.8458 Subd. 2 (3)):

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.
- (b) Officers may proceed past a red, or stop signal, or stop sign but only after slowing down and ensuring their emergency lights and sirens are operating (Minn. Stat. § 169.03, Subd. 2).
- (c) As a general rule, officers should not pursue a vehicle driving the wrong way on a roadway, highway, or freeway (Minn. Stat. § 169.03). In the event the pursued vehicle does so, the following tactics should be considered:
  - 1. Request assistance from an available air unit.
  - 2. Maintain visual contact with the pursued vehicle by paralleling on the correct side of the roadway.
  - 3. Request other units to observe exits available to the suspects.



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- (d) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit, and a clear understanding of the maneuver process exists between the involved officers.

### 313.5.5 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT

There should be no paralleling of the pursuit route. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Officers should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

Non-pursuing personnel needed at the termination of the pursuit should respond in the same manner as they would to any other priority call.

### 313.5.6 AIRCRAFT ASSISTANCE

When available, aircraft assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, the shift supervisor should consider whether the participation of an aircraft warrants their continued involvement in the pursuit (Minn. Stat. § 626.8458 Subd. 2 (4)).

## 313.6 SUPERVISORY CONTROL AND RESPONSIBILITIES

Upon becoming aware that a pursuit has been initiated, the shift supervisor should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and requirements of this policy. The shift supervisor has the final responsibility for the coordination, control, and termination of a vehicle pursuit and shall be in overall command (Minn. Stat. § 626.8458 Subd. 2 (4); Minn. R. § 6700.2701).

The shift supervisor of the officer initiating the pursuit, or if unavailable, the nearest field supervisor will be responsible for the following:

- (a) Confirm that all information is reasonably available and current in order to continually assess the situation and risk factors and ensure that the pursuit is conducted within established Department guidelines.
- (b) Engage in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercise management and control of the pursuit even if not engaged in it.
- (d) Ensure that no more than the number of required law enforcement units needed are involved in the pursuit under the guidelines set forth in this policy.
- (e) Direct that the pursuit be terminated if, in his/her judgment, it is not justified to continue the pursuit under the guidelines of this policy.
- (f) Ensure that aircraft assistance is requested if available.
- (g) Ensure that the proper radio channel is being used.
- (h) Ensure the notification and/or coordination of outside agencies is made.
- (i) Prepare a post-pursuit report.

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### **313.7 INTER-AGENCY COMMUNICATIONS**

As practicable, radio communications should be switched to an emergency channel most accessibly by participating agencies and units (e.g. local agency channel and/or P-Tac 1) (Minn. R. § 6700.2701).

#### **313.7.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY**

Metro Transit Police Department officers will discontinue the pursuit when another agency has assumed the pursuit unless continued assistance of the Metro Transit Police Department is requested by the agency assuming the pursuit. Upon discontinuing the pursuit, the primary unit may proceed, upon request, with or at the direction of a supervisor, to the termination point to assist in the investigation.

The roles and responsibilities of officers at the termination of a pursuit initiated by this Department should be coordinated with the agency assuming the pursuit.

Notification from another agency of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific.,

### **313.8 PURSUIT INTERVENTION**

#### **313.8.1 USE OF FIREARMS**

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances meet the requirements authorizing the use of deadly force.

#### **313.8.2 CAPTURE OF SUSPECTS**

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Officers shall use only that amount of force that reasonably appears necessary under the circumstances to properly perform their lawful duties.

Unless relieved by a supervisor, the primary officer should coordinate efforts to apprehend the suspect(s) following the pursuit. Officers should consider the safety of the public and the involved officers when formulating plans to contain and capture the suspect.

### **313.9 REPORTING AND REVIEW REQUIREMENTS**

All appropriate reports shall be completed to comply with appropriate local and state regulations. The Records Supervisor or designee shall ensure the appropriate forms are filed with the Department of Public Safety within 30 days (Minn. Stat. § 626.5532):

- (a) The primary officer shall complete appropriate crime/arrest reports.
- (b) The primary officer or supervisor shall complete the appropriate pursuit report.
- (c) After first obtaining available information, the shift supervisor will compose an interoffice memorandum that briefly summarizes the pursuit to the Chief of Police or designee. This memo should minimally contain the following information (Minn. Stat. § 626.5532):

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1. Date and time of pursuit.
  2. Length of pursuit in distance and time.
  3. Involved units and officers.
  4. Initial reason and circumstances surrounding the pursuit.
  5. Starting and termination points.
  6. Alleged offense, charges filed or disposition: arrest, citation or other release for each involved party (suspect, witness, etc.).
  7. Arrestee information should be provided if applicable.
  8. Injuries and/or property damage.
  9. Medical treatment.
  10. The outcome of the pursuit.
  11. Name of supervisor handling and/or at the scene.
  12. A preliminary determination that the pursuit appears to be in compliance with this policy or additional review and/or follow-up is warranted.
- (d) After receiving copies of reports, logs and other pertinent information, the Chief of Police or designee shall conduct or assign the completion of a post-pursuit review as appropriate to the circumstances.
- (e) Annually, the Chief of Police should direct a documented review and analysis of Department vehicle pursuits to minimally include policy suitability, policy compliance and training needs.

### 313.9.1 REGULAR AND PERIODIC PURSUIT TRAINING

In addition to initial and supplementary training on pursuits, all sworn officers will participate in regular and periodic training on this policy and the importance of vehicle safety and protecting the public at all times. Training will include a recognition of the need to balance the known offense and the need for immediate capture against the risks to officers and others.

The Training Coordinator shall ensure the frequency and content of emergency vehicle operations and vehicle pursuit training meets or exceeds that required by law (Minn. Stat. § 626.8458 Subd. 5; Minn. R. § 6700.2702).

## Officer Response to Calls

### 315.1 PURPOSE AND SCOPE

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

Certain situations require an emergency response where the siren and/or emergency lights are necessary. Note that not all situations are the same, and officers may exercise discretion when there is an articulable reason. Emergency response ("code 3") may be appropriate when responding to:

- Violent crimes (homicide, shooting, stabbing, serious assault)
- Large fight/riot
- Traffic collision with apparent serious injury or death
- Serious operator assaults
- Critical incidents
- Medicals where there is imminent danger to life safety (including overdoses)
- Silent/covert alarms, once confirmed by TCC that an actual emergency exists

Supervisors may direct the appropriate call response type if necessary.

### 315.2 RESPONSE TO CALLS

#### 315.2.1 RESPONSE TO EMERGENCY CALLS

Officers responding to an emergency call shall proceed immediately as appropriate. Officers responding to an emergency call shall sound the siren or display at least one lighted red light to the front of the vehicle. Whenever practicable, during an emergency call response the officer should continuously operate emergency lighting equipment and sound the siren (Minn. Stat. § 169.03 et seq.; Minn. Stat. § 169.17).

Responding with a red light, emergency lighting and/or siren does not relieve the operator of an authorized emergency vehicle or a law enforcement vehicle of the duty to drive with due regard for the safety of all persons and does not protect the driver from the consequences of his/her reckless disregard for the safety of others. The use of any other warning equipment without emergency lights and siren does not provide an exemption under Minnesota law (Minn. Stat. § 169.17).

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

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### 315.2.2 LIGHTING EXEMPTION OF LAW ENFORCEMENT VEHICLES

An officer may operate a vehicle without lights as otherwise required while performing law enforcement duties when the officer reasonably believes that operating the vehicle without lights is necessary to investigate a criminal violation or suspected criminal violation of state laws, rules or orders, or local laws, ordinances or regulations. The operation of a vehicle without lights must be consistent with the standards adopted by Minnesota Peace officer Standards and Training Board (POST) (Minn. Stat. § 169.541).

### 315.3 REQUESTING EMERGENCY ASSISTANCE

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

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

- The unit number
- The location
- The reason for the request and type of emergency
- The number of units required

### 315.3.1 NUMBER OF UNITS PARTICIPATING

Normally, only those units reasonably necessary should respond to an emergency as an emergency call response. The Shift Supervisor or the field supervisor should monitor all emergency responses and reduce or enhance the response as warranted.

### 315.4 RESPONSIBILITIES OF RESPONDING OFFICERS

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. During a response to an emergency call officers may (Minn. Stat. § 169.03; Minn. Stat. § 169.17):

- (a) Proceed cautiously past a red or stop signal or stop sign but only after slowing down and utilizing a red light or siren as may be necessary for safe operation.
- (b) Exceed any speed limits, provided this does not endanger life or property.
- (c) Disregard regulations governing direction of movement or turning in specified directions as authorized by law.
- (d) Disregard regulations governing parking or standing when using a warning lamp.

The decision to continue an emergency call response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify Transit

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Control Center. An officer shall also discontinue an emergency call response when directed by a supervisor or as otherwise appropriate.

Upon determining that an emergency call response is appropriate, an officer shall immediately give the location from which he/she is responding.

When emergency vehicles are on the scene of an emergency and pose any hazard, or when the vehicle operators seek exemption to park, stop or stand contrary to any law or ordinance pursuant to Minn. Stat. § 169.541, adequate warning lights shall be operated whenever practicable.

### **315.5 COMMUNICATIONS RESPONSIBILITIES**

A dispatcher shall ensure acknowledgment and response of assisting units when an officer requests emergency assistance or when the available information reasonably indicates that the public is threatened with serious injury or death and an immediate law enforcement response is needed. In all other circumstances, the dispatcher shall obtain authorization from the Shift Supervisor prior to assigning an emergency response. The dispatcher shall:

- (a) Attempt to assign the closest available unit to the location requiring assistance.
- (b) Immediately notify the Shift Supervisor (if applicable).
- (c) Confirm the location from which the unit is responding.
- (d) Notify and coordinate outside emergency services (e.g., local agency police, fire and ambulance).
- (e) Continue to obtain and broadcast information as necessary concerning the response, and monitor the situation until it is stabilized or terminated.
- (f) Control all radio communications during the emergency and coordinate assistance under the direction of the Shift Supervisor.

### **315.6 SUPERVISORY RESPONSIBILITIES**

Upon being notified that an emergency response has been initiated, the Shift Supervisor shall verify the following:

- (a) The proper response has been initiated.
- (b) No more than those units reasonably necessary under the circumstances are involved in the response.
- (c) Affected outside jurisdictions are being notified as practicable.

The Shift Supervisor shall, whenever practicable, monitor the response until it has been stabilized or terminated and assert control by directing units into or out of the response if necessary. If, in the supervisor's judgment, the circumstances require additional units to be assigned an emergency response, the supervisor may do so.

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It is the supervisor's responsibility to terminate an emergency response that, in his/her judgment, is inappropriate due to the circumstances.

When making the decision to authorize an emergency call response, the Shift Supervisor should consider the following:

- The type of call or crime involved.
- The necessity of a timely response.
- Traffic and roadway conditions.
- The location of the responding units.

#### **315.7 FAILURE OF EMERGENCY EQUIPMENT**

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

#### **315.8 TRAINING**

The Training Coordinator shall ensure the frequency and content of emergency vehicle operations training meets or exceeds that required by law (Minn. Stat. § 626.8458).

#### **315.9 POLICY**

It is the policy of this department to appropriately respond to emergency and nonemergency calls for service or requests for assistance, whether these are dispatched or self-initiated.

## Canines

### 317.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of canines to augment law enforcement services to the community in the detection of explosive devices.

### 317.2 POLICY

It is the policy of the Metro Transit Police Department that teams of handlers and canines meet and maintain the appropriate proficiency to effectively and reasonably carry out legitimate law enforcement objectives.

The canine is the property of the Metro Transit Police Department. As such, the department will assume financial responsibility for all reasonable expenses related to the care and maintenance of service canines.

### 317.3 ASSIGNMENT

Canine teams should be assigned to assist and supplement the Patrol Command. However, they may be assigned by the Shift Supervisor to other functions such as routine calls for service based on the current operational needs.

Canine teams should generally not be assigned to handle routine matters that will take them out of service for extended periods of time and then only with the approval of the Shift Supervisor.

### 317.4 CANINE COORDINATOR

The Canine Coordinator shall be appointed by and directly responsible to the Patrol Division Commander or the authorized designee.

The responsibilities of the coordinator include, but are not limited to:

- (a) Reviewing all canine use reports to ensure compliance with policy and to identify training issues and other needs of the program.
- (b) Maintaining a liaison with the vendor kennel.
- (c) Maintaining a liaison with command staff and functional supervisors.
- (d) Maintaining a liaison with other agency canine units.
- (e) Maintaining accurate records to document canine activities.
- (f) Recommending and overseeing the procurement of equipment and services for the teams of handlers and canines.
- (g) Scheduling all canine-related activities.
- (h) Ensuring the canine teams are scheduled for regular training to maximize their capabilities.



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### 317.5 HANDLER SELECTION

The minimum qualifications for the assignment of a canine handler include:

- (a) An officer who is currently off probation.
- (b) Residing in an adequate residence.
- (c) Living within 50 miles of MTPD headquarters.
- (d) Agreeing to be assigned to the position for a minimum of three years, notwithstanding a promotion.

### 317.6 HANDLER RESPONSIBILITIES

The canine handler shall ultimately be responsible for the health and welfare of the canine and shall ensure that the canine receives proper nutrition, grooming, training, medical care, affection, and living conditions.

The canine handler will be responsible for the following:

- (a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.
- (c) The canine will only be transported in the vehicle supplied by the MTPD and only in the rear, secured area of the squad car. When not in service the handler should lock the canine vehicle at all times.
- (d) Prisoners will not to be transported in the same vehicle compartment as the canine.
- (e) Handlers shall permit the Canine Coordinator and/or supervisor to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.
- (f) Any changes in living status of the handler that may affect the lodging or environment of the canine shall be reported to the Canine Coordinator as soon as possible.
- (g) When off-duty, the canine shall be in a kennel or crate provided by the MTPD at the home of the handler. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. The canine may be let out of the kennel while under direct control of the handler.
- (h) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under direct supervision of the handler. The handler will take measures to ensure that the canine is not a detrimental factor in the family's safety.
- (i) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the Canine Coordinator or Shift Supervisor.
- (j) Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the Canine Coordinator so that appropriate arrangements can be

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made. The handler will assume responsibility for any costs associated with boarding or other care of the canine. The handler is responsible for keeping the canine in peak condition. This includes but is not limited to:

1. Ensuring veterinarian checkups are performed in a timely fashion and any potential health issues are handled promptly.
  2. Ensuring that the canine is not physically or mentally abused by anyone.
  3. Grooming and exercising the canine daily.
- (k) A handler may resign from the canine unit at their own discretion but shall submit, in writing, the reasons why and the desired effective date to the Canine Coordinator.

### 317.7 HANDLER COMPENSATION

- (a) The canine handler shall be available for call-out under conditions specified by the Canine Coordinator.
- (b) The canine handler shall be compensated for time spent in the care, feeding, grooming and other needs of the canine in accordance with the employee's collective bargaining agreement.

### 317.8 CANINE IN PUBLIC AREAS

The canine should be kept on a leash when in areas that allow access to the public. Exceptions to this rule may include specific law enforcement operations for which the canine is trained.

- (a) A canine shall not be left unattended in any area to which the public may have access.
  - (b) When the canine vehicle is left unattended, all windows and doors shall be secured in such a manner as to prevent unauthorized access to the dog. The handler shall also ensure the unattended vehicle remains inhabitable for the canine.
  - (c) In the event that a canine has been determined to be missing, the handler will immediately conduct a search of the immediate area of last contact. If not recovered, the handler will notify the Canine Coordinator and Shift Supervisor, reporting the location and the circumstances of the disappearance. The following protocol will be initiated:
    1. Arrange for and coordinate an area search utilizing available on-duty personnel.
    2. Notify nearby law enforcement agencies of the loss and solicit assistance, when appropriate.
    3. Notify any local animal control officers and provide a description.
    4. If the canine is not located, ensure a physical check of all local animal control offices on a daily basis for an appropriate amount of time to be determined by the Canine Coordinator.
5. The handler will provide a memorandum including the circumstances of the escape or loss to the Canine Coordinator. The Command Captain will investigate the incident to determine the cause, prepared a report, and forward it to the Chief of Police.

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### **317.9 REQUESTS FOR CANINE TEAMS**

Patrol Command members are encouraged to request the use of a canine. Requests for a canine team shall go through the Shift Supervisor, who will notify the Canine Coordinator. If canine teams are not available, the Shift Supervisor will reach out the Canine Coordinator.

### **317.10 OUTSIDE AGENCY REQUEST**

All requests for canine assistance from outside agencies must be approved by the Shift Supervisor and are subject to the following:

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.
- (b) The canine handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.
- (c) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.
- (d) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.

### **317.11 PUBLIC DEMONSTRATIONS**

All public requests for a canine team shall be reviewed and, if appropriate, approved by the Canine Coordinator prior to making any resource commitment. The Canine Coordinator is responsible for obtaining resources and coordinating involvement in the demonstration to include proper safety protocols.

### **317.12 REPORTING CANINE BITES AND DAMAGE TO PROPERTY**

Any unintended bite or injury caused by a canine, whether on- or off-duty, shall be promptly reported to the Canine Coordinator and Shift Supervisor. The injured person shall be promptly treated by emergency medical services personnel and, if as needed, transported to an appropriate medical facility for further treatment. The injury will be documented in an incident report.

If the injured party refuses medical treatment, this refusal will be documented in the incident report..

If an individual alleges an injury, either visible or not visible, a supervisor shall be notified and both the individual's injured and uninjured areas shall be photographed as soon as reasonably practicable after first tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current department evidence procedures. The photographs shall be retained until the criminal proceeding is completed and the time for any related civil proceeding has expired.

The Canine Coordinator and handler will arrange for a veterinarian examination of the canine as soon as possible to determine if the incident was caused by an underlying health concern.

A canine who has bitten an individual will be removed from service pending an investigation and risk management assessment.

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Any incident which inflicts injury to a canine handler or instructor during training exercises should not be reported as a bite incident.

Canines used by law enforcement agencies are generally exempt from dangerous dog registration, impoundment and reporting requirements (Minn. Stat. § 347.51 subd.4).

If a canine has damaged property, the handler will take photographs and complete a report. The handler will also notify the Canine Coordinator and the Shift Supervisor.

### **317.13 ARTICLE DETECTION**

A canine trained to find objects or property related to a person or crime may be used to locate or identify articles. A canine search should be conducted in a manner that minimizes the likelihood of unintended bites or injuries.

### **317.14 BOMB/EXPLOSIVE DETECTION**

Because of the high risk of danger to the public and officers, when a bomb or other explosive device is suspected, the use of a canine team trained in explosive detection may be appropriate. When available, an explosive-detection canine team may be used in accordance with current law and under certain circumstances, including:

- (a) Assisting in the search of a building, structure, area, vehicle, or article where an actual or suspected explosive device has been reported or located.
- (b) Assisting with searches at transportation facilities and vehicles (e.g., buses, airplanes, and trains).
- (c) Conducting preventative searches at special events, VIP visits, official buildings and other restricted areas.
- (d) Assisting in the search for hidden or discarded firearms and munitions that are live or spent.
- (e) Searching individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.
- (f) Assisting in the search of scenes where an explosive has occurred and an explosive device or secondary explosive device is suspected.

At no time will an explosive detection-trained canine be used to render a suspected device safe or clear.

The canine handler is responsible for maintaining an accurate record of deployments. The records will be kept in the Citrix canine system.

### **317.15 CANINE INJURY AND MEDICAL CARE**

In the event that a canine is injured or there is an indication that the canine is not in good physical condition, the injury or condition will be reported to the Canine Coordinator or Shift Supervisor as soon as practicable and appropriately documented.

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All medical attention shall be rendered by the designated canine veterinarian except during an emergency where treatment should be obtained from the nearest available veterinarian. All records of medical treatment shall be forwarded to the designated canine veterinarian for continuity of record management.

Upon the death of an active canine (i.e. not retired or removed from service), the handler will immediately notify the Canine Coordinator. The following protocol will be followed:

- (a) The Canine Coordinator will contact the department-approved veterinarian and arrange for a necropsy as appropriate.
- (b) The canine's remains will be disposed of appropriately.
- (c) The handler will submit a memorandum to the Canine Coordinator and Command Captain. As warranted, the Captain will investigate the incident to determine cause and circumstances of the death. These findings will be compiled into a written report and forwarded to the Chief of Police.

#### **317.16 TRAINING**

Before assignment in the field, each canine team shall be trained and certified to meet current recognized standards.

The Canine Coordinator shall be responsible for scheduling periodic training for all MTPD officers in order to familiarize them with how to conduct themselves in the presence of department canines.

A canine training should be conducted while on-duty unless otherwise approved by the Canine Coordinator or Shift Supervisor.

Issues encountered during training must be reported to the Canine Coordinator and a remediation plan will be created as appropriate. All issues must be documented in the Citrix canine program.

##### **317.16.1 CONTINUED TRAINING**

Each canine team shall thereafter be recertified to current nationally-recognized standards on an annual basis. Additional training considerations are as follows:

- (a) If applicable, canine teams should receive training as defined in the current contract with the Metro Transit Police Department canine training provider.
- (b) Canine handlers are encouraged to engage in additional training with approval of the Canine Coordinator.
- (c) To ensure that all training is consistent, no handler, trainer, or outside vendor is authorized to train to a standard that is not reviewed and approved by this department.

##### **317.16.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING**

Any canine team failing to graduate or obtain certification shall not be deployed in the field for tasks the team is not certified to perform until graduation or certification is achieved. When successful certification is pending, the canine handler shall be temporarily reassigned to regular patrol duties.

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### 317.16.3 TRAINING RECORDS

All canine training records shall be maintained in the canine handler's and the canine's training file. These files shall be maintained by the handler and Canine Coordinator in the Citrix canine program

### 317.16.4 TRAINING AIDS

Training aids are required to effectively train and maintain the skills of canines. Officers possessing, using, or transporting explosives for canine training purposes must comply with federal and state requirements. Alternatively, the Metro Transit Police Department may work with outside trainers with the applicable licenses or permits.

### 317.16.5 EXPLOSIVE TRAINING AIDS

Officers may possess or use explosives or destructive devices while acting within the scope and course of employment (Minn. Stat. § 609.668, subd. 3(a)(1); Minn. Stat. § 609.668, subd. 4; 18 U.S.C § 842; 27 C.F.R 555.41).

Explosive training aids designed specifically for canine teams should be used whenever reasonably feasible. The use of explosives or destructive devices for training aids by canine teams is subject to the following:

- (a) Canine officers are not allowed to utilize any personal or unapproved training aids.
- (b) When not in use, all explosive training aids shall be properly stored in a secure facility that is appropriate for the type of materials in accordance with federal standards. Only members of the canine team shall have access to the explosive training aids. An inventory ledger shall be maintained to document the type and quantity of explosive training aids that are stored.
- (c) The Canine Coordinator shall be responsible to verify the explosive training aids on hand against the inventory ledger once each calendar quarter.
- (d) During and after the training session, a primary and secondary custodian will be designated to minimize the possibility of loss of explosive training aids. The handler will be designated as the primary custodian while the trainer or authorized second person on-scene will be designated as the secondary custodian.
- (e) Any lost or damaged explosive training aids shall be promptly reported in writing to the Canine Coordinator who will determine if any further action will be necessary. Any loss of explosives will be reported to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF).

In the event that an explosive is considered unsafe or deteriorated, the Canine Coordinator will contact the appropriate bomb squad for destruction of the material. The Canine Coordinator will write a detailed report and adjust the explosive device inventory accordingly.

### 317.17 RETIRED CANINES

If, for any reason, the department chooses to retire a canine from service, the existing handler may be given the opportunity to adopt the canine from the department.

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Once adopted, the handler will receive a memorandum from the Canine Coordinator as a receipt of sale. The handler is responsible for all costs associated with continued ownership and care of the canine.

In the event that the handler does not choose to adopt the canine, the Chief or their designee reserves the right to determine the best course of action for the canine.

## Domestic Abuse

### 319.1 PURPOSE AND SCOPE

The purpose of this policy is to recognize domestic abuse as a serious crime against society and to protect victims of domestic abuse, by ensuring Metro Transit Police Department officers understand and vigorously enforce the laws governing this area. departmentOfficers will utilize this policy in response to calls when there may be domestic abuse and will act at all times without bias or prejudice based on race, gender, marital status, sexual orientation, economic status, age, disability, gender, creed, or national origin.

### 319.2 POLICY

The Metro Transit Police Department's response to incidents of domestic abuse and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic abuse is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

### 319.3 DEFINITIONS

Definitions related to this policy include:

**A. Domestic Abuse** has the meaning given to it in Minn. Stat. 518B.01, subd. 2(a), which states:

"Domestic abuse" means the following, if committed against a family or household member by a family or household member:

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

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

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

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



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

**F Court order** means all forms of orders related to domestic abuse, that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

**G. Order for Protection (OFP)** is an order issued under Minn. Stat. 518B.01 by a judge in civil court upon the request of the petitioner. Any family or household member of the respondent may ask the court for an OFP. The relief granted to the petitioner may include an order for the respondent to stop the domestic abuse, not to contact the petitioner directly or indirectly, grant temporary custody of minor children, order temporary financial support, and/or order attendance at counseling. Other forms of relief are also available. Violating an OFP is a crime.

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

**I. Harassment** has the meaning given to it in Minn. Stat. 609.748, subd. 1(a): a single incident of physical or sexual assault; a single incident of using another's personal information, without consent, to invite, encourage, or solicit a third party to engage in a sexual act with the person; repeated incidents of intrusive or unwanted acts, words or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security or privacy of another, regardless of the relationship between the actor and the intended target.

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

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

**K. Qualified Domestic Violence-Related Offense (QDVRO)** has the meaning given to it in Minn. Stat. 609.02, subd. 16 and includes a violation of, or an attempt to violate a domestic abuse Order For Protection; first or second degree murder; first through fifth degree assault; domestic assault; female genital mutilation; domestic assault by strangulation; first through fourth degree criminal sexual conduct; malicious punishment of a child; threats of violence; violation of a Harassment Restraining Order; stalking; interference with an emergency call; non-consensual dissemination

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of private sexual images; violation of a Domestic Abuse No Contact Order; and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

If a person arrested for a domestic crime has a prior QDVRO, the new offense may be chargeable as a higher-level crime.

### **319.4 OFFICER SAFETY**

The investigation of domestic abuse cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

### **319.5 INVESTIGATIONS**

The following guidelines should be followed by officers when investigating domestic abuse cases:

- (a) Calls of reported, threatened, imminent, or ongoing domestic abuse and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Investigation Division in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served,

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including the date the offender was served, the name of the agency that served the order and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.

- (j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
1. Whether the suspect lives on the premises with the victim.
  2. Claims by the suspect that the victim provoked or perpetuated the violence.
  3. The potential financial or child custody consequences of arrest.
  4. The physical or emotional state of either party.
  5. Use of drugs or alcohol by either party.
  6. Denial that the abuse occurred where evidence indicates otherwise.
  7. A request by the victim not to arrest the suspect.
  8. Location of the incident (public/private).
  9. Speculation that the complainant may not follow through with the prosecution.
  10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
  11. The social status, community status, or professional position of the victim or suspect.

### 319.5.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail (Minn. Stat. § 629.72 Subd. 6).
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

### 319.5.2 IF NO ARREST IS MADE

If no arrest is made, the officer should remain at the scene of the incident until they believe that the likelihood of further imminent abuse has been eliminated. (Minn. Stat 629.342, Subd.2).

If an officer does not make an arrest when the officer has probable cause to believe that a person is committing or has committed domestic abuse or violated an order for protection, the officer shall provide immediate assistance to the victim (Minn. Stat. 629.342, Subd. 3).

Assistance includes:

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- (1) assisting the victim in obtaining necessary medical treatment; and
- (2) providing the victim with the notice of rights.

Officers should also:

- (a) Advise the parties of any options, including but not limited to:
  1. Voluntary separation of the parties.
  2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).
- (b) Document the resolution in a report.

### **319.6 VICTIM ASSISTANCE**

Because victims may be traumatized or confused, officers should be aware that a victim's behavior and actions may be affected.

- (a) Victims should be provided with the department's domestic abuse information handout, even if the incident may not rise to the level of a crime.
- (b) Victims should be alerted to any available victim advocates, shelters, and community resources.
- (c) When an involved person requests law enforcement assistance while removing essential items of personal property, officers should stand by for a reasonable amount of time.
- (d) If the victim has sustained injury or complains of pain, officers should seek medical assistance as soon as practicable.
- (e) Officers should ask the victim whether he/she has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.
- (f) Officers should make reasonable efforts to ensure that any children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (g) If appropriate, officers should seek or assist the victim in obtaining an emergency order.

### **319.7 DISPATCH ASSISTANCE**

All calls of domestic abuse, including incomplete 9-1-1 calls, should be dispatched as soon as practicable.

Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

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### **319.8 FOREIGN COURT ORDERS**

Various types of orders may be issued in domestic abuse cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state.

#### **319.8.1 CANADIAN ORDERS FOR PROTECTION**

An order for protection issued by Canada or a Canadian province shall be enforced as if it were the order of a court in this state and afforded the same consideration as foreign court orders with respect to proper issuance and registration (Minn. Stat. § 518F.03).

### **319.9 VERIFICATION OF COURT ORDERS**

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and, where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
- (b) Check available records or databases that may show the status or conditions of the order.
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

### **319.10 LEGAL MANDATES AND RELEVANT LAWS**

Minnesota law provides for the following:

#### **319.10.1 STANDARDS FOR ARRESTS**

Officers investigating a domestic abuse report should consider the following:

- (a) An officer has the authority to arrest a person without a warrant, including at the person's residence, if the peace officer has probable cause to believe that the person has, within the preceding 72 hours, exclusive of the day probable cause was established, assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm any person covered by the "family or household member" definition, even if the assault did not rise to the level of a felony or did not take place in the presence of the peace officer (Minn. Stat. § 629.34; Minn. Stat. § 629.341).

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- (b) Officers should generally not make dual arrests but may make an arrest of a primary aggressor. Where there are allegations that each party assaulted the other, the officer shall determine whether there is sufficient evidence to conclude that one of the parties was the primary aggressor based on the following criteria and the officer's judgment (Minn. Stat. § 629.342, Subd. 2):
  - 1. Comparative extent of any injuries inflicted
  - 2. Fear of physical injury because of past or present threats
  - 3. Actions taken in self-defense or to protect oneself
  - 4. History of domestic abuse perpetrated by one party against the other
  - 5. Existence or previous existence of an order for protection
- (c) An officer shall not issue a citation in lieu of arrest and detention to an individual charged with any of the following offenses (Minn. Stat. § 629.72):
  - 1. Stalking
  - 2. Domestic abuse
  - 3. Violation of an order for protection
  - 4. Violation of a domestic abuse no contact order
- (d) The Shift Supervisor will determine whether a person arrested on a charge of stalking any person, domestic abuse, violation of an order for protection, violation of a domestic abuse no contact order, or violation of a court-ordered transfer of firearms will be held in custody or be issued a citation in lieu of continued detention and released after booking. The person shall be held in custody whenever the Shift Supervisor determines that it reasonably appears the release of the person (Minn. Stat. § 629.72):
  - 1. Poses a threat to the alleged victim or another family or household member.
  - 2. Poses a threat to public safety.
  - 3. Involves a substantial likelihood that the arrested person will fail to appear at subsequent proceedings.
- (e) Officers shall arrest and take into custody, without a warrant, a person whom the peace officer has probable cause to believe has violated a court order issued pursuant to Minn. Stat. § 518B.01 or Minn. Stat. § 629.75. Such an arrest shall be made even if the violation of the order did not take place in the presence of the peace officer, if the officer can verify the existence of the order. If the person is not released on citation in lieu of continuing detention, the person shall be held in custody for these violations for at least 36 hours unless released by a court (Minn. Stat. § 518B.01; Minn. Stat. § 629.75).
- (f) An arrest for a violation of an order of protection may be made regardless of whether the excluded party was invited back to the residence (Minn. Stat. § 518B.01, Subd. 18).
- (g) Following an arrest, an officer should contact the local domestic abuse program by phone as soon as possible and provide the name and address of the victim and a brief factual account of events associated with the action.

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- (h) An officer shall arrest and take into custody a person whom the officer has probable cause to believe has violated a harassment restraining order, pursuant to Minn. Stat. § 609.748, if the officer can verify the existence of the order.
- (i) Officers are authorized to make an arrest without a warrant when there is probable cause to believe the person has violated the provisions of any other no contact or restraining order issued by a court, even if the offense did not rise to the level of a felony (Minn. Stat. § 629.34). While conducting a domestic abuse investigation officers shall attempt to verify whether there has been a court order issued.
- (j) Officers should consider whether other offenses have been committed that may not qualify as a domestic abuse including, but not limited to, burglary, felony assault, other threats of violence, kidnapping, false imprisonment, witness tampering, trespassing, criminal damage to property, disorderly conduct, or assault.

#### 319.10.2 REPORTS AND RECORDS

- (a) Officers should include information related to the following in a report, as applicable (Minn. Stat. § 629.341):
  1. Names, addresses, and telephone numbers of all involved persons
  2. Condition of clothing
  3. Description of the scene, including any property damage
  4. Evidence of physical injury, including strangulation
  5. Presence of elderly victims or persons with disabilities
  6. Facts related to any person who may have been a primary aggressor
  7. Excited utterances of the victim and the suspect
  8. Demeanor of the victim and the suspect
  9. Medical records, including the victim's statements to paramedics, nurses, and doctors
  10. Detailed statements of interviews of witnesses, including children, who may have been present, noting any language barriers
  11. A detailed explanation of the reasons for the officer's decision not to arrest or seek an arrest warrant
  12. Evidence of any prior domestic abuse or related convictions, including dates
  13. Any existing orders for protection, harassment restraining order, or no contact orders
  14. Identifying information of a specific court order violated, including county of origin, the file number, and the provision allegedly violated
- (b) Domestic abuse reports should be forwarded to the appropriate prosecutor for review and consideration of criminal charges, even when no arrest is made or warrant requested.

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- (c) If a child was present at the scene of a domestic abuse incident or was the victim of domestic abuse, the officer should determine whether the child has been subjected to physical abuse, sexual abuse, or neglect, and comply with the mandatory reporting requirements of Minn. Stat. § 260E.06 et seq.
  - 1. The officer shall also attempt to verify whether there has been an order for protection issued under Minn. Stat. § 260C.201 and take appropriate action.
- (d) Fees will not be charged for the release of reports related to domestic abuse, as directed in Minn. Stat. § 13.82.

### 319.10.3 SERVICE OF COURT ORDERS

Officers, when reasonably safe and in a position to do so, shall serve copies or short forms of court orders as directed in Minn. Stat. § 518B.01 and Minn. Stat. § 609.748.

### 319.10.4 COURT-ORDERED FIREARM SURRENDERS

Although not required, this department generally will accept firearms surrendered by a court order from an abusing party or defendant. A decision to refuse a surrendered firearm should be approved by a supervisor.

Firearms will normally be surrendered at the Metro Transit Police Department; however, when encountering someone in the field who wishes to surrender a firearm, officers should make reasonable efforts to accommodate the request.

Surrendered firearms should be collected and submitted to the Property and Evidence Office in accordance with the Property and Evidence Office Policy.



## Search and Seizure

### 321.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Metro Transit Police Department personnel to consider when dealing with search and seizure issues.

### 321.2 POLICY

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

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

### 321.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

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

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### **321.4 SEARCH PROTOCOL**

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances reasonably permit:

- (a) Members of this department will strive to conduct searches with dignity and courtesy.
- (b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- (e) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:
  1. Another officer or a supervisor should witness the search.
  2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

### **321.5 DOCUMENTATION**

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

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

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

## Temporary Custody of Juveniles

### 323.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Metro Transit Police Department (34 USC § 11133; Minn. Stat. § 260B.176; Minn. Stat. § 260C.176).

This policy does not apply to secure detention facilities, shelter care facilities, or the juvenile portion of an adult facility authorized to hold juveniles, but rather applies to the temporary custody of a juvenile before a juvenile is released, delivered to a court, or delivered to any of these other facilities (Minn. Stat. § 260B.176, Subd. 3; Minn. Stat. § 260C.176, Subd. 3).

#### 323.1.1 DEFINITIONS

Definitions related to this policy include:

**Custodian or Guardian** - A person who is under a legal obligation or who is in fact providing care and support for a minor (Minn. Stat. § 260B.007, Subd. 13; Minn. Stat. § 260C.007, Subd. 10).

**Juvenile non-offender** - An abused, neglected, dependent, or alien juvenile who may be legally held for his/her own safety or welfare. This includes those held as runaways (Minn. Stat. § 260C.175), truancy violators (Minn. Stat. § 260C.143), and juveniles 15 years old or younger in custody related to their engaging in prostitution or related activities (Minn. Stat. § 260B.007 Subd. 6(c)). This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for his/her protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person.

**Juvenile offender** - A juvenile 17 years of age or younger who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense). It also includes possession of a handgun in violation of Minn. Stat. § 624.713 (28 CFR 31.303). This does not include a juvenile petty offender under Minn. Stat. § 260B.007.

**Non-secure custody** - When a juvenile is held in the presence of an officer or other custody employee at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring, and audio two-way communication is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation.

**Secure custody** - When a juvenile offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object.

Examples of secure custody include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) A juvenile handcuffed to a rail.

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- (c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
- (d) A juvenile being processed in a secure booking area when a non-secure booking area is available.
- (e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- (f) A juvenile placed in a cell within the adult temporary holding area whether or not the cell door is locked.
- (g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

**Sight and sound separation** - Located or arranged to prevent physical, visual, or auditory contact.

**Status offender** - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include underage possession of tobacco or curfew violation. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender. Juvenile petty offenders taken into custody should be considered a status offender for purposes of this policy (Minn. Stat. § 260B.007; Minn. Stat. § 260B.143).

### **323.2 POLICY**

The Metro Transit Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the Metro Transit Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer, or release.

### **323.3 JUVENILES WHO SHOULD NOT BE HELD**

Juveniles who exhibit any of the following conditions should not be held at the Metro Transit Police Department:

- (a) Unconscious
- (b) Seriously injured
- (c) A known suicide risk or obviously severely emotionally disturbed
- (d) Significantly intoxicated
- (e) Extremely violent or continuously violent

Officers taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation.

These juveniles should not be held at the Metro Transit Police Department unless they have been evaluated by a qualified medical and/or mental health professional.

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If the officer taking custody of the juvenile believes the juvenile may be a suicide risk, the juvenile shall be under continuous direct supervision until evaluation, release, or a transfer is completed.

### **323.3.1 SUICIDE PREVENTION OF JUVENILES IN CUSTODY**

The arresting officer should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill him/herself, or any unusual behavior that may indicate the juvenile may harm him/herself while in custody.

### **323.4 CUSTODY OF JUVENILES**

Officers should take custody of a juvenile and temporarily hold the juvenile at the Metro Transit Police Department when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile that is suspected of being a victim.

No juvenile should be held in temporary custody at the Metro Transit Police Department without authorization of the arresting officer's supervisor or the Shift Supervisor.

Any juvenile taken into custody shall be released to the care of the juvenile's parent or other responsible adult, or transferred to a juvenile custody facility or to other authority as soon as practicable, and in no event shall a juvenile be held beyond six hours from the time of his/her entry into the Metro Transit Police Department (34 USC § 11133).

#### **323.4.1 CUSTODY OF JUVENILE NON-OFFENDERS**

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Metro Transit Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible (Minn. Stat. § 260B.175; Minn. Stat. § 260C.143; Minn. Stat. § 260C.176). Juvenile non-offenders may not be held in secure custody (34 USC § 11133).

Juveniles detained for truancy violations may be (Minn. Stat. § 260C.143):

- (a) Transported to the juvenile's home and released to a parent or guardian.
- (b) Transported to the juvenile's school of enrollment and delivered to the school superintendent or a teacher.
- (c) Transported to a child truancy center under Minn. Stat. § 260A.04, Subd. 3.

#### **323.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS**

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However officers may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent). Juvenile status offenders may not be held in secure custody (34 USC § 11133).

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#### 323.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Metro Transit Police Department unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

Generally juvenile offenders may be taken into custody under the authority of Minn. Stat. § 260B.175 when a court order authorizes the custody, when the juvenile has committed an offense that would warrant the arrest of an adult, or when it is reasonably believed that the child has violated the terms of probation, parole, or other field supervision.

An officer who takes a juvenile offender of any age or gender into custody or could take the juvenile into custody under Minn. Stat. § 260B.175 is authorized to perform a protective pat-down search of the juvenile offender in order to protect the officer's safety (Minn. Stat. § 260B.175, Subd. 4).

The parent, guardian, or custodian of the juvenile shall be notified as soon as possible when a juvenile offender is taken into custody. Juvenile offenders shall be released to the custody of a parent, guardian, custodian, or other suitable person unless there is reason to believe that the juvenile would (Minn. Stat. § 260B.176):

- (a) Endanger him/herself or others.
- (b) Not return for a court hearing.
- (c) Run away from or otherwise not remain in the care or control of his/her parent, guardian, or custodian.
- (d) Face immediate endangerment to his/her health or welfare.

If a juvenile offender is not released to a parent, guardian, custodian, or other suitable person, the officer taking the juvenile offender into custody shall notify the court as soon as possible of the detention of the juvenile and the reasons for detention (Minn. Stat. § 260B.176).

#### 323.4.4 SCHOOL NOTIFICATION

Minnesota law requires that the Chief of Police or the authorized designee notify the superintendent or chief administrative officer of a juvenile's school of an incident occurring within our jurisdiction if (Minn. Stat. § 260B.171, Subd. 5):

- (a) There is probable cause to believe a juvenile has committed an offense that would be a crime if committed as an adult, where the victim is a student or staff member and the notice is reasonably necessary for the protection of the victim.
- (b) There is probable cause to believe a juvenile has committed certain serious crimes regardless of whether the victim is a student or staff member.
- (c) The juvenile is taken into protective custody and methamphetamine manufacture or storage is involved (see the Child Abuse Policy for guidelines) (see also, Minn. Stat. § 260C.171)

However, the department is not required to notify the school if it is determined that notice would jeopardize an ongoing investigation.

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### **323.5 ADVISEMENTS**

When a juvenile is taken into custody on a warrant, the juvenile and his/her parent, guardian, or custodian, if present, shall immediately be informed of the existence of the warrant for immediate custody and, as soon as practicable, of the reasons why the juvenile is being taken into custody (Minnesota Rules of Juvenile Delinquency Procedure 4.03, Subd. 10).

If it is determined that a juvenile taken into custody is going to be placed into a secure detention facility or a shelter care facility, the officer shall advise both the juvenile and the juvenile's parent, guardian, or custodian as soon as possible (Minn. Stat. § 260B.176, Subd. 3; Minn. Stat. § 260C.176, Subd. 3):

- (a) Of the reasons for custody and the reasons for placement.
- (b) Of the location of the facility unless there is reason to believe that disclosure would place the juvenile's health and welfare in immediate endangerment. If so, the disclosure shall not be made (Minn. Stat. § 260B.176, Subd. 5).
- (c) That the juvenile's parent, guardian, or custodian and attorney or guardian ad litem may make an initial visit to the facility at any time. Subsequent visits may also be made on a reasonable basis.
- (d) That the juvenile may telephone parents and an attorney or guardian ad litem immediately after being admitted to the facility and thereafter on a reasonable basis.
- (e) That the juvenile may not be detained for acts under Minn. Stat. § 260B.007, Subd. 6 for longer than 36 hours excluding weekends and holidays unless a petition has been filed pursuant to Minn. Stat. § 260B.178.
- (f) That the juvenile may not be detained under Minn. Stat. § 260C.175, Subd. 1, clause (1) or (2), item (ii) longer than 72 hours at a shelter care facility excluding weekends and holidays unless a petition has been filed pursuant to Minn. Stat. § 260C.178.
- (g) That the juvenile may not be detained for acts under Minn. Stat. § 260B.007, Subd. 6 for longer than 24 hours in an adult jail or municipal lockup excluding weekends and holidays or longer than six hours if the adult jail or municipal lockup is a standard metropolitan statistical area, unless a petition has been filed pursuant to Minn. Stat. § 260B.178 and a motion made to refer the juvenile for adult prosecution.
- (h) Of the date, time, and place of the detention hearing, if this information is available.
- (i) That the juvenile and the juvenile's parent, guardian, or custodian have the right to be present and to be represented by counsel, at the detention hearing and that if they cannot afford counsel it will be appointed at public expense.

### **323.6 JUVENILE CUSTODY LOGS**

Any time a juvenile is held in custody at the Department the custody shall be promptly and properly documented in the juvenile custody log, including:

- (a) Identifying information about the juvenile being held.
- (b) Date and time of arrival and release from the Metro Transit Police Department.
- (c) Shift Supervisor notification and approval to temporarily hold the juvenile.

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- (d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender, or non-offender.
- (e) Any changes in status.
- (f) Time of all welfare checks.
- (g) Any medical and other screening requested and completed.
- (h) Circumstances that justify any secure custody.
- (i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The Shift Supervisor shall initial the log to approve the custody, including any secure custody and shall also initial the log when the juvenile is released.

### **323.7 NO-CONTACT REQUIREMENTS**

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (34 USC § 11133). There should also be sight and sound separation between non-offenders and juvenile or status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Metro Transit Police Department shall maintain a constant, immediate presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact.

### **323.8 TEMPORARY CUSTODY REQUIREMENTS**

Members and supervisors assigned to monitor or process any juvenile at the Metro Transit Police Department shall ensure the following:

- (a) The Shift Supervisor should be notified if it is anticipated that a juvenile may need to remain at the Metro Transit Police Department more than four hours. This will enable the Shift Supervisor to ensure no juvenile is held at the Metro Transit Police Department more than six hours.
- (b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (c) Personal visual checks and significant incidents/activities shall be noted on the log.
- (d) There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware. Therefore an employee should inform a juvenile under his/her care that the juvenile will be monitored at all times unless he/she is using the toilet. This does not apply to surreptitious and legally obtained recorded interrogations.
- (e) Juveniles shall have reasonable access to toilets and wash basins.



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- (f) Food should be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile.
- (g) Juveniles shall have reasonable access to a drinking fountain or water.
- (h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (i) Juveniles should have privacy during family, guardian, and/or lawyer visits.
- (j) Juveniles should be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (k) Blankets should be provided as reasonably necessary.
- (l) Adequate shelter, heat, light, and ventilation should be provided without compromising security or enabling escape.
- (m) Juveniles shall have adequate furnishings, including suitable chairs or benches.
- (n) Juveniles shall have the right to the same number of telephone calls as an adult in custody.
- (o) No discipline may be administered to any juvenile nor may juveniles be subjected to corporal or unusual punishment, humiliation, or mental abuse.

#### **323.9 USE OF RESTRAINT DEVICES**

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Metro Transit Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening.

Restraints shall only be used after less restrictive measures have failed and with the approval of the Shift Supervisor. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others.

Juveniles in restraints shall be kept away from other unrestrained juveniles or monitored in such a way as to protect the juvenile from abuse.

#### **323.10 PERSONAL PROPERTY**

The officer taking custody of a juvenile offender or status offender at the Metro Transit Police Department shall ensure a thorough search of the juvenile's property is made and all property is removed from the juvenile, especially those items that could compromise safety, such as pens, pencils, and belts.

The personal property of a juvenile should be placed in a property bag. The property should be inventoried in the juvenile's presence and sealed into the bag. The property should be kept in a monitored or secure location until the juvenile is released from the custody of the Metro Transit Police Department.

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### **323.11 SECURE CUSTODY**

Only juvenile offenders 14 years of age or older may be placed in secure custody (Minn. Stat. § 260B.181). Shift Supervisor approval is required before placing a juvenile offender in secure custody.

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to him/herself or others.

Members of this department should not use secure custody for convenience when non-secure custody is or later becomes a reasonable option.

When reasonably practicable, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody rather than the use of a locked enclosure. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object.

Generally, juveniles should not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter. Supervisor approval should be documented.

#### **323.11.1 LOCKED ENCLOSURES**

A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room should be photographed and documented in the crime report.

The following requirements shall apply to a juvenile offender who is held inside a locked enclosure:

- (a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.
- (b) Juveniles shall have constant auditory access to department members.
- (c) Initial placement into and removal from a locked enclosure shall be logged.
- (d) Random personal visual checks of the juvenile by a staff member shall occur no less than every 15 minutes.
  - 1. All checks shall be logged.
  - 2. The check should involve questioning the juvenile as to his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
  - 3. Requests or concerns of the juvenile should be logged.
- (e) Males and females shall not be placed in the same locked room.
- (f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
- (g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

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### **323.12 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY OF A JUVENILE**

The Shift Supervisor will ensure procedures are in place to address the suicide attempt, death, or serious injury of any juvenile held at the Metro Transit Police Department. The procedures will address:

- (a) Immediate notification of the on-duty supervisor, Chief of Police and Criminal Investigations Command Supervisor.
- (b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.
- (c) Notification of the appropriate prosecutor.
- (d) Notification of the Metropolitan Area attorney.
- (e) Evidence preservation.

### **323.13 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS**

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent and does consent to an interview or interrogation.

### **323.14 RESTRICTION ON PHOTOGRAPHING**

Photographing of juveniles taken into custody will only occur with the consent of the juvenile court, except when the photograph is taken related to a violation of driving while impaired or is taken pursuant to the laws of arrest (Minn. Stat. § 260B.171, Subd. 5; Minn. Stat. § 260B.175; Minn. Stat. § 169A.20).

## Adult Abuse

### 325.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for Metro Transit Police Department members as required by law (Minn. Stat. § 626.557).

#### 325.1.1 DEFINITIONS

Definitions related to this policy include (Minn. Stat. § 626.5572):

**Adult abuse** - Any offense or attempted offense involving violence or neglect of an adult victim when committed by a person responsible for the adult's care, or any other act that would mandate reporting or notification to a social service agency or law enforcement.

### 325.2 POLICY

The Metro Transit Police Department will investigate all reported incidents of alleged adult abuse and ensure proper reporting and notification as required by law.

### 325.3 MANDATORY NOTIFICATION

Members of the Metro Transit Police Department shall notify the entity responsible for receiving such reports when they have reason to believe that a vulnerable adult is being or has been maltreated, or has sustained a physical injury which is not reasonably explained. Members shall also report suspected negligent care by a service or health care provider that resulted in injury or harm requiring the care of a physician (Minn. Stat. § 626.557).

For purposes of notification, a vulnerable adult is a person age 18 or older who has physical, mental or emotional disabilities that make it difficult for the person to care for or to protect him/herself from maltreatment. It also refers to adults who reside at a facility, or receive care at a facility or through home care (Minn. Stat. § 626.5572).

Maltreatment includes abuse, neglect and financial exploitation. Abuse can be physical, emotional or sexual. Financial exploitation may include any instance where vulnerable adults' money, assets or property are not used for their benefit or are stolen or kept from them (see Minn. Stat. § 626.5572 for full definitions).

#### 325.3.1 NOTIFICATION PROCEDURE

Oral notification should be made as soon as possible, but in all cases within 24 hours (Minn. Stat. § 626.557; Minn. Stat. § 626.5572). To the extent possible, the following should be included in the notification:

- (a) The identity of the vulnerable adult and any caregiver
- (b) The nature and extent of the suspected maltreatment
- (c) Any evidence of previous maltreatment

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- (d) The name and addresses of the person initiating the report or other witnesses
- (e) The time, date, and location of the incident
- (f) Any other information that might be helpful in investigating the suspected maltreatment

If notification of maltreatment is first made to the Metro Transit Police Department, the member receiving the notification shall complete and forward the intake form to the entity responsible for receiving such reports.

### **325.4 QUALIFIED INVESTIGATORS**

Qualified investigators should be available to investigate cases of adult abuse. These investigators should:

- (a) Conduct interviews in appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to adult abuse investigations.
- (c) Present all cases of alleged adult abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and facility administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians and support for the victim and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Minn. Stat. § 626.5571).

### **325.5 INVESTIGATIONS AND REPORTING**

All reported or suspected cases of adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated. Investigations should be initiated as soon as possible, but in all cases within 24 hours (Minn. Stat. § 626.557).

Investigations and reports related to suspected cases of adult abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected adult abuse victim is contacted.
- (b) Any relevant statements the victim may have made and to whom he/she made the statements.
- (c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.
- (e) Whether the victim was transported for medical treatment or a medical examination.
- (f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.

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- (g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.
- (h) Previous addresses of the victim and suspect.
- (i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential adult abuse and investigated similarly.

Assigned members shall initiate an investigation of vulnerable adult abuse as soon as possible, but in all cases within 24 hours when there is reason to believe a crime has been committed (Minn. Stat. § 626.557).

#### **325.6 PROTECTIVE CUSTODY**

Before taking an adult abuse victim into protective custody when facts indicate the adult may not be able to care for him/herself, the officer should make reasonable attempts to contact an appropriate protective services agency. Generally, removal of an adult abuse victim from his/her family, guardian or other responsible adult should be left to the welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove an adult abuse victim from his/her family or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the victim. Prior to taking an adult abuse victim into protective custody, the officer should take reasonable steps to deliver the adult to another qualified legal guardian, unless it reasonably appears that the release would endanger the victim or result in abduction. If this is not a reasonable option, the officer shall ensure that the adult is delivered to an appropriate protective services agency or medical facility.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking an adult abuse victim into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking the adult into protective custody.

When adult abuse victims are under state control, have a state-appointed guardian or there are other legal holdings for guardianship, it may be necessary or reasonable to seek a court order on behalf of the adult victim to either remove the adult from a dangerous environment (protective custody) or restrain a person from contact with the adult.

#### **325.7 INTERVIEWS**

##### **325.7.1 PRELIMINARY INTERVIEWS**

Absent extenuating circumstances or impracticality, officers should audio record the preliminary interview with a suspected adult abuse victim. Officers should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an investigation. When

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practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available.

#### **325.7.2 DETAINING VICTIMS FOR INTERVIEWS**

An officer should not detain an adult involuntarily who is suspected of being a victim of abuse solely for the purpose of an interview or physical exam without his/her consent or the consent of a guardian unless one of the following applies:

- (a) Exigent circumstances exist, such as:
  - 1. A reasonable belief that medical issues of the adult need to be addressed immediately.
  - 2. A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
  - 3. The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.
- (b) A court order or warrant has been issued.

#### **325.8 MEDICAL EXAMINATIONS**

When an adult abuse investigation requires a medical examination, the investigating officer should obtain consent for such examination from the victim, guardian, agency or entity having legal custody of the adult. The officer should also arrange for the adult's transportation to the appropriate medical facility.

In cases where the alleged offender is a family member, guardian, agency or entity having legal custody and is refusing to give consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

#### **325.9 DRUG-ENDANGERED VICTIMS**

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of an adult abuse victim who has been exposed to the manufacturing, trafficking or use of narcotics.

##### **325.9.1 SUPERVISOR RESPONSIBILITIES**

The Investigation Division supervisor should:

- (a) Work with professionals from the appropriate agencies, including the applicable adult protective services agency, other law enforcement agencies, medical service providers and local prosecutors, to develop community-specific procedures for responding to situations where there are adult abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the Investigation Division supervisor that he/she has responded to a drug lab or other narcotics crime

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scene where an adult abuse victim is present or where evidence indicates that an adult abuse victim lives.

- (c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the adult.

### **325.9.2 OFFICER RESPONSIBILITIES**

Officers responding to a drug lab or other narcotics crime scene where an adult abuse victim is present or where there is evidence that an adult abuse victim lives should:

- (a) Document the environmental, medical, social and other conditions of the adult, using photography as appropriate and the checklist or form developed for this purpose.
- (b) Notify the Investigation Division supervisor so an interagency response can begin.

### **325.10 STATE MANDATES AND OTHER RELEVANT LAWS**

Minnesota requires or permits the following:

#### **325.10.1 RECORDS SECTION RESPONSIBILITIES**

The Records Section is responsible for:

- (a) Providing a copy of the adult abuse report to the applicable entity in the county responsible for receiving such reports as required by law.
- (b) Retaining the original adult abuse report with the initial case file.

#### **325.10.2 RELEASE OF REPORTS**

Information related to incidents of adult abuse or suspected adult abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Minn. Stat. § 626.557).

### **325.11 TRAINING**

The Department should provide training on best practices in adult abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.
- (b) Conducting interviews.
- (c) Availability of therapy services for adults and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to adult abuse investigations.
- (f) Availability of victim advocates or other support.



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## Discriminatory Harassment

### 327.1 PURPOSE AND SCOPE

This policy is intended to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

### 327.2 POLICY

The Metro Transit Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The Department will not tolerate, discrimination against employees in hiring, promotion, discharge, compensation, fringe benefits, and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The non-discrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

### 327.3 DEFINITIONS

Definitions related to this policy include:

#### 327.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes; stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or department equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.

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### 327.3.2 SEXUAL HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or a member because of that person's sex.

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position, or compensation.
- (b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.
- (c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

### 327.3.3 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles or standards including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) or the Minnesota Department of Human Rights.
- (b) Bona fide requests or demands by a supervisor that a member improve his/her work quality or output, that the member report to the job site on time, that the member comply with Metropolitan Council / Metro Transit rules or regulations, or any other appropriate work-related communication between supervisor and member.

### 327.3.4 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because the person has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated.

## **327.4 RESPONSIBILITIES**

This policy applies to all department personnel. All members shall follow the intent of these guidelines in a manner that reflects department policy, professional standards, and the best interest of the Department and its mission.

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to the member's immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Director, or the General Manager.

Any member who believes, in good faith, that the member has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment, discrimination, or

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retaliation, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

### 327.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors and managers shall include but are not limited to:

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
- (c) Ensuring that their subordinates understand their responsibilities under this policy.
- (d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notifying the Chief of Police or the Director in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

### 327.4.2 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

- (a) Behavior of supervisors and managers should represent the values of the Department and professional standards.
- (b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline in a manner that is consistent with established procedures.

### 327.4.3 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief of Police or the General Manager for further information, direction, or clarification.

## **327.5 INVESTIGATION OF COMPLAINTS**

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved members should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all

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## *Discriminatory Harassment*

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complaints of discrimination, retaliation, or harassment shall be fully documented, and promptly and thoroughly investigated.

### **327.5.1 SUPERVISOR RESOLUTION**

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

### **327.5.2 FORMAL INVESTIGATION**

If the complaint cannot be satisfactorily resolved through the process described above, a formal investigation will be conducted.

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint, or for offering testimony or evidence in an investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.

Members who believe they have been discriminated against, harassed, or retaliated against because of their protected status are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police or the General Manager.

### **327.5.3 ALTERNATIVE COMPLAINT PROCESS**

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Department. Members who believe that they have been harassed, discriminated against, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

## **327.6 DOCUMENTATION OF COMPLAINTS**

All complaints or allegations shall be thoroughly documented on the appropriate forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

- (a) Approved by the Chief of Police, the General Manager, or the Director, depending on the ranks of the involved parties.
- (b) Maintained in accordance with the established records retention schedule.

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### 327.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation and the actions taken to remedy or address the circumstances giving rise to the complaint.

### **327.7 TRAINING**

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that the member has been advised of this policy, is aware of and understands its contents, and agrees to abide by its provisions during the member's term with the Department.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

## Child Abuse

### 329.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Metro Transit Police Department members are required to notify the county social services agency of suspected child abuse.

#### 329.1.1 DEFINITIONS

Definitions related to this policy include:

**Child** - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

**Child abuse (also known as maltreatment of minors)** - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency (Minn. Stat. § 260E.03; Minn. Stat. § 260E.06).

### 329.2 POLICY

The Metro Transit Police Department will investigate all reported incidents of alleged criminal child abuse and ensure the county social services agency is notified as required by law.

### 329.3 MANDATORY NOTIFICATION

Members of the Metro Transit Police Department shall notify the county social services agency when they have reason to believe any of the following may have occurred or when someone reports any of the following (Minn. Stat. § 260E.06):

- (a) A child is being neglected or has been neglected within the preceding three years.
- (b) A child is being physically abused or has been physically abused within the preceding three years by a person responsible for the child's care.
- (c) A child is being sexually abused, threatened with sexual abuse, or has been sexually abused within the preceding three years by a person responsible for the child's care, by a person who has a significant relationship to the child, or by a person in a position of authority.
- (d) A woman is pregnant and has used a controlled substance for a non-medical purpose during the pregnancy, including but not limited to tetrahydrocannabinol (marijuana), or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive (Minn. Stat. § 260E.03, subd. 15; Minn. Stat. § 260E.31).

Notification is mandatory for any acts of neglect, physical abuse, and sexual abuse that constitute a crime, whether or not the suspect had any relationship to or responsibility for the child (Minn. Stat. § 260E.12).

For purposes of notification, physical abuse includes injuries, mental injuries, or injuries that cannot be reasonably explained (e.g., punching, kicking, burning). Sexual abuse includes criminal

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sexual conduct and prostitution offenses. Neglect includes failure to supply a child with necessary clothing, shelter, or medical care. See Minn. Stat. § 260E.03 for full definitions of physical abuse, sexual abuse, and neglect.

#### **329.3.1 NOTIFICATION PROCEDURE**

Notification should occur as follows (Minn. Stat. § 260E.09):

- (a) The member tasked with the investigation shall call the county social services agency and report the alleged abuse as soon as possible but always within 24 hours. The time of the call and the name of the person should be documented.
- (b) Notification, when possible, should include:
  - 1. The child's current location and whether the child is in immediate danger.
  - 2. A description of when and where the incident occurred and what happened to the child.
  - 3. A description of the injuries or present condition of the child.
  - 4. The names and addresses of the child, parents, or caregivers.
  - 5. Whether there were any witnesses to the incident and their names.
  - 6. Any additional information about the child, family, or caregivers that may be helpful.
  - 7. Whether the incident occurred in a licensed facility or a school and what actions the facility employees may have taken.
  - 8. Whether there are immediate family, relative, or community resources that would offer protection or support to the child.
- (c) Forms that may be required by the county social services agency or other written notification shall be completed and faxed or delivered to the county social services agency as soon as possible but always within 72 hours, exclusive of weekends and holidays.
- (d) Approved investigation reports should be forwarded to the county social services agency as soon as practical.
- (e) When the child abuse occurred at a facility or by a person from a facility that requires a state license or a profession that requires a state license (e.g., foster homes, group homes, day care, educator), notification shall also be made to the agency responsible for licensing the facility or person (Minn. Stat. § 260E.11).

#### **329.4 QUALIFIED INVESTIGATORS**

Qualified investigators should be available for child abuse investigations. These investigators should:

- (a) Conduct interviews in child-appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to child abuse investigations.
- (c) Present all cases of alleged child abuse to the prosecutor for review.

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- (d) Coordinate with other enforcement agencies, social service agencies, and school administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians, and support for the child and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable.

### **329.5 INVESTIGATIONS AND REPORTING**

In all reported or suspected cases of child abuse, a report will be written. Officers shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.
- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

### **329.6 PROTECTIVE CUSTODY**

Before taking any child into protective custody, the officer should make reasonable attempts to contact the county social services agency. Generally, removal of a child from his/her family,



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guardian or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove a child from his/her parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the officer should take reasonable steps to deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the officer shall ensure that the child is delivered to the county social services agency.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

Children may only be removed from a parent or guardian in the following situations (Minn. Stat. § 260C.175):

- (a) When a court has issued an order for removal.
- (b) When a child is found in surroundings or conditions that pose an imminent threat to the child's health or welfare or that a peace officer reasonably believes pose an imminent threat to the child's health or welfare.
- (c) If an Indian child is a resident of a reservation or is domiciled on a reservation but temporarily located off the reservation, taking the child into custody under this clause shall be consistent with the Indian Child Welfare Act (25 USC § 1922).

#### 329.6.1 NOTICE TO PARENT OR CUSTODIAN AND CHILD

Whenever an officer takes a child into protective custody, the officer shall notify the parent or custodian and the child (age 10 years or older) that they may request that the child be placed with a relative instead of in a shelter care facility. The officer also shall give the parent or custodian a list, published by the Minnesota Department of Human Services, of names, addresses, and telephone numbers of social services agencies that offer child welfare services. When placement with a relative is requested, the officer will coordinate with the responsible social services agency to ensure the child's safety and well-being in compliance with Minn. Stat. § 260C.181 (Minn. Stat. § 260C.175).

If the parent or custodian was not present when the child was removed from the residence, the list shall be left with an adult who is on the premises or left in a conspicuous place on the premises if no adult is present. If the officer has reason to believe the parent or custodian is not able to read and understand English, the officer must provide a list that is written in the language of the parent or custodian (Minn. Stat. § 260C.175; Minn. Stat. § 260C.181).

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### 329.6.2 SAFE PLACE FOR NEWBORNS

A person may leave an unharmed newborn less than seven days old with the staff of a hospital, urgent care facility or ambulance service without being subject to prosecution (Minn. Stat. § 609.3785). The responsible social service agency is charged with addressing these matters but may contact law enforcement if child abuse is suspected (Minn. Stat. § 145.902; Minn. Stat. § 609.3785).

## **329.7 INTERVIEWS**

### 329.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

### 329.7.2 DETAINING ABUSE VICTIMS FOR INTERVIEW

An officer should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

- (a) Exigent circumstances exist, such as:
  - 1. A reasonable belief that medical issues of the child need to be addressed immediately.
  - 2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
  - 3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.
- (b) A court order or warrant has been issued.

### 329.7.3 NOTIFICATION TO PARENTS

Generally, officers should cooperate with parents and guardians and seek consent prior to conducting interviews of children. However, when reasonably necessary, state law grants officers the authority to interview a child who is the alleged victim of abuse or neglect, and any other children who currently reside or have resided with the alleged victim, without parental consent (Minn. Stat. § 260E.22, Subd. 1).

The interview may take place at school or at any facility or other place where the alleged victim or other children might be found, or the child may be transported to, and the interview conducted at, a place that is appropriate for the interview and has been designated by the local welfare agency or law enforcement agency. When it is possible and substantial child endangerment or sexual

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abuse is alleged, the interview may take place outside the presence of the alleged offender and prior to any interviews of the alleged offender (Minn. Stat. § 260E.22).

The officer shall notify the parent, legal custodian, or guardian that the interview occurred as soon as reasonably practicable after the interview, unless the juvenile court has determined that reasonable cause exists to withhold the information (Minn. Stat. § 260E.22).

#### **329.7.4 INTERVIEWS AT SCHOOL**

If officers assigned to investigate a report of maltreatment determine that an interview should take place on school property, written notification of the intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property (Minn. Stat. § 260E.22, Subd. 7).

The investigating officer shall determine who may attend the interview, although school officials may set reasonable conditions as to the time, place, and manner of the interview (Minn. Stat. § 260E.22, Subd. 7).

#### **329.7.5 DOCUMENTING AND RECORDING INTERVIEWS**

Any statement made by an alleged child abuse victim during the course of a criminal investigation shall be documented. The documentation of the interview must contain, at a minimum (Minn. Stat. § 260E.23):

- (a) The date, time, place, and duration of the interview.
- (b) The identity of the persons present at the interview.
- (c) A summary of the information obtained during the interview if it was not audio recorded.

Members should follow the written guidelines of the county attorney's office regarding recording interviews of a child abuse victim.

#### **329.8 MEDICAL EXAMINATIONS**

If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The officer should also arrange for the child's transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination.

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### **329.9 DRUG-ENDANGERED CHILDREN**

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

#### **329.9.1 SUPERVISOR RESPONSIBILITIES**

The Investigation Division supervisor should:

- (a) Work with professionals from the appropriate agencies, including the county social services agency, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the Investigation Division supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.
- (c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the child.

#### **329.9.2 OFFICER RESPONSIBILITIES**

Officers responding to a drug lab or other narcotics crime scene where a child is present or where there is evidence that a child lives should:

- (a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.
- (b) Notify the Investigation Division supervisor so an interagency response can begin.

#### **329.9.3 SCHOOL NOTIFICATION**

If a juvenile is taken into protective custody after being found in an area where methamphetamine was being manufactured or attempted to be manufactured, or where any chemical substances, paraphernalia or waste products related to methamphetamine are stored, the officer who took the juvenile into custody shall notify the chief administrative officer of the juvenile's school (Minn. Stat. § 260C.171, Subd. 6).

### **329.10 STATE MANDATES AND OTHER RELEVANT LAWS**

Minnesota requires or permits the following:

#### **329.10.1 RELEASE OF REPORTS**

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Minn. Stat. § 260E.35).

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### 329.10.2 CHILD MORTALITY REVIEW PANELS

Child mortality review panels are entitled to access all investigative information of law enforcement agencies regarding the death of a child. This department shall cooperate fully with any such team and investigation (Minn. Stat. § 256.01, Subd. 12).

### 329.10.3 COORDINATION WITH SOCIAL SERVICES

In every case of child abuse that would require notification to a local county social services agency, the investigating officer shall coordinate the planning and execution of the investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. The investigating officer shall prepare a report separate from the social services agency (Minn. Stat. § 260E.12; Minn. Stat. § 260E.14, Subd. 5).

Members may disclose the status of an individual as a predatory offender to a child protection worker who is conducting an investigation or a family assessment under Chapter 260E (Minn. Stat. § 243.166; Minn. Stat. § 260E.03).

### 329.10.4 NOTIFICATION PROCESS

The Patrol Supervisor is responsible for ensuring the mandatory notifications to the county social service agency are carried out. This should be achieved, in part, by establishing and reviewing related procedures and through ongoing training (Minn. Stat. § 260E.01 et seq.).

### 329.10.5 COURT-ORDERED FIREARM SURRENDERS

Although not required, this department generally will accept firearms surrendered by a court order from an abusing party or defendant. A decision to refuse a surrendered firearm should be approved by a supervisor.

Firearms will normally be surrendered at the Metro Transit Police Department; however, when encountering someone in the field who wishes to surrender a firearm, officers should make reasonable efforts to accommodate the request.

Surrendered firearms should be collected and submitted to the Property and Evidence Office in accordance with the Property and Evidence Office Policy.

## **329.11 TRAINING**

The Professional Standards Unit should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.
- (b) Conducting forensic interviews.
- (c) Availability of therapy services for children and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to child abuse investigations.

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- (f) Availability of victim advocate or guardian ad litem support.

## Missing Persons

### 331.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

#### 331.1.1 DEFINITIONS

Definitions related to this policy include:

**Endangered** - A person the Department has confirmed is missing and there is sufficient evidence to indicate that the person is at risk of physical injury or death. Examples include (Minn. Stat. § 299C.52):

- (a) The person is missing because of a confirmed abduction or under circumstances that indicate the person's disappearance was not voluntary.
- (b) The person is missing under known dangerous circumstances.
- (c) The person is missing more than 30 days.
- (d) The person is under the age of 21 and at least one other factor is applicable.
- (e) There is evidence that the person is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person's health if the person does not receive the needed care or medication.
- (f) The person does not have a pattern of running away or disappearing.
- (g) The person is mentally impaired.
- (h) There is evidence that a non-custodial parent may have abducted the person.
- (i) The person has been the subject of past threats or acts of violence.
- (j) There is evidence that the person is lost in the wilderness, backcountry or outdoors where survival is precarious and immediate and effective investigation and search-and-rescue efforts are critical.
- (k) Any other factor the Department deems to indicate the person may be at risk of physical injury or death, including a determination by another law enforcement agency that the person is missing and endangered.
- (l) There is sufficient evidence that a child is with a person who presents a threat of immediate physical injury to the child or physical or sexual abuse of the child.
- (m) Qualify for a state AMBER Alert™ pursuant to Minn. Stat. § 299A.61, Subd. 1.

**Missing person** - Any person who is reported missing to law enforcement when that person's location is unknown. This includes any person under the age of 18 or who is certified or known to be mentally incompetent (Minn. Stat. § 299C.52).

**Missing person networks** - Databases or computer networks that are available to law enforcement and are suitable for obtaining information related to missing person investigations. This includes the National Crime Information Center (NCIC), the Minnesota Justice Information

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Services (MNJIS), the Minnesota Missing and Unidentified Persons Clearinghouse and the Minnesota Crime Alert Network.

### **331.2 POLICY**

The Metro Transit Police Department does not consider any report of a missing person to be routine and assumes that the missing person is in need of immediate assistance until an investigation reveals otherwise. Priority shall be given to missing person cases over property-related cases. Members will initiate an investigation into all reports of missing persons, regardless of the length of time the person has been missing.

### **331.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS**

The Investigation Division supervisor shall ensure the following forms and kits are developed and available:

- Missing person report form
- Missing person investigation checklist that provides investigation guidelines and resources that could be helpful in the early hours of a missing person investigation
- Missing person school notification form
- Medical records release form
- Biological sample collection kits

### **331.4 ACCEPTANCE OF REPORTS**

Any member encountering a person who wishes to report a missing person or runaway shall render assistance without delay. This can be accomplished by accepting the report via telephone or in person and initiating the investigation. Those members who do not take such reports or who are unable to give immediate assistance shall promptly dispatch or alert a member who can take the report.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any question of jurisdiction (Minn. Stat. § 299C.53, Subd.1(a)).

### **331.5 INITIAL INVESTIGATION**

Officers or other members conducting the initial investigation of a missing person should take the following investigative actions as applicable:

- (a) Respond to a dispatched call as soon as practicable. Obtain a detailed description of the missing person, as well as a description of any related vehicle and/or abductor.
- (b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be endangered (Minn. Stat. § 299C.53, Subd. 1(b)). Interviews should be conducted separately, if practicable.
- (c) Consult with the Bureau of Criminal Apprehension (BCA) if the person is determined to be an endangered missing person (Minn. Stat. § 299C.53, Subd. 1(b)).



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- (d) Canvass the last known area where the missing person was seen, if known. A search of the location where the incident took place, if known, should also be conducted and a search warrant obtained if necessary.
- (e) Determine when, where and by whom the missing person was last seen. Interview the person who last had contact with the missing person.
- (f) Notify a supervisor immediately if there is evidence that a missing person is either endangered or may qualify for a public alert, or both (see the Public Alerts Policy).
- (g) Broadcast an "Attempt to Locate" (ATL) or similar alert if the person is under 18 years of age or there is evidence that the missing person is endangered. The alert should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 18 years of age or may be endangered.
- (h) Relay known details to all on-duty personnel as well as other local or surrounding law enforcement agencies using local and state databases.
- (i) Ensure that entries are made into the appropriate missing person networks:
  - 1. Immediately, when the missing person is endangered (Minn. Stat. § 299C.53, Subd. 1(b)).
  - 2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.
- (j) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.
- (k) Collect and/or review:
  - 1. A photograph and fingerprint card of the missing person, if available (Minn. Stat. § 299C.54, Subd. 2).
    - (a) A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).
  - 2. Any documents that may assist in the investigation, such as court orders regarding custody.
  - 3. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).
- (l) When circumstances permit and if appropriate, attempt to determine the missing person's location through his/her telecommunications carrier.
- (m) Contact the appropriate agency if the report relates to a missing person report previously made to another agency and that agency is actively investigating the report. When this is not practicable, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an endangered missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.
- (n) Implement multi-jurisdictional coordination/mutual aid plan as appropriate such as when:
  - 1. The primary agency has limited resources.

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2. The investigation crosses jurisdictional lines.
3. Jurisdictions have pre-established task forces or investigative teams.

### 331.5.1 CRIME SCENE INVESTIGATION AND MANAGEMENT

If a crime scene is identified, it should be secured and a command post or operation base located at a reasonable distance from the crime scene. Staff and assign the responsibilities for command post supervisor, media specialist, search coordinator, investigative coordinator, communication officer and support unit coordinator. Provide two liaison officers (one at the command post and one at the crime scene). The role of the liaison at the home will include facilitating support and advocacy for the family.

The investigation of the scene and the crime should consider various elements, including:

- (a) Establishing the ability to “trap and trace” all incoming calls. Consider setting up a separate telephone line or cellular telephone for department use and follow-up on all leads.
- (b) Compiling a list of known sex offenders in the region.
- (c) In cases of infant abduction, investigating claims of home births made in the area.
- (d) In cases involving children, obtaining child protective agency records for reports of child abuse.
- (e) Reviewing records for previous incidents related to the missing person and prior law enforcement activity in the area, including prowlers, indecent exposure, attempted abductions, etc.
- (f) Obtaining the missing person’s medical and dental records, fingerprints and a biological sample when practicable or within 30 days.
- (g) Creating a missing person profile with detailed information obtained from records and interviews with family and friends, describing the missing person’s health, relationships, personality, problems, life experiences, plans, equipment, etc.
- (h) Interviewing delivery personnel, employees of gas, water, electric and cable companies, taxi drivers, post office personnel, sanitation workers, etc.
- (i) Determining if outside help is needed and the merits of utilizing local, state and federal resources related to specialized investigative needs, including:
  1. Investigative resources (e.g., search and rescue).
  2. Interpretive resources.
  3. Telephone services, such as traps, traces and triangulation.
  4. Media assistance from local and national sources.

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- (j) Using secure electronic communication information, such as the missing person's cellular telephone number, e-mail address and information from social networking sites.
- (k) Appointing an officer to communicate with the family/reporting party or their designee. The officer will be the primary point of contact for the family/reporting party or their designee, and should provide contact information and the family information packet (if available) to the family/reporting party or their designee.
- (l) Providing general information to the family/reporting party or their designee about the handling of the missing person case or about any intended efforts, only to the extent that disclosure would not adversely affect the department's ability to locate or protect the missing person or to apprehend or criminally prosecute any person in connection to the case.

### **331.6 REPORT PROCEDURES AND ROUTING**

Members should complete all missing person reports and forms promptly and advise the appropriate supervisor as soon as a missing person report is ready for review.

#### **331.6.1 SUPERVISOR RESPONSIBILITIES**

The responsibilities of the supervisor shall include, but are not limited to:

- (a) Reviewing and approving missing person reports upon receipt.
  - 1. The reports should be promptly sent to the Records Section.
- (b) Ensuring resources are deployed as appropriate.
- (c) Initiating a command post as needed.
- (d) Ensuring applicable notifications and public alerts are made and documented.
- (e) Ensuring that records have been entered into the appropriate missing persons networks.
- (f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.
  - 1. If the case falls within the jurisdiction of another agency, the supervisor should facilitate transfer of the case to the agency of jurisdiction.

#### **331.6.2 CRITERIA FOR ENTRY IN NCIC**

The Department must have a missing person report (electronic or hard copy) on file to support the missing person entry. A missing person record may be entered into NCIC using one of the following categories:

- 1. Disability (MKE/EMD): A person of any age who is missing and under proven physical or mental disability or is senile, thereby subjecting him/herself or others to personal and immediate danger.
- 2. Endangered (MKE/EMD): A person of any age who is missing under circumstances indicating that their physical safety may be in danger.

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3. Involuntary (MKE/EMI): A person of any age who is missing under circumstances indicating that the disappearance may not have been voluntary (for example, abduction or kidnapping).
4. Juvenile (MKE/EMU): A person who is missing and not declared emancipated as defined by the laws of their state of residence and does not meet any of the criteria set forth in 1, 2, 3, or 5.
5. Catastrophe victim (MKE/EMV): A person of any age who is missing after a catastrophe.
6. Other (MKE/EMO): A person who is not meeting the criteria for entry in any other category who is missing and:
  1. There is a reasonable concern for their safety
  2. A person under age 21 and declared emancipated by the laws of their state of residence.

### 331.6.3 MISSING PERSON RECORD ENTRY IN NCIC

An adult missing person (age 21 and over) should be entered into NCIC using one of the appropriate categories (Disability, Endangered, Involuntary, Catastrophe, or Other) within two hours of receipt of the minimum data required to enter an NCIC record. The Department must have a missing person report (electronic or hard copy) on file to support a missing person entry. The record for a missing person age 21 and over must have a signed document supporting the stated conditions under which the person is declared missing.

Forms of acceptable signatures:

- (a) Digitized signatures (similar to the method used by the United States Postal Service)
- (b) Manual signatures scanned into police report system
- (c) The typed or signed name of the officer who received the report.

A juvenile missing person (under the age of 21) should be entered into NCIC within two hours of receipt of the minimum data required to enter an NCIC record. The missing person report filed with the agency is sufficient documentation for entering a juvenile in the NCIC Missing Person file.

### 331.6.4 NCIC ENTRY REQUIREMENTS FOR ALL MISSING PERSON RECORDS

1. Run a current DVS/III criminal history and FBR inquiry to obtain as many known descriptors as possible for the subject. All descriptors must be documented in the case file. Attempts to obtain medical and dental information must also be documented in the case file.
2. Enter the record into NCIC. The record should include all descriptors. Additional identifiers such as scars, marks and tattoos, aliases, additional dates of birth, etc. should be added to the record through the use of the Enter Missing Person supplemental screen.
3. Enter caution indicator(s) if applicable to the person.

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4. If an image of the missing person is available, it should be entered into the NCIC record.
5. After the record is entered, query the NCIC entry to obtain a copy for second party verification purposes.

The Department is required to verify and update NCIC missing person record entries with any additional information within 60 days. This information includes:

- (a) Blood type (BLT)
- (b) Dental characteristics (DCH)
- (c) Fingerprint classification (FPC)
- (d) Jewelry type (JWT)
- (e) Scars, marks, tattoos, and other characteristics (SMT)

If a record has a date of entry older than 30 days and any of the above fields are blank, a \$.K Missing Information Notification identifying the blank fields will be transmitted. The \$.K Missing Information Notification will also include the record.

A notation will be made in the report case file indicating when this attempt was made and what the outcome was (for example, child has returned, dental records obtained, etc.). This 60 day update is a mandatory FBI requirement on all missing person records for people under the age of 21.

### 331.6.5 RECORDS SECTION RESPONSIBILITIES

The responsibilities of the Records Section receiving member shall include, but are not limited to:

- (a) As soon as reasonable under the circumstances, notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's residence in cases where the missing person is a resident of another jurisdiction.
- (b) Notifying and forwarding a copy of the report to the agency of jurisdiction where the missing person was last seen.
- (c) Notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's intended or possible destination, if known.
- (d) Forwarding a copy of the report to the Investigation Division.
- (e) Coordinating with the NCIC Terminal Contractor for Minnesota to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

### 331.7 INVESTIGATION DIVISION FOLLOW-UP

In addition to completing or continuing any actions listed above, the investigator assigned to a missing person investigation:

- (a) Should ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.
  1. The notice shall be in writing and should also include a photograph.

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2. The investigator should meet with school officials as appropriate to stress the importance of including the notice in the child's student file, along with the investigator's contact information if the school receives a call requesting the transfer of the missing child's files to another school.
- (b) Should recontact the reporting person and/or other witnesses within 30 days of the initial report and within 30 days thereafter to determine if any additional information has become available.
- (c) Shall review the case file to determine whether any additional information received on the missing person indicates that the person is endangered, and shall update applicable state or federal databases accordingly (Minn. Stat. § 299C.535(b); Minn. Stat. § 299C.535(c)).
- (d) Shall attempt to obtain the following, if not previously obtained, if the person remains missing after 30 days (Minn. Stat. § 299C.535(a)):
  1. Biological samples from family members and, if possible, from the missing person
  2. Dental information and X-rays
  3. Additional photographs and video that may aid the investigation or identification
  4. Fingerprints
  5. Any other specific identifying information
- (e) Should consider contacting other agencies involved in the case to determine if any additional information is available.
- (f) Shall verify and update the Minnesota Justice Information Services (MNJIS), the Minnesota Missing and Unidentified Persons Clearinghouse, NCIC and any other applicable missing person networks within 30 days of the original entry into the networks and every 30 days thereafter until the missing person is located (34 USC § 41308).
- (g) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.
- (h) Should consider taking certain actions if a person is missing after a prolonged period, generally exceeding 45 days. Those actions include:
  1. Developing a profile of the possible abductor.
  2. Using a truth verification device for parents, spouse and other key individuals.
  3. Reviewing all reports and transcripts of interviews, revisiting the crime scene, reviewing all photographs and videotapes, reinterviewing key individuals and reexamining all physical evidence collected.
  4. Reviewing all potential witness/suspect information obtained in the initial investigation and considering background checks on anyone of interest identified in the investigation.

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5. Periodically checking pertinent sources of information about the missing person for any activity, such as telephone, bank, Internet or credit card activity.
6. Developing a time line and other visual exhibits.
7. Critiquing the results of the ongoing investigation with appropriate investigative resources.
8. Arranging for periodic media coverage.
9. Considering the use of rewards and crime-stoppers programs.
10. Maintaining contact with the family and/or the reporting party or designee, as appropriate.
  - (i) Shall maintain a close liaison with state and local child welfare systems and the National Center for Missing and Exploited Children (NCMEC) if the missing person is under the age of 21 and shall promptly notify NCMEC when the person is missing from a foster care family home or childcare institution (34 USC § 41308).
  - (j) Should make appropriate inquiry with the Medical Examiner.
  - (k) Should obtain and forward medical and dental records, photos, X-rays and biological samples, as applicable.
  - (l) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not been obtained previously, forward the photograph to BCA (Minn. Stat. § 299C.54) and enter the photograph into applicable missing person networks (34 USC § 41308).
  - (m) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).
  - (n) In the case of an endangered missing person or a person who has been missing for an extended time, should consult with a supervisor regarding seeking federal assistance from the FBI and the U.S. Marshals Service (28 USC § 566).

### **331.8 WHEN A MISSING PERSON IS FOUND**

When any person reported missing is found, the assigned investigator shall document the location of the missing person in the appropriate report, notify the reporting party and other involved agencies and refer the case for additional investigation if warranted.

The Records Supervisor shall ensure that, upon receipt of information that a missing person has been located, the following occurs:

- (a) Notification is made to BCA.
- (b) A missing child's school is notified.
- (c) Entries are made in the applicable missing person networks (Minn. Stat. § 299C.53, Subd. 2).
- (d) When a child is endangered, the fact that the child has been found shall be reported within 24 hours to BCA.

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- (e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation.

### 331.8.1 PERSONS FOUND ALIVE

Additional responsibilities related to missing persons who are found alive include:

- (a) Verifying that the located person is the reported missing person.
- (b) If appropriate, arranging for a comprehensive physical examination of the victim.
- (c) Conducting a careful interview of the person, documenting the results of the interview and involving all appropriate agencies.
- (d) Notifying the family/reporting party that the missing person has been located. In adult cases, if the located adult permits the disclosure of his/her whereabouts and contact information, the family/reporting party may be given this information.
- (e) Depending on the circumstances of the disappearance, considering the need for reunification assistance, intervention, counseling or other services for either the missing person or family/reporting party.
- (f) Performing a constructive post-case critique. Reassessing the procedures used and updating the Department policy and procedures as appropriate.

### 331.8.2 UNIDENTIFIED PERSONS

Members investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying him/herself should:

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

### 331.8.3 DECEASED PERSONS

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

Additional investigation responsibilities include the following:

- (a) Secure the crime scene if this department has jurisdiction.
- (b) Contact the coroner, medical examiner or forensic anthropologist to arrange for body recovery and examination.
- (c) Collect and preserve any evidence at the scene.
- (d) Depending on the circumstances, consider the need for intervention, counseling or other services for the family/reporting party.



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- (e) Cancel alerts and remove the case from NCIC and other information systems; remove posters and other publications from circulation.
- (f) Perform a constructive post-case critique. Reassess the procedures used and update the department policy and procedures as appropriate.

### **331.9 CASE CLOSURE**

The Investigation Division supervisor may authorize the closure of a missing person case after considering the following:

- (a) Closure is appropriate when the missing person is confirmed returned or evidence matches an unidentified person or body.
- (b) If the missing person is a resident of Metro Transit or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.
- (c) If this department is not the lead agency, the case can be made inactive if all investigative leads have been exhausted, the lead agency has been notified and entries are made in the applicable missing person networks, as appropriate.
- (d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

### **331.10 TRAINING**

Subject to available resources, the Training Manager should ensure that members of this department whose duties include missing person investigations and reports receive training that includes:

- (a) The initial investigation:
  - 1. Assessments and interviews
  - 2. Use of current resources, such as Mobile Audio Video (MAV)
  - 3. Confirming missing status and custody status of minors
  - 4. Evaluating the need for a heightened response
  - 5. Identifying the zone of safety based on chronological age and developmental stage
- (b) Briefing of department members at the scene.
- (c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).
- (d) Verifying the accuracy of all descriptive information.
- (e) Initiating a neighborhood investigation.
- (f) Investigating any relevant recent family dynamics.
- (g) Addressing conflicting information.

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- (h) Key investigative and coordination steps.
- (i) Managing a missing person case.
- (j) Additional resources and specialized services.
- (k) Update procedures for case information and descriptions.
- (l) Preserving scenes.
- (m) Internet and technology issues (e.g., Internet use, cell phone use).
- (n) Media relations.

## Public Alerts

### 333.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for alerting the public to important information and soliciting public aid when appropriate.

### 333.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

### 333.3 RESPONSIBILITIES

#### 333.3.1 EMPLOYEE RESPONSIBILITIES

Employees of the Metro Transit Police Department should notify their supervisor, Shift Supervisor or Investigation Division Supervisor as soon as practicable upon learning of a situation where public notification, a warning or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person or gathering information.

#### 333.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Chief of Police, the Patrol Division Commander and the Public Information Officer when any public alert is generated.

The supervisor in charge of the investigation to which the alert relates is responsible for the following:

- (a) Updating alerts
- (b) Canceling alerts
- (c) Ensuring all appropriate reports are completed
- (d) Preparing an after-action evaluation of the investigation to be forwarded to the Patrol Division Commander and Deputy Chief

### 333.4 AMBER ALERTS

America's Missing: Broadcast Emergency Response (AMBER) Alert™ is the recruitment of public assistance to locate an abducted child via a widespread media alert. Utilizing the assistance of local radio, television and press affiliates, the public will be notified of the circumstances of a child's abduction and how it can assist law enforcement in the child's recovery. The goal of the AMBER Alert program is the safe return of an abducted child by establishing an effective

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partnership between the community, the media and law enforcement through the Minnesota Crime Alert Network (Minn. Stat. § 299A.61 Subd. 1).

### 333.4.1 CRITERIA

Any non-familial case in which an individual is abducted and the public can assist will trigger the activation of either the AMBER Alert and/or the Minnesota Crime Alert Network (MCAN) to inform the public and request its assistance in locating the individual.

The criteria for issuance of an Amber Alert are as follows:

- (a) A child 17 years of age or younger was abducted and there is reason to believe the victim is in imminent danger of serious bodily injury or death.
- (b) There is information available to disseminate to the general public that could assist with the safe recovery of the victim and/or the apprehension of the suspect.

An AMBER Alert should not be requested if there is no information to distribute.

### 333.4.2 PROCEDURE

The supervisor shall review the AMBER Alert checklist provided by the Bureau of Criminal Apprehension (BCA) to determine whether the abduction meets the AMBER Alert criteria.

As soon as possible, Records Section personnel shall enter the child's name and other critical data into the National Crime Information Center (NCIC), with appropriate flags.

If the AMBER Alert criteria is met, the supervisor, Shift Supervisor or Investigation Division supervisor will notify the Operations Center at the BCA. The BCA will determine whether an AMBER Alert will be issued and, if so, will activate the Minnesota Emergency Alert System (EAS) through the Minnesota Department of Public Safety (DPS) Division of Homeland Security and Emergency Management (HSEM).

BCA will manage press notifications through the EAS.

As additional information becomes available, the BCA shall be apprised and they will disseminate the information, as appropriate.

When the child is found, or the alert should be cancelled for other reasons, the Investigation Division supervisor shall immediately notify BCA with the pertinent information.

### **333.5 MINNESOTA CRIME ALERT NETWORK**

MCAN is a statewide communications network that enables law enforcement agencies to quickly alert the public (Minn. Stat. § 299A.61). In cases where the AMBER Alert criteria are not met, MCAN can be activated to notify the public and request information on the case. Law enforcement agencies, businesses, schools and community members participate in the network.

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### 333.5.1 CRITERIA

MCAN is available for disseminating information regarding the commission of crimes, including information on missing and endangered children or vulnerable adults, or attempts to reduce theft and other crime.

### 333.5.2 PROCEDURE

If a supervisor determines that a MCAN alert should be requested, the supervisor should contact the BCA Operations Center and provide the requested information.

The Public Information Officer should prepare a press release that includes all available information that might strengthen the assistance by the public or other law enforcement agencies. It should be updated with additional information as it becomes available and useful. All media releases should be coordinated with the BCA. In the event of a confirmed child abduction, whether or not an AMBER Alert or MCAN alert is activated, procedures designed to inform the media should be followed. Initial information to release may include, but is not limited to:

- (a) The nature of the crime that has occurred.
- (b) The victim's identity, age and description, if relevant.
- (c) Photograph if available.
- (d) The suspect's identity, age and description, if known.
- (e) Pertinent vehicle description.
- (f) Detail regarding location of incident, direction of travel and potential destinations, if known.
- (g) Whether there is reason to believe the suspect has a relationship to the victim.
- (h) Name and phone number of the Public Information Officer or other authorized individual to handle media liaison.
- (i) A telephone number for the public to call with leads or information.

As additional information pertinent to the case becomes available, it shall be forwarded to the BCA.

### **333.6 BLUE ALERTS**

Blue Alerts are used to provide a statewide system for the rapid dissemination of information regarding a violent criminal who has seriously injured or killed a local, state or federal law enforcement officer.

#### 333.6.1 CRITERIA

The following criteria should be utilized to determine if a request to activate a Blue Alert will be made:

- (a) A law enforcement officer has been killed, seriously injured or is missing while in the line of duty under circumstances evidencing concern for the officer's safety.
- (b) The investigating law enforcement agency has determined that:

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1. The suspect poses a serious risk to the public or other law enforcement personnel.
  2. Dissemination of available information to the public may help avert further harm or assist in the apprehension of the suspect.
- (c) A description of the offender, the offender's vehicle (including license plate or partial license plate) is available for broadcast.

### 333.6.2 PROCEDURE

The on-duty supervisor should ensure that contact is made with the Minnesota Bureau of Criminal Apprehension (BCA) to request activation of a Blue Alert. The on-duty supervisor should also ensure that any changes to information (e.g., vehicle information, broadcast area) are communicated to BCA in a timely manner.

## Victim and Witness Assistance

### 335.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources, and that the agency meets all related legal mandates.

### 335.2 POLICY

The Metro Transit Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The employees of the Metro Transit Police Department will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

### 335.3 CRIME VICTIM LIAISON

The Chief of Police should appoint a member of the Department to serve as the crime victim liaison. The crime victim liaison will be the point of contact for individuals requiring further assistance or information from the Metro Transit Police Department regarding benefits from crime victim resources. This person shall also be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

#### 335.3.1 SPECIFIC VICTIM LIAISON DUTIES

The crime victim liaison shall assist the Minnesota Crime Victims Reparations Board in performing its duties and ensure that the Records Section forwards copies of requested reports to the board or other authorized organizations within 10 days of receipt, in compliance with the Records Maintenance and Release Policy. These reports include those maintained as confidential or not open to inspection under Minn. Stat. § 260B.171 or Minn. Stat. § 260C.171 (Minn. Stat. § 611A.66).

The crime victim liaison will also (Minn. Stat. § 611A.27):

- (a) Serve for a sexual assault victim or a sexual assault victim's written designee as the liaison between the Metro Transit Police Department and a forensic laboratory.
- (b) Facilitate requests for information made by a sexual assault victim or written designee.
- (c) Provide an appropriate response to a victim's request for investigative data within 30 days.
- (d) Develop a procedure allowing a sexual assault victim to request that the sexual assault examination kit be submitted to a forensic laboratory if the victim had not previously authorized such submission.

The crime victim liaison or the authorized designee, in consultation with the Criminal Investigations Command Division Commander, should establish procedures for receiving requests for assistance in applying for U visa or T visa status, and make those procedures available to victims. The procedures should provide for responses to these requests to be made in compliance with

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applicable law and as set forth in the Immigration Violations Policy and applicable law (Minn. Stat. § 611A.95).

### **335.4 CRIME VICTIMS**

Officers should provide all victims with the applicable victim information handouts, including a business card with the case number on it.

Officers should never guarantee a victim's safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Officers should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written department material or available victim resources.

### **335.5 VICTIM INFORMATION**

The Administration Supervisor shall ensure that victim information handouts are available and current. These should include as appropriate:

- (a) Shelters and other community resources for victims, including domestic violence and sexual assault victims.
- (b) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109).
- (c) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.
- (d) A clear explanation of relevant court orders and how they can be obtained.
- (e) Information regarding available compensation for qualifying victims of crime.
- (f) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.
- (g) Notice regarding U visa and T visa application processes.
- (h) Resources available for victims of identity theft.
- (i) A place for the officer's name, badge number, and any applicable case or incident number.
- (j) Notices and information regarding the rights of crime victims, domestic abuse victims, and offender release as detailed in the following:
  1. Safe at Home address confidentiality program (Minn. Stat. § 5B.03)
  2. Offender release notification (Minn. Stat. § 244.052; Minn. Stat. § 244.053; Minn. Stat. § 611A.06; Minn. Stat. § 629.73)
  3. Tenancy issues (Minn. Stat. § 504B.205; Minn. Stat. § 504B.206)



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4. Victim and specific domestic violence victim information/Minnesota CHOICE (Minn. Stat. § 611A.02 et seq.; Minn. Stat. § 629.341; Minn. Stat. § 629.72)
  - (k) A notice that a decision to arrest is the officer's and the decision to prosecute lies with the prosecutor, even when a victim requests no arrest or prosecution.
  - (l) Contact information for the Office of Justice Programs and the Emergency Fund and Crime Victims Reparations.

### **335.6 WITNESSES**

Officers should never guarantee a witness' safety from future harm or that his/her identity will always remain confidential. Officers may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

Officers should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable.

Officers should provide witnesses with a business card that includes the case number of the incident.

## Hate or Prejudice Crimes

### 337.1 PURPOSE AND SCOPE

The Metro Transit Police Department recognizes and places a high priority on the rights of all individuals guaranteed under the constitution and the laws of this state. When such rights are infringed upon by violence, threats or other harassment, this department will utilize all available resources to see that justice is served under the law. This policy has been developed to meet or exceed the provisions of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, and provides members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

#### 337.1.1 FEDERAL JURISDICTION

The federal government also has the power to investigate and prosecute bias-motivated violence by providing the U.S. Department of Justice with jurisdiction over crimes of violence where the perpetrator has selected the victim because of the person's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or disability (18 USC § 245).

### 337.2 DEFINITIONS

**Hate or Prejudice Crime** - Conduct that would constitute a crime and was committed because of the victim's or another's actual or perceived race, color, religion, national origin, ethnicity, gender, sexual orientation, gender identity or expression, or disability (see generally Minn. Stat. § 611A.79, Subd. 1).

### 337.3 PREVENTING AND PREPARING FOR LIKELY HATE OR PREJUDICE CRIMES

While it is recognized that not all crime can be prevented, this department is committed to taking a proactive approach to preventing and preparing for likely hate or prejudice crimes by among other things:

- (a) Officers should make an affirmative effort to establish contact with persons and groups within the community who are likely targets of hate crimes to form and cooperate with prevention and response networks.
- (b) Providing victim assistance and follow-up as outlined below, including community follow-up.
- (c) Educating community and civic groups relating to hate crime laws.

### 337.4 PROCEDURE FOR INVESTIGATING HATE OR PREJUDICE CRIMES

Whenever any member of this department receives a report of a suspected hate or prejudice crime or other activity that reasonably appears to involve a potential hate or prejudice crime, the following should occur:

- (a) Officers will be promptly assigned to contact the victim, witness or reporting party to investigate the matter further as circumstances may dictate.

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- (b) A supervisor should be notified of the circumstances as soon as practicable.
- (c) Once “in progress” aspects of any such situation have been stabilized (e.g., treatment of victims or apprehension of present suspects), the assigned officers will take all reasonable steps to preserve available evidence that may tend to establish that a hate or prejudice crime was involved.
- (d) The assigned officers will interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate or prejudice crime.
- (e) Depending on the situation, the assigned officers or supervisor may request additional assistance from investigators or other resources to further the investigation.
- (f) The assigned officers will include all available evidence indicating the likelihood of a hate or prejudice crime in the relevant reports. All related reports will be clearly marked as “Hate or Prejudice Crimes” and, absent prior approval of a supervisor, will be completed and submitted by the assigned officers before the end of the shift.
- (g) The assigned officers will provide the victims of any suspected hate or prejudice crime with the brochure on hate and prejudice crimes authorized by the Department. Such brochures will also be available to members of the public upon request. The assigned officers should also make reasonable efforts to assist the victims by providing available information on local assistance programs and organizations as required by the Victim Assistance Policy.
- (h) The assigned officers and supervisor should take reasonable steps to ensure that any such situation does not escalate further and provide information to the victim regarding legal aid, e.g., a possible Temporary Restraining Order through the courts, prosecuting attorney or Prosecuting Attorney.

### **337.5 INVESTIGATION DIVISION RESPONSIBILITIES**

If a case is assigned to the Investigation Division, the assigned investigator will be responsible for following up on the reported hate or prejudice crime as follows:

- (a) Coordinating further investigation with the prosecuting attorney and other appropriate law enforcement agencies, as appropriate.
- (b) Maintaining contact with the victims and other involved individuals as needed.
- (c) Maintaining statistical data and tracking of suspected hate or prejudice crimes as indicated or required by state law.

#### **337.5.1 STATE HATE CRIME REPORTING**

This department shall report hate or prejudice crime offenses in the form and manner and at regular intervals as prescribed by rules adopted by the Department of Public Safety. This shall

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be conducted by the Records Supervisor or assigned to the Investigation Division (Minn. Stat. § 626.5531, Subd. 2).

Reports are required to include (Minn. Stat. 626.5531, Subd. 1):

- (a) The date of the offense.
- (b) The location of the offense.
- (c) Whether the target of the incident was a person, private property or public property.
- (d) The crime committed.
- (e) The type of bias and information about the offender and the victim that is relevant to that bias.
- (f) Any organized group involved in the incident.
- (g) The disposition of the case.
- (h) Whether the determination that the offense was motivated by bias was based on the officer's reasonable belief or on the victim's allegation.
- (i) Any additional information the superintendent deems necessary for the acquisition of accurate and relevant data.

### **337.5.2 FEDERAL HATE CRIME REPORTING**

The Records Supervisor should include hate crime data reporting within the National Incident-Based Reporting System (NIBRS), Uniform Crime Report (UCR) and Summary Reporting System (SRS) reports pursuant to Records Section procedures and in compliance with (28 USC § 534 (a)). In most, if not all cases, this will be the responsibility of the local agency having jurisdiction over the case.

### **337.6 TRAINING**

All members of this department will receive training on hate and prejudice crime recognition and investigation and will attend periodic training that incorporates a hate and prejudice crime training component (Minn. Stat. § 626.8451, Subd. 1 and Subd. 4).

## Standards of Conduct

### 339.1 PURPOSE AND SCOPE

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

#### 339.1.1 STANDARDS OF CONDUCT FOR PEACE OFFICERS

The Metro Transit Police Department adopts the Professional Conduct of Peace Officers model policy established and published by the Minnesota Board of Peace Officer Standards and Training Board (POST) (Minn. Stat. § 626.8457). This model policy applies to all peace officers of this department.

[See attachment: MN POST Professional Conduct of Peace Officers Model Policy.pdf](#)

The provisions of this policy are in addition to collective bargaining agreements or any other applicable law.

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

### 339.2 POLICY

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

### 339.3 DIRECTIVES AND ORDERS

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

#### 339.3.1 UNLAWFUL OR CONFLICTING ORDERS

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

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

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shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

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

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

### **339.3.2 SUPERVISOR RESPONSIBILITIES**

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

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

### **339.4 GENERAL STANDARDS**

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

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

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

### **339.5 CAUSES FOR DISCIPLINE**

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action

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for violation of other rules, standards, ethics, and specific action or inaction that is detrimental to efficient department service.

### 339.5.1 LAWS, RULES AND ORDERS

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

### 339.5.2 ETHICS

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

### 339.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

### 339.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity including but not limited to sexual intercourse, excessive displays of public affection, or other sexual contact.

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- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect, or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime, and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official, basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know, of such criminal activities, except as specifically directed and authorized by this department.
- (f) Supporting or participating in the activities of a hate or extremist group (Minn. Stat. § 626.8436).

#### 339.5.5 ATTENDANCE

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

#### 339.5.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms, or reports obtained as a result of the member's position with this department.
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any department property for personal use, personal gain, or any other improper or unauthorized use or purpose.
- (e) Using department resources in association with any portion of an independent civil action. These resources include but are not limited to personnel, vehicles, equipment, and non-subpoenaed records.

#### 339.5.7 EFFICIENCY

- (a) Neglect of duty.



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

#### 339.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department--related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
  - 1. While on department premises.
  - 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
  - 3. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:

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1. Unauthorized attendance while on-duty at official legislative or political sessions.
  2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or on department property except as expressly authorized by Metropolitan Area policy, the collective bargaining agreement, or the Chief of Police.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by Metropolitan Area policy, the collective bargaining agreement, or the Chief of Police.
- (i) Any act on- or off-duty that brings discredit to this department.

### 339.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the Metropolitan Area.
- (g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any collective bargaining agreement or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.

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- (m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

#### 339.5.10 SAFETY

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

#### 339.5.11 INTOXICANTS

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

## Attachments

## **MN POST Professional Conduct of Peace Officers Model Policy.pdf**

## PROFESSIONAL CONDUCT OF PEACE OFFICERS MODEL POLICY

MN STAT 626.8457

### I. POLICY

It is the policy of the \_\_\_\_\_ (law enforcement agency) to investigate circumstances that suggest an officer has engaged in unbecoming conduct, and impose disciplinary action when appropriate.

### II. PROCEDURE

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

#### A. PRINCIPLE ONE

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

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

#### 2. Rules

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

#### B. PRINCIPLE TWO

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

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

#### 2. Rules

- a) Peace officers shall carry out their duties with integrity, fairness and impartiality.

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

### C. PRINCIPLE THREE

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

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

### D. PRINCIPLE FOUR

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

1. **Rationale:** A peace officer's ability to perform his or her duties is dependent upon the respect and confidence communities have for the officer and law enforcement officers in general. Peace officers must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public.
2. **Rules**

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

#### **E. PRINCIPLE FIVE**

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

1. **Rationale:** Peace officers are the most visible form of local government. Therefore, peace officers must make a positive impression when interacting with the public and each other.
2. **Rules**
  - a) Peace officers shall exercise reasonable courtesy in their dealings with the public, other officers, superiors and subordinates.



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

#### **F. PRINCIPLE SIX**

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

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

#### **2. Rules**

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

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

#### **G. PRINCIPLE SEVEN**

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

1. **Rationale:** For the public to maintain its faith in the integrity and impartiality of peace officers and their agencies officers must avoid taking or influencing official actions

where those actions would or could conflict with the officer's appropriate responsibilities.

## **2. Rules**

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

## **H. PRINCIPLE EIGHT**

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

1. **Rationale:** Peace officers are entrusted with vast amounts of private and personal information or access thereto. Peace officers must maintain the confidentiality of such information to protect the privacy of the subjects of that information and to maintain public faith in the officer's and agency's commitment to preserving such confidences.

## **2. Rules**

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

## **I. APPLICATION**

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

# Information Technology Use

## 341.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of department information technology resources, including computers, electronic devices, hardware, software and systems.

### 341.1.1 DEFINITIONS

Definitions related to this policy include:

**Computer system** - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented, or licensed by the Metro Transit Police Department that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Department or department funding.

**Cybersecurity incident** - An action taken through the use of an information system or network that results in an actual or potentially adverse effect on an information system, network, or the information within (Minn. Stat. § 16E.36, Subd. 1).

**Hardware** - Includes but is not limited to computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, modems, or any other tangible computer device generally understood to comprise hardware.

**Software** - Includes but is not limited to all computer programs, systems, and applications, including shareware. This does not include files created by the individual user.

**Temporary file, permanent file, or file** - Any electronic document, information, or data residing or located, in whole or in part, on the system including but not limited to spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs, or videos.

## 341.2 POLICY

It is the policy of the Metro Transit Police Department that members shall use information technology resources, including computers, software and systems, that are issued or maintained by the Department in a professional manner and in accordance with this policy.

## 341.3 INSPECTION OR REVIEW

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Department involving one of its members or a member's duties, an alleged or suspected violation of any department policy, a request for disclosure of data, or a need to perform or provide a service.

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The IT staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the department computer system when requested by a supervisor or during the course of regular duties that require such information.

### **341.4 PRIVACY EXPECTATION**

Members forfeit any expectation of privacy with regard to emails, texts or anything published, shared, transmitted or maintained through file-sharing software or any Internet site that is accessed, transmitted, received or reviewed on any department computer system.

The Department reserves the right to access, audit and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department, including the department email system, computer network and/or any information placed into storage on any department system or device. This includes records of all keystrokes or Web-browsing history made at any department computer or over any department network. The fact that access to a database, service or website requires a username or password will not create an expectation of privacy if it is accessed through department computers, electronic devices or networks.

### **341.5 RESTRICTED USE**

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors or Shift Supervisors.

Members shall not use another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor.

#### **341.5.1 OFF-DUTY USE**

Members shall only use technology resources provided by the Department while on-duty or in conjunction with specific on-call assignments unless specifically authorized by a supervisor. This includes the use of telephones, cell phones, texting, email or any other "off the clock" work-related activities. This also applies to personally owned devices that are used to access department resources.

Refer to the Personal Communication Devices Policy for guidelines regarding off-duty use of personally owned technology.

#### **341.5.2 INTERNET USE**

Internet access provided by or through the Department shall be strictly limited to department-related activities. Internet sites containing information that is not appropriate or applicable to department use and which shall not be intentionally accessed include, but are not limited to, adult forums, pornography, gambling, chat rooms and similar or related Internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

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## *Information Technology Use*

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Downloaded information shall be limited to messages, mail and data files.

### 341.5.3 HARDWARE

Access to technology resources provided by or through the Department shall be strictly limited to department-related activities. Data stored on or available through department computer systems shall only be accessed by authorized members who are engaged in an active investigation or assisting in an active investigation, or who otherwise have a legitimate law enforcement or department-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

### 341.5.4 SOFTWARE

Members shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company's copyright and license agreement.

To reduce the risk of a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any department computer. Members shall not install personal copies of any software onto any department computer.

When related to criminal investigations, software program files may be downloaded only with the approval of the information systems technology (IT) staff and with the authorization of the Chief of Police or the authorized designee.

No member shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the Department while on department premises, computer systems or electronic devices. Such unauthorized use of software exposes the Department and involved members to severe civil and criminal penalties.

Introduction of software by members should only occur as part of the automated maintenance or update process of department- or Metropolitan Area-approved or installed programs by the original manufacturer, producer or developer of the software.

Any other introduction of software requires prior authorization from IT staff and a full scan for malicious attachments.

## **341.6 PROTECTION OF AGENCY SYSTEMS AND FILES**

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care and maintenance of the computer system.

Members shall ensure department computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present. Access passwords, logon information and other individual security data, protocols and procedures are confidential information and are not to be shared. Password length, format, structure and content shall meet the prescribed standards required by the computer system or as directed by a supervisor and shall be changed at intervals as directed by IT staff or a supervisor.

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## *Information Technology Use*

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It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the Internet) to a supervisor.

### **341.7 CYBERSECURITY INCIDENTS**

The Chief of Police or the authorized designee shall report any cybersecurity incident that impacts the Department to the Minnesota Bureau of Criminal Apprehension within 72 hours after an incident has been identified (Minn. Stat. § 16E.36, Subd. 2).

## Report Preparation

### 343.1 PURPOSE AND SCOPE

Report preparation is a major part of each employee's job. The purpose of reports is to document sufficient information to refresh the employee's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized and on-the-job training.

#### 343.1.1 REPORT PREPARATION

Employees should ensure that their reports are sufficient for their purpose and reasonably free of errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty, unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Employees who dictate reports shall use appropriate grammar, as content is not the responsibility of the typist. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

### 343.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate Department-approved form (computerized RMS) unless otherwise approved by a supervisor.

#### 343.2.1 CRIMINAL ACTIVITY

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution.

Activity to be documented in a written report includes:

- (a) All arrests
- (b) All felony crimes
- (c) All incidents involving violations of crimes or ordinances motivated by bias (Minn. Stat. § 626.5531)
- (d) Non-felony incidents involving threats or stalking behavior

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### *Report Preparation*

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(e) Situations covered by separate policy. These include:

1. Use of Force Policy
2. Domestic Abuse Policy
3. Child Abuse Policy
4. Adult Abuse Policy
5. Hate or Prejudice Crimes Policy
6. Suspicious Activity Reports Policy

(f) All misdemeanor crimes where the victim desires a report

Misdemeanor crimes where the victim does not desire a report shall be documented using the department-approved alternative reporting method (e.g., dispatch log).

#### 343.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

- (a) Any time an officer points a firearm at any person
- (b) Any use of force against any person by a member of this department (see the Use of Force Policy)
- (c) Any firearm discharge (see the Firearms Policy)
- (d) Any time a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)
- (e) Any found property or found evidence
- (f) Any traffic collisions above the minimum reporting level (see the Traffic Collisions Policy)
- (g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy
- (h) All protective custody detentions
- (i) Suspicious incidents that may place the public or others at risk
- (j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor
- (k) Any watercraft collision or accident, drowning death and/or general water accident should be reported on the appropriate Department of Natural Resource Form (Minn. Stat. § 86B.105(a))

#### 343.2.3 DEATH REPORTS

Reports shall be completed by the handling employee. All deaths shall be handled in compliance with the Death Investigations Policy.



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## *Report Preparation*

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### 343.2.4 INJURY OR DAMAGE BY METROPOLITAN COUNCIL / METRO TRANSIT PERSONNEL

Reports shall be taken if an injury occurs that is a result of an act of a Metropolitan Council / Metro Transit employee. Additionally, reports shall be taken involving damage to Metropolitan Council / Metro Transit property or Metropolitan Council / Metro Transit equipment if not completed by the local agency having jurisdiction over the case.

### 343.2.5 MISCELLANEOUS INJURIES

Any injury that is reported to this department shall require a report when:

- (a) The injury is a result of a drug overdose.
- (b) Attempted suicide.
- (c) The injury is major or serious, whereas death could result.
- (d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event.

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

### 343.2.6 ALTERNATE REPORTING FOR VICTIMS

Reports that may be submitted by the public via online or other self-completed reporting processes include:

- (a) Lost property.
- (b) Misdemeanor thefts of property, other than firearms or materials that threaten public safety, when there is no suspect information or serial number or ability to trace the item.
  - 1. Misdemeanor thefts of cellular telephones may be reported even though they have a serial number.
- (c) Misdemeanor vandalism with no suspect information and no hate crime implications.
- (d) Vehicle burglaries with no suspect information or evidence.
- (e) Stolen vehicle attempts with no suspect information or evidence.
- (f) Annoying telephone calls with no suspect information.
- (g) Identity theft without an identifiable suspect.
- (h) Online or email fraud solicitations without an identifiable suspect and if the financial loss classifies the crime as a misdemeanor.
- (i) Hit-and-run vehicle collisions with no suspect or suspect vehicle.
- (j) Supplemental property lists.

Members at the scene of one of the above incidents should not refer the reporting party to an alternate means of reporting without authorization from a supervisor. Members may refer victims

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to online victim assistance programs (e.g., Federal Communications Commission (FCC) website for identity theft, Internet Crime Complaint Center (IC3) website for computer crimes).

### **343.3 OPTIONAL REPORTING / CAD DISPOSITIONS**

In March 2015, a report writing process was implemented that no longer requires officers to write on all incidents. This process included the new incident status of "**Case Closed No Report Required.**"

If an incident is given a CAD disposition of: "**Citation**", "**Cleared by Report**", "**Detox**", "**Transport**" or "**Fail to Clear**", the case status will be "**Open**" and a written report is required. The other 12 CAD dispositions will have a case disposition of; "**Case Closed No Report Required.**" An officer may still write a report on an incident with a status of "**Case Closed No Report Required**" if they choose. Once completed, that incident shall have the status changed to "**Supervisor Review.**"

### **343.4 GENERAL POLICY OF EXPEDITIOUS REPORTING**

In general, all employees and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

#### **343.4.1 GENERAL POLICY OF HANDWRITTEN REPORTS**

Some incidents and report forms lend themselves to block print rather than typing. In general, the narrative portion of those reports where an arrest is made or when there is a long narrative should be typed or dictated.

Supervisors may require, with the foregoing general policy in mind, block printing or typing of reports of any nature for Department consistency.

#### **343.4.2 GENERAL USE OF OTHER HANDWRITTEN FORMS**

County, state and federal agency forms may be block printed as appropriate. In general, the form itself may make the requirement for typing apparent.

### **343.5 REPORT CORRECTIONS**

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor shall notify the employee by stating the reasons for rejection. The original report and the corrections needed should be returned to the reporting employee for correction as soon as practicable. This will be done by creating a "task" for the employee in the RMS. It shall be the responsibility of the originating employee to ensure that any report returned for correction is processed in a timely manner.

### **343.6 REPORT CHANGES OR ALTERATIONS**

Reports that have been approved by a supervisor and submitted to the Records Section for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed

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## *Report Preparation*

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reports that have not yet been submitted to the Records Section may be corrected or modified by the authoring employee only with the knowledge and authorization of the reviewing supervisor.

### **343.7 ELECTRONIC SIGNATURES**

The Metro Transit Police Department has established an electronic signature procedure for use by all employees of the Metro Transit Police Department. The Systems Administrator shall be responsible for maintaining the electronic signature system, for ensuring that each employee creates a unique, confidential password for his/her electronic signature and that the use of electronic signatures otherwise complies with the law.

- Employees may only use their electronic signature for official reports or other official communications.
- Each employee shall be responsible for the security and use of his/her electronic signature and shall promptly notify a supervisor if the electronic signature has or may have been compromised or misused.

### **343.8 FIREARM INJURY REPORTING FROM HEALTH PROFESSIONALS**

Members receiving a report from a health professional of a bullet or gunshot wound, powder burns or any other injury arising from, or caused by, the discharge of any gun, pistol or any other firearm shall thoroughly investigate the facts surrounding the incident (Minn. Stat. § 626.52, Subd. 2; Minn. Stat. § 626.553, Subd. 1).

The Records Section shall ensure that the report received from the health professional is forwarded to the commissioner of the Department of Health (Minn. Stat. § 626.53, Subd. 2). If the injury resulted from a hunting incident, the Records Section shall ensure that the findings of the investigation are forwarded to the commissioner of the Department of Natural Resources using the form provided by the commissioner (Minn. Stat. § 626.553, Subd. 1).

## Media Relations

### 345.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

### 345.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police. However, in situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Division Commanders, Shift Supervisors and designated Public Information Officer(s) may prepare and release information to the media in accordance with this policy and the applicable law.

#### 345.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the designated Department media representative, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, employees shall consider the following:

- (a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor or the designated Department media representative.
- (b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.
- (c) Under no circumstance should any member of this department make any comment(s) to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police.

### 345.3 MEDIA ACCESS

Authorized members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions:

- (a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
  - 1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should

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## *Media Relations*

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be coordinated through the department Public Information Officer or other designated spokesperson.

- (c) No member of this department shall be required to submit to media visits or interviews without the consent of the involved employee.
- (d) Media interviews with individuals who are in custody shall not be permitted unless in compliance with a jail facility policy. Exceptions are only permitted with the approval of the Chief of Police and the express written consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Public Information Officer.

### **345.3.1 TEMPORARY FLIGHT RESTRICTIONS**

Whenever the presence of media or other aircraft poses a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Shift Supervisor. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR 91.137).

### **345.3.2 PROVIDING ADVANCE INFORMATION**

To protect the safety and rights of officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception, the Chief of Police will consider, at minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person or is otherwise prohibited by law.

### **345.4 SCOPE OF INFORMATION SUBJECT TO RELEASE**

The Department will maintain a daily information log of significant law enforcement activities that shall be made available, upon request, to media representatives through the Shift Supervisor. This log will consist of data classified as public and should generally contain the following information (Minn. Stat. § 13.82):

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### *Media Relations*

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- (a) The date, time, location, case number, type of crime, extent of injury or loss and names of individuals (except confidential informants) involved in crimes occurring within this jurisdiction, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.
- (b) The date, time, location, case number, name, birth date and charges for each person arrested by this department, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.
- (c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated media representative, the custodian of records, or if unavailable, to the Shift Supervisor. Such requests will generally be processed in accordance with the provisions of the Minnesota Government Data Practices Act (Minn. Stat. § 13.03).

#### 345.4.1 STATE RESTRICTED INFORMATION

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department (see the Records Maintenance and Release Policy and the Personnel Records Policy). When in doubt, authorized and available legal counsel should be obtained.

## Court Appearance and Subpoenas

### 347.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Metro Transit Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

### 347.2 POLICY

Metro Transit Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

### 347.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department or any of its members may do so (Minn. R. Civ. P. 45.02; Minn. R. Crim. P. 22.03).

A court notice from a prosecutor or other government attorney may be served by delivery to the member's workstation or mail box. Members shall check for delivery of such documents during each shift worked.

Subpoenas shall not be accepted in a civil action in which the member or Department is not a party without properly tendered fees pursuant to applicable law (Minn. Stat. § 357.23; Minn. R. Civ. P. 45.03).

### 347.4 FAILURE TO APPEAR

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

### 347.5 STANDBY

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

If a member on standby changes his/her location during the day, the member shall notify the designated department member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

### 347.6 COURTROOM PROTOCOL

When appearing in court, members shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in the department uniform or business attire.

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## *Court Appearance and Subpoenas*

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- (c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

### 347.6.1 TESTIMONY

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with the content in order to be prepared for court.

### **347.7 OVERTIME APPEARANCES**

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with any current collective bargaining agreement .



## Outside Agency Assistance

### 351.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

### 351.2 POLICY

It is the policy of the Metro Transit Police Department to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

### 351.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the Shift Supervisor's office for approval. Any such response to assist an outside agency may be considered for authorization regardless of whether an agreement for reciprocal aid under Minn. Stat. § 626.76, Subd. 1 exists. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this department, the Shift Supervisor may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

Officers may respond to a request for emergency assistance; however, they shall notify a supervisor of their activity as soon as practicable.

Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by this department will not ordinarily be booked by this department. Only in exceptional circumstances, and subject to supervisor approval, will this department provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, a report shall be prepared and submitted by the handling member unless otherwise directed by a supervisor.

#### 351.3.1 AGREEMENTS

The Department may, at the discretion of the Chief of Police, establish an agreement with another law enforcement agency to (Minn. Stat. § 626.76, Subd.1):

- (a) Assist other peace officers in the line of their duty and within the course of their employment.
- (b) Exchange department peace officers with peace officers of another agency on a temporary basis.

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## *Outside Agency Assistance*

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### 351.3.2 INITIATED ACTIVITY

Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Metro Transit Police Department shall notify his/her supervisor or the Shift Supervisor and Transit Control Center as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

### 351.4 REQUESTING OUTSIDE ASSISTANCE

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

### 351.5 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities that are not documented in a crime report shall be documented in a general case report or as directed by the Shift Supervisor.

### 351.6 MANDATORY SHARING

Equipment and supplies purchased with federal funds or grants that require such equipment and supplies be shared with other agencies should be documented and updated as necessary by the Administration Supervisor or the authorized designee.

The documentation should include:

- (a) The conditions relative to sharing.
- (b) The training requirements for:
  - 1. The use of the supplies and equipment.
  - 2. The members trained in the use of the supplies and equipment.
- (c) Any other requirements for use of the equipment and supplies.

Copies of the documentation should be provided to Transit Control Center and the Shift Supervisor to ensure use of the equipment and supplies is in compliance with the applicable sharing agreements.

The Training Manager should maintain documentation that the appropriate members have received the required training.

## Major Incident Notification

### 355.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this department in determining when, how and to whom notification of major incidents should be made.

### 355.2 POLICY

The Metro Transit Police Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

### 355.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides.
- Traffic collisions with fatalities.
- Officer-involved shooting, whether on or off-duty (See Officer-Involved Shooting Policy for special notifications).
- Significant injury or death to an employee, whether on or off-duty.
- Death of a prominent Metropolitan Council / Metro Transit official.
- Arrest of Department employee or prominent Metropolitan Council / Metro Transit official.
- In-custody deaths.
- Any other incident, which has or is likely to attract significant media attention.

### 355.4 SHIFT SUPERVISOR RESPONSIBILITIES

The Shift Supervisor is responsible for making the appropriate notifications. The Shift Supervisor shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Shift Supervisor shall attempt to make the notifications as soon as practicable.

#### 355.4.1 STAFF NOTIFICATION

In the event an incident occurs as identified in the Minimum Criteria for Notification, the Chief of Police shall be notified along with the affected Division supervisor and the Investigation Division supervisor if that division is providing assistance.

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## *Major Incident Notification*

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### 355.4.2 DETECTIVE NOTIFICATION

If the incident requires that an officer or investigator respond from home, the immediate supervisor of the appropriate detail shall be contacted. Detectives may be contacted directly in the event the Investigation Division supervisor is unable to be reached.

### 355.4.3 PATROL SUPERVISOR NOTIFICATION

In the event of a traffic fatality or major injury, the Traffic Reconstruction supervisor shall be notified, who will then contact the appropriate investigator.

### 355.4.4 PUBLIC INFORMATION OFFICER (PIO)

The Public Information Officer (PIO) shall be called after members of staff have been notified that it appears the media may have a significant interest in the incident. The PIO will typically be notified by the Chief of Police or designee.

## Death Investigation

### 357.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers initially respond to and investigate the circumstances of a deceased person.

Some causes of death may not be readily apparent and some cases differ substantially from what they appeared to be initially. The thoroughness of death investigations and the use of appropriate resources and evidence gathering techniques is critical.

### 357.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Emergency Medical Services shall be called in all suspected death cases unless the death is obvious (e.g., decapitated or decomposed). Peace officers are not authorized to pronounce death unless they are also Coroners or deputy coroners.

Metro Transit Police Department officers responding to or encountering a death scene shall promptly notify their Shift Supervisor. The Shift Supervisor shall ensure that a supervisor from the local agency with jurisdiction over the case is also notified.

#### 357.2.1 MEDICAL EXAMINER REQUEST

The Medical Examiner shall be called in all sudden or unexpected deaths or deaths due to other than natural causes, including, but not limited to (Minn. Stat. § 390.11):

- (a) Unnatural deaths, including violent deaths arising from homicide, suicide or accident.
- (b) Deaths due to a fire or associated with burns or chemical, electrical or radiation injury.
- (c) Unexplained or unexpected perinatal and postpartum maternal deaths.
- (d) Deaths under suspicious, unusual or unexpected circumstances.
- (e) Deaths of persons whose bodies are to be cremated or otherwise disposed of so that the bodies will later be unavailable for examination.
- (f) Deaths of inmates of public institutions and persons in custody of law enforcement officers who have not been hospitalized primarily for organic disease.
- (g) Deaths that occur during, in association with or as the result of diagnostic, therapeutic or anesthetic procedures.
- (h) Deaths due to culpable neglect.
- (i) Stillbirths of 20 weeks or longer gestation unattended by a physician.
- (j) Sudden deaths of persons not affected by recognizable disease.
- (k) Unexpected deaths of persons notwithstanding a history of underlying disease.

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## *Death Investigation*

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- (l) Deaths in which a fracture of a major bone, such as a femur, humerus or tibia, has occurred within the past six months.
- (m) Deaths unattended by a physician occurring outside of a licensed health care facility or licensed residential hospice program.
- (n) Deaths of persons not seen by their physician within 120 days of demise.
- (o) Deaths of persons occurring in an emergency department.
- (p) Stillbirths or deaths of newborn infants in which there has been maternal use of or exposure to unprescribed controlled substances, including street drugs, or in which there is a history or evidence of maternal trauma.
- (q) Unexpected deaths of children.
- (r) Solid organ donors.
- (s) Unidentified bodies.
- (t) Skeletonized remains.
- (u) Unexpected deaths occurring within 24 hours of arrival at a health care facility.
- (v) Deaths associated with the decedent's employment.
- (w) Deaths of non-registered hospice patients or patients in non-licensed hospice programs.
- (x) Deaths attributable to acts of terrorism.

### 357.2.2 SEARCHING DEAD BODIES

The Medical Examiner or his/her assistants and authorized investigators are generally the only persons permitted to move, handle or search a dead body (Minn. Stat. § 390.221).

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

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

The Medical Examiner is required to release property or articles to law enforcement that are necessary for conducting an investigation unless reasonable basis exists pursuant to Minn. Stat. § 390.225 Subd. 2 to not release the property or articles (Minn. Stat. § 390.221).

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

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

#### 357.2.3 DEATH NOTIFICATION

When practicable, and if not handled by the Medical Examiner, notification to the next-of-kin of the deceased person shall be made, in person, by the Chief of Police or designee. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction may be requested to make the personal notification. If the relatives live outside the Metro Transit Police Department's jurisdiction, the Medical Examiner may be requested to make the notification. The Medical Examiner needs to know if notification has been made. Assigned investigators may need to talk to the next-of-kin.

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

This department shall immediately notify the state fire marshal when a human death results from a fire, (Minn. Stat. § 299F.04 Subd. 5 (b)).

#### 357.2.4 UNIDENTIFIED DEAD BODIES

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

#### 357.2.5 UNIDENTIFIED BODIES DATA ENTRY

As soon as reasonably possible, but no later than 30 working days after the date a death is reported to the Department, any information or items pertaining to identifying features of the unidentified body, dental records, fingerprints, any unusual physical characteristics, description of clothing or personal belongings found on or with the body, that are in the possession of MTPD shall be forwarded to the Medical Examiner for transmission to the BCA for eventual entry into systems designed to assist in the identification process, such as the Missing Children and Missing Persons Information Clearinghouse and the National Crime Information Center (NCIC) files (Minn. Stat. § 390.25 Subd. 2 (a)).

#### 357.2.6 DEATH INVESTIGATION REPORTING

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

#### 357.2.7 SUSPECTED HOMICIDE

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the officer shall take steps to protect the scene and the Investigation Division shall be notified to determine the possible need for an investigator to respond to the scene for further immediate investigation.

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If the on-scene supervisor, through consultation with the Shift Supervisor or Investigation Division supervisor, is unable to determine the manner of death, the investigation shall proceed as though it is a homicide.

The investigator of a homicide or suspicious-circumstances death may, with the approval of his/her supervisor, request the Medical Examiner to conduct physical examinations and tests and provide a report with the costs borne by the Department (Minn. Stat. § 390.251).

#### **357.2.8 EMPLOYMENT RELATED DEATHS OR INJURIES**

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



## Identity Theft

### 359.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

### 359.2 REPORTING

- (a) Officers will take a report even if the location of the crime is outside the jurisdiction of this department or has not been determined.
- (b) Officers will provide the victim with department information, as set forth in the Victim and Witness Assistance Policy.
- (c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application).
- (d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and the Department of Public Safety's Driver and Vehicle Services Division) with all known report numbers.
- (e) Following supervisory review and Department processing, the initial report should be forwarded to the appropriate investigator for follow-up investigation, coordination with other agencies and prosecution as circumstances dictate.

### 359.3 NCIC ENTRY

Before an entry can be made into the NCIC Identity Theft file, a police report must be on file at MTPD. The following criteria must also be met:

- 1. Someone is using a means of identification of the victim.
- 2. The identity of the victim is being used without the permission of the victim.
- 3. The victim's identity is being used or intended to be used to commit an unlawful activity.
- 4. The victim must sign a consent waiver prior to the information being entered in the NCIC Identity Theft file.
- 5. Information on deceased persons may be entered into the file if it is deemed by an MTPD officer that the victim's information has been stolen. No consent form is required with the entry of a deceased person's information.
- 6. If the Identity Theft file is going to contain the victim's Social Security Number, the MTPD officer is required to inform the individual of this fact and they must sign the "Notice about Providing Your Social Security" form.
- 7. Images may be entered into the NCIC record.

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### **359.4 PREVENTATIVE MEASURES**

The victim should be advised to place a security freeze on his/her consumer report as allowed by law (Minn. Stat. § 13C.016 Subd. 2). A victim may also access the Minnesota Attorney General's office for additional detailed information.

### **359.5 VICTIM DATA**

The victim may be provided the Consent to Create an FBI Identity Theft File Form and a Notice About Providing Your Social Security Number. These completed forms should be submitted to the Records Section for appropriate filing and entry into the NCIC Identity Theft File. Forms and details are available on the Bureau of Criminal Apprehension identity theft website.

### **359.6 INFORMATION**

The victim should also be encouraged to contact the Federal Trade Commission (FTC), which is responsible for receiving and processing complaints under the Identity Theft and Assumption Deterrence Act. The victim can contact the FTC online or by telephone. Additional information may be found at the U.S. Department of Justice (USDOJ) website.

## Private Persons Arrests

### 361.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Minn. Stat. § 629.30 Subd. 2 (4).

### 361.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

All officers shall advise civilians of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all situations, officers should use sound discretion in determining whether to advise an individual of the arrest process.

- (a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest, as listed below.
- (b) Private individuals should be discouraged from using force to effect a private person's arrest. Absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.
- (c) Private individuals shall be informed of the requirement to take the arrested person before a judge or to a peace officer without unnecessary delay (Minn. Stat. § 629.39).

### 361.3 ARRESTS BY PRIVATE PERSONS

A private person may arrest another under the following circumstances (Minn. Stat. § 629.37):

- (a) For a public offense committed or attempted in his/her presence.
- (b) When the person arrested has committed a felony, although not in his/her presence.
- (c) When a felony has been committed and he/she has reasonable cause for believing the person to be arrested committed the felony.
- (d) When directed by a judge or a peace officer to arrest another person (Minn. Stat. § 629.403).

### 361.4 OFFICER RESPONSIBILITIES

Any officer presented with a private person wishing to make an arrest must determine whether there is reasonable cause to believe that such an arrest would be lawful.

- (a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.

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1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual. The officer must include the basis of such a determination in a related report.
  2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.
- (b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:
1. Take the individual into physical custody for booking.
  2. Release the individual upon a misdemeanor citation or pending formal charges.

### **361.5 REPORTING REQUIREMENTS**

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a Department Citizen's Arrest Form. If the person fails or refuses to do so the arrest subject shall be released unless the officer has an independent reason to take the person into custody.

In addition to the Citizen's Arrest Form (and any other related documents, such as citations and booking forms), officers shall complete a narrative report regarding the circumstances and disposition of the incident.

## Limited English Proficiency Services

### 365.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

#### 365.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

**Interpret or interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

**Limited English proficient (LEP)** - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations. This includes individuals who, because of difficulty in speaking or comprehending the English language, cannot fully understand any charges made against them, the seizure of their property, or they are incapable of presenting or assisting in the presentation of a defense (Minn. Stat. § 611.31).

**Qualified bilingual member** - A member of the Metro Transit Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

**Translate or translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

### 365.2 POLICY

It is the policy of the Metro Transit Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

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### **365.3 LEP COORDINATOR**

The Chief of Police shall delegate certain responsibilities to an LEP Coordinator. The LEP Coordinator shall be appointed by, and directly responsible to, the Patrol Division Commander or the authorized designee.

The responsibilities of the LEP Coordinator include, but are not limited to:

- (a) Coordinating and implementing all aspects of the Metro Transit Police Department's LEP services to LEP individuals.
- (b) Developing procedures that will enable members to access LEP services, including telephonic interpreters, and ensuring the procedures are available to all members.
- (c) Ensuring that a list of all qualified bilingual members and authorized interpreters is maintained and available to each Shift Supervisor and Communications Supervisor. The list should include information regarding the following:
  1. Languages spoken
  2. Contact information
  3. Availability
- (d) Ensuring signage stating that interpreters are available free of charge to LEP individuals is posted in appropriate areas and in the most commonly spoken languages.
- (e) Reviewing existing and newly developed documents to determine which are vital documents and should be translated, and into which languages the documents should be translated.
- (f) Annually assessing demographic data and other resources, including contracted language services utilization data and community-based organizations, to determine if there are additional documents or languages that are appropriate for translation.
- (g) Identifying standards and assessments to be used by the Department to qualify individuals as qualified bilingual members or authorized interpreters.
- (h) Periodically reviewing efforts of the Department in providing meaningful access to LEP individuals, and, as appropriate, developing reports, new procedures or recommending modifications to this policy.
- (i) Receiving and responding to complaints regarding department LEP services.
- (j) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

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### **365.4 FOUR-FACTOR ANALYSIS**

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

### **365.5 TYPES OF LEP ASSISTANCE AVAILABLE**

Metro Transit Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

### **365.6 WRITTEN FORMS AND GUIDELINES**

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP Coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

### **365.7 AUDIO RECORDINGS**

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

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### **365.8 QUALIFIED BILINGUAL MEMBERS**

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

When a qualified bilingual member from this department is not available, personnel from other Metropolitan Area departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

### **365.9 AUTHORIZED INTERPRETERS**

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the LEP Coordinator which demonstrates that their skills and abilities include:

- (a) The competence and ability to communicate information accurately in both English and in the target language.
- (b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.
- (c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (d) Knowledge of the ethical issues involved when acting as a language conduit.

#### **365.9.1 SOURCES OF AUTHORIZED INTERPRETERS**

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

The Metro Transit Police Department currently contracts with Betmar Languages for communicating with LEP individuals. Betmar Languages may be utilized with the permission of a supervisor and can be contacted at (763) 572-9711 or via their website at: [www.betmar.com](http://www.betmar.com)



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Metro Transit Police supervisors also have access to RTT Mobile Interpretation which is capable of providing on-demand LEP services through a proprietary device called ELSA (Enabling Language Services Anywhere). Contact a supervisor for assistance with this technology. [www.rttmobile.com](http://www.rttmobile.com)

Other sources may include:

- Qualified bilingual members of this department or personnel from other Metropolitan Council / Metro Transit departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

### **365.9.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE**

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

### **365.10 CONTACT AND REPORTING**

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

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### **365.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

The Metro Transit Police Department will take reasonable steps and will work with the Department of Human Resources to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

#### **365.11.1 EMERGENCY CALLS TO 9-1-1**

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in Transit Control Center, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

### **365.12 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

### **365.13 INVESTIGATIVE FIELD INTERVIEWS**

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and

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suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

### **365.14 CUSTODIAL INTERROGATIONS**

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

#### **365.14.1 OTHER TIMING AND NOTIFICATION MANDATES**

The investigating or arresting officer shall immediately make necessary contacts to get an authorized interpreter for an in-custody LEP person at the earliest possible time in order to assist the person throughout the interrogation or taking of a statement. This applies even when the interrogation will be conducted by a bilingual member (Minn. Stat. § 611.32).

The following shall be explained to the LEP person with the assistance of the authorized interpreter (Minn. Stat. § 611.32):

- (a) All charges filed against the person
- (b) All procedures relating to the person's detainment and release
- (c) In the case of any seizure under the provisions of the Asset Forfeiture Policy:
  1. The possible consequences of the seizure
  2. The person's right to judicial review

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### 365.14.2 OATH

Every authorized interpreter shall be administered and take the following oath prior to assisting in taking a statement related to a criminal matter from an in-custody LEP person (Min. Stat. § 611.33):

"I will make, to the best of my skill and judgment, a true interpretation to the disabled person being examined of all the proceedings, in a language which said person understands, and to repeat the statements, in the English language, of said person to the officials before whom the proceeding is taking place."

### **365.15 BOOKINGS**

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

### **365.16 COMPLAINTS**

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the LEP Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

### **365.17 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

### **365.18 TRAINING**

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

The Training Coordinator shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least

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once every two years thereafter. The Training Manager shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

### 365.18.1 TRAINING FOR AUTHORIZED INTERPRETERS

All members on the authorized interpreter list must successfully complete prescribed interpreter training. To complete interpreter training successfully, an interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language, demonstrate knowledge in both languages of any specialized terms or phraseology, and understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

Members on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Training Manager shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.

# Communications with Persons with Disabilities

## 367.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

### 367.1.1 DEFINITIONS

Definitions related to this policy include:

**Auxiliary aids** - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

**Disability or impairment** - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102). This includes those who, because of a hearing, speech or other communication disorder, cannot fully understand any charges made against them, the seizure of their property or they are incapable of presenting or assisting in the presentation of a defense (Minn. Stat. § 611.31).

**Qualified Interpreter** - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, transliterators, sign language interpreters and intermediary interpreters.

## 367.2 POLICY

It is the policy of the Metro Transit Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

## 367.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be appointed by and directly responsible to the Patrol Division Commander or the authorized designee.

The responsibilities of the ADA Coordinator shall include, but not be limited to:

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- (a) Working with the Metropolitan Council / Metro Transit ADA coordinator regarding the Metro Transit Police Department's efforts to ensure equal access to services, programs and activities.
- (b) Developing reports, new procedures, or recommending modifications to this policy.
- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.
- (d) Ensuring that a list of qualified interpreter services is maintained and available to each Shift Supervisor and Communications Supervisor. The list should include information regarding the following:
  - 1. Contact information
  - 2. Availability
  - 3. Type of services provided
- (e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- (f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.
- (g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

### **367.4 FACTORS TO CONSIDER**

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

- (a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.
- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).

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- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However in an emergency availability may factor into the type of aid used.

### **367.5 INITIAL AND IMMEDIATE CONSIDERATIONS**

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

Members should exercise special care in the use of all gestures and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation when a member knows or suspects an individual requires assistance to effectively communicate the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include for example exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Metro Transit Police Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

### **367.6 TYPES OF ASSISTANCE AVAILABLE**

Metro Transit Police Department members shall never refuse to assist an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.



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A person who is disabled may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

### **367.7 AUDIO RECORDINGS AND ENLARGED PRINT**

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

### **367.8 QUALIFIED INTERPRETERS**

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or the investigation. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available by some means, even remotely, within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

### **367.9 TTY AND RELAY SERVICES**

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time as needed for effective communication due to the slower nature of TTY and TDD communications.

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The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

### **367.10 COMMUNITY VOLUNTEERS**

Interpreter services may be available from community volunteers who have demonstrated competence in communication services such as ASL or SE, and have been approved by the Department to provide interpreter services.

Where qualified interpreters are unavailable to assist approved community volunteers who have demonstrated competence may be called upon when appropriate. However department members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

### **367.11 FAMILY AND FRIENDS**

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

### **367.12 REPORTING**

Whenever any member of this department is required to complete a report or other documentation and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

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### **367.13 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Department recognizes it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

#### **367.13.1 FIELD RESOURCES**

Examples of methods that may be sufficient for transactions such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress may, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.
- (d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.
- (e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

### **367.14 CUSTODIAL INTERROGATIONS**

In an effort to ensure the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist. The use of a video

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remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

To ensure that communications during custodial investigations are accurately documented and are admissible as evidence, as with all custodial interviews, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

### 367.14.1 OTHER TIMING AND NOTIFICATION MANDATES

The investigating or arresting officer shall immediately make necessary contacts to get a qualified interpreter for a person in custody at the earliest possible time (Minn. Stat. § 611.32).

The following shall be explained with the assistance of the qualified interpreter (Minn. Stat. § 611.32):

- (a) All charges filed against the person
- (b) All procedures relating to the person's detainment and release
- (c) In the case of any seizure under the Asset Forfeiture Policy:
  - 1. The possible consequences of the seizure
  - 2. The person's right to judicial review

### 367.14.2 OATH

Every qualified interpreter shall be administered and take the following oath prior to assisting in taking a statement related to a criminal matter from an in-custody deaf or hard of hearing person (Minn. Stat. § 611.33):

"I will make, to the best of my skill and judgment, a true interpretation to the disabled person being examined of all the proceedings, in a language which said person understands, and to repeat the statements, in the English language, of said person to the officials before whom the proceeding is taking place."

## **367.15 ARRESTS AND BOOKINGS**

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If

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necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

### **367.16 COMPLAINTS**

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the department ADA Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department.

### **367.17 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

### **367.18 TRAINING**

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

- (a) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (b) Procedures for accessing qualified interpreters and other available resources.
- (c) Working with in-person and telephone interpreters and related equipment.

The Training Coordinator shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Training Coordinator shall maintain records of all training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

#### **367.18.1 CALL-TAKER TRAINING**

Emergency call-takers shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, hard of hearing or who have speech impairments. Such training and information should include:

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- (a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.
- (b) ASL syntax and accepted abbreviations.
- (c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls, using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.
- (d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Training should be mandatory for all Transit Control Center members who may have contact with individuals from the public who are deaf, hard of hearing or have impaired speech. Refresher training should occur every six months.

## Pupil Arrest Reporting

### **370.1 PURPOSE AND SCOPE**

The purpose of this policy is to describe the procedures to follow when a pupil is arrested on school grounds and during school hours.

### **370.2 PUPIL ARREST REPORTING**

In the event a school pupil is arrested, the arresting officer shall include the necessary information in the report to ensure that the Records Division notifies the chief administrative officer of the school, or an appropriate designee, of the pupil's arrest.

If there is probable cause to believe an incident involved alcohol or a controlled substance, the arresting officer shall complete the appropriate form and submit the form with the report to the Records Division. The Records Division shall ensure the form is distributed to the chemical abuse pre-assessment team of the school within two weeks of the occurrence (Minn. Stat. § 121A.28).

Arrest reporting may involve the officer, Investigative Division and/or the local agency having jurisdiction over the case.

#### **370.2.1 PUPIL ARREST AFTER NOTIFICATION**

Based upon the circumstances of the investigation, it may be appropriate to notify the school prior to the arrest. Prior notification and assistance from the school, may reduce disruption to school operations and other students.

#### **370.2.2 PUPIL ARREST BEFORE NOTIFICATION**

Based upon the circumstances of the investigation, it may be appropriate to arrest the pupil before notifying the school. This may be appropriate if the pupil is a flight risk, if prior notification will impede the investigation or if notification creates additional risks to students, faculty, the officer or the public.

Proper notification to the school after the pupil's arrest should then be made when circumstances reasonably allow.

#### **370.2.3 PARENTAL NOTIFICATION**

Upon arrest, it is the arresting officer's responsibility to ensure the parents of the arrested pupil are properly notified. Notification shall be made by the officer, regardless of subsequent notifications by the juvenile detention facility. Notifications should be documented and include the charges against the pupil and where the pupil will be taken.

## Biological Samples

### 371.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples collected from those required to register, for example, as sex offenders.

### 371.2 POLICY

The Metro Transit Police Department will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

### 371.3 PERSONS SUBJECT TO BIOLOGICAL SAMPLE COLLECTION

The following persons must submit a biological sample:

- (a) Adults who are subject to a court order requiring a biological sample after sentencing (Minn. Stat. § 609.117).
- (b) Juveniles who are subject to a court order requiring a biological sample after being adjudicated delinquent (Minn. Stat. § 609.117).

### 371.4 PROCEDURE

When an individual is required to provide a biological sample, a qualified employee shall attempt to obtain the sample in accordance with this policy.

#### 371.4.1 COLLECTION

The following steps should be taken to collect a sample:

- (a) Verify that the individual is required to provide a sample pursuant to Minn. Stat. § 609.117.
- (b) Verify that a biological sample has not been previously collected from the offender by querying the person's criminal history. There is no need to obtain a biological sample if one has been previously obtained.
- (c) Use the designated collection kit provided by the Minnesota Bureau of Criminal Apprehension to perform the collection and take steps to avoid cross contamination.

### 371.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order or approval



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of legal counsel and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

- (a) The person's parole or probation officer when applicable.
- (b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.
- (c) The judge at the person's next court appearance.
- (d) The person's attorney.
- (e) A chaplain.
- (f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.
- (g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

#### 371.5.1 VIDEO RECORDING

A video recording should be made any time force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department's records retention schedule.

## Public Safety Video Surveillance System

### 375.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of department public safety video surveillance, as well as the storage and release of the captured images.

This policy only applies to overt, marked public safety video surveillance systems operated by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image capturing devices used by the Department.

### 375.2 POLICY

The Metro Transit Police Department operates a public safety video surveillance system to complement its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public areas. Cameras may be placed in strategic locations throughout the Metropolitan Council / Metro Transit service area to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist Metropolitan Council / Metro Transit officials in providing services to the community.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

### 375.3 VIDEO SURVEILLANCE AUDIT

The Chief of Police or the authorized designee will conduct an annual review of the public safety video surveillance system. The review should include an analysis of the cost, benefit and effectiveness of the system, including any public safety issues that were effectively addressed or any significant prosecutions that resulted, and any systemic operational or administrative issues that were identified, including those related to training, discipline or policy.

The results of each review shall be appropriately documented and maintained by the Chief of Police or the authorized designee and other applicable advisory bodies. Any recommendations for training or policy should be promptly addressed.

### 375.4 TRAINING

All department members authorized to operate or access public video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, interaction with dispatch and patrol operations and a review regarding relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

### 375.5 OPERATIONAL GUIDELINES

Only department-approved video surveillance equipment shall be utilized. Members authorized to monitor video surveillance equipment should only monitor public areas and public activities where

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no reasonable expectation of privacy exists. The Chief of Police or the authorized designee shall approve all proposed locations for the use of video surveillance technology and should consult with and be guided by legal counsel as necessary in making such determinations.

#### 375.5.1 INTEGRATION WITH OTHER TECHNOLOGY

The Department may elect to integrate its public safety video surveillance system with other technology to enhance available information. Systems such as gunshot detection, incident mapping, crime analysis, license plate recognition, facial recognition and other video-based analytical systems may be considered based upon availability and the nature of department strategy.

The Department should evaluate the availability and propriety of networking or otherwise collaborating with appropriate private sector entities and should evaluate whether the use of certain camera systems, such as pan-tilt-zoom systems and video enhancement or other analytical technology, requires additional safeguards.

#### 375.5.2 CAMERA MARKINGS

All public areas monitored by public safety surveillance equipment shall be marked in a conspicuous manner with appropriate signs to inform the public that the area is under police surveillance. Signs should be well lit, placed appropriately and without obstruction to ensure visibility.

#### 375.5.3 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected Metropolitan Council / Metro Transit divisions and designated community groups when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high-value or high-threat areas. The public safety video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To target identified areas of gang and narcotics complaints or activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.
- (e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- (f) To augment resources in a cost-effective manner.
- (g) To monitor pedestrian and vehicle traffic activity.

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Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera. Images may be transmitted to monitors installed in the Shift Supervisor's office and Transit Control Center. When activity warranting further investigation is reported or detected at any camera location, the available information should be provided to responding officers in a timely manner. The Shift Supervisor or trained Transit Control Center personnel are authorized to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose. The system will not be used where there is a reasonable expectation of privacy.

The Chief of Police may authorize video feeds from the public safety video surveillance system to be forwarded to a specified location for monitoring by other than police personnel, such as allied government agencies, road or traffic crews, or fire or emergency operations personnel.

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited. Misuse of this system may lead to the loss of access, criminal charges, and/or civil penalties.

### **375.6 STORAGE AND RETENTION OF MEDIA**

All downloaded media shall be stored in a secure area with access restricted to authorized persons. A recording needed as evidence shall be copied to a suitable medium and booked into evidence in accordance with established evidence procedures. All actions taken with respect to retention of media shall be appropriately documented.

The type of video surveillance technology employed and the manner in which recordings are used and stored will affect retention periods. The recordings should be stored and retained in accordance with the established records retention schedule.

#### **375.6.1 EVIDENTIARY INTEGRITY**

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

### **375.7 VIDEO SUPERVISION**

Supervisors should monitor video surveillance access and usage to ensure members are within department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

#### **375.7.1 PROHIBITED ACTIVITY**

Public safety video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Public safety video surveillance equipment shall not be used in an unequal or discriminatory manner and shall not target individuals or groups based solely on actual or perceived

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characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.

Video surveillance equipment shall not be used to harass, intimidate, or discriminate against any individual or group.

### **375.7.2 VIDEO LOG**

A log should be maintained at all locations where video surveillance monitors are located. The log should be used to document all persons not assigned to the monitoring locations who have been given access to view or monitor images provided by the video surveillance cameras. The logs should, at a minimum, record the:

- (a) Date and time access was given.
- (b) Name and agency of the person being given access to the images.
- (c) Name of person authorizing access.
- (d) Identifiable portion of images viewed.

### **375.8 RELEASE OF VIDEO IMAGES**

All recorded video images gathered by the public safety video surveillance equipment are for the official use of the Metro Transit Police Department and are classified as law enforcement data under Minn. Stat. § 13.82.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records under the Minnesota Government Data Practices Act. Except as required by a statute, court order or other lawful process consistent with the provisions of Minn. Stat. § 13.82, video images requested under the Minnesota Government Data Practices Act will generally not be disclosed to the public when such video images are evidence in an ongoing criminal investigation in which a disposition has not been reached.

Requests for recorded images from other law enforcement agencies shall be referred to the Shift Supervisor for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

## Child and Dependent Adult Safety

### 377.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department.

This policy does not address the actions to be taken during the course of a child abuse or vulnerable adult investigation. These are covered in the Child Abuse and Adult Abuse.

### 377.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when a parent or caregiver is arrested. The Metro Transit Police Department will endeavor to create a strong cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

### 377.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken:

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be nonproductive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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### 377.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
  - 1. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.
- (b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
  - 1. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify the county social services agency, if appropriate.
- (e) Notify the field supervisor or Shift Supervisor of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

### 377.3.2 DURING THE BOOKING PROCESS

During the booking process, the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law.

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### *Child and Dependent Adult Safety*

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If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

#### 377.3.3 REPORTING

- (a) For all arrests where children are present or living in the household, the reporting employee will document the following information:
  - 1. Name
  - 2. Sex
  - 3. Age
  - 4. Special needs (e.g., medical, mental health)
  - 5. How, where and with whom or which agency the child was placed
  - 6. Identities and contact information for other potential caregivers
  - 7. Notifications made to other adults (e.g., schools, relatives)
- (b) For all arrests where dependent adults are present or living in the household, the reporting employee should document the following information about the dependent adult:
  - 1. Name
  - 2. Sex
  - 3. Age
  - 4. Whether he/she reasonably appears able to care for him/herself
  - 5. Disposition or placement information if he/she is unable to care for him/herself

#### 377.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

#### **377.4 DEPENDENT WELFARE SERVICES**

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service entity to determine whether protective custody is appropriate (Minn. Stat. § 260C.007; Minn. Stat. § 260C.175 ).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car or taken into formal protective custody.



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## *Child and Dependent Adult Safety*

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Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

### **377.5 TRAINING**

The Training Coordinator is responsible to ensure that all personnel of this department who may be involved in arrests affecting children or dependent adults receive approved training on effective safety measures when a parent, guardian or caregiver is arrested.

## Service Animals

### 379.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Metro Transit Police Department recognizes this need and is committed to making reasonable modifications to its policies, practices and procedures in accordance with Title II of the Americans with Disabilities Act (ADA) to permit the use of service animals that are individually trained to assist a person with a disability.

#### 379.1.1 DEFINITIONS

Definitions related to this policy include:

**Service animal** - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

### 379.2 POLICY

It is the policy of the Metro Transit Police Department to provide services and access to persons with service animals in the same manner as those without service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

### 379.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar. Service animals are not pets and may be trained by an individual or organization to assist people with disabilities.

Examples of the ways service animals may be used to provide assistance include:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.

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## *Service Animals*

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- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

### **379.4 MEMBER RESPONSIBILITIES**

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the Metro Transit Police Department affords to all members of the public (see generally Minn. Stat. § 256C.02; Minn. Stat. § 363A.19).

#### **379.4.1 REMOVAL**

If an animal exhibits vicious behavior, poses a direct threat to the health of others or unreasonably disrupts or interferes with normal business operations, an officer may direct the owner to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the animal. Each incident must be considered individually. Past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services as are reasonably available to an individual with the disability.

#### **379.4.2 INQUIRY**

If it is apparent or if an officer is aware the animal is a service animal, the owner should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the officer should ask the individual only the following questions:

- Is the animal required because of a disability?
- What task or service has the animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal, and no further question as to the animal's status should be asked. The person should not be questioned about his/her disabilities nor should the person be asked to provide any license, certification or identification card for the service animal.

#### **379.4.3 CONTACT**

Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

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## *Service Animals*

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### 379.4.4 COMPLAINTS

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their owner into all areas that other customers or members of the public are allowed.

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice or the Minnesota Department of Human Rights.

# Native American Graves Protection and Repatriation

## 383.1 PURPOSE AND SCOPE

This policy is intended ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

### 383.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

**Funerary objects and associated funerary objects** - Objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains, or that were made exclusively for burial purposes or to contain human remains.

**Native American human remains** - The physical remains of the body of a person of Native American ancestry.

**Objects of cultural patrimony** - Objects having ongoing historical, traditional or cultural importance that is central to the Native American group or culture itself and therefore cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

**Sacred objects** - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

## 383.2 POLICY

It is the policy of the Metro Transit Police Department that the protection of Native American human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption or complicated custody transfer processes.

## 383.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene, other than scene preservation activity, must cease (43 CFR 10.4).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

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## *Native American Graves Protection and Repatriation*

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Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.4):

- Federal land - Appropriate agency at the U.S. Department of the Interior.
- State land - State archaeologist (Minn. Stat. § 307.08, Subd. 7)
- Tribal land - Responsible Indian tribal official.

### **383.4 EVIDENCE AND PROPERTY**

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.6).

### **383.5 BURIAL GROUNDS**

All human burials, human remains and human burial grounds shall be afforded equal treatment and respect for human dignity, regardless of ethnic origins, cultural backgrounds or religious affiliations (Minn. Stat. § 307.08, Subd. 1).

This department shall cooperate with other government agencies, the Minnesota Office of the State Archaeologist and the Minnesota Indian Affairs Council to carry out any provisions of state law (Minn. Stat. § 307.08, Subd. 9).

## Off-Duty Law Enforcement Actions

### 385.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place an officer as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for officers of the Metro Transit Police Department with respect to taking law enforcement action while off-duty.

### 385.2 POLICY

Officers generally should not initiate law enforcement action while off-duty. Officers should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

When the safety of the public or the prevention of major property damage requires immediate action, officers should first consider reporting and monitoring the activity and only take direct action as a last resort.

Officers are not expected to place themselves in unreasonable peril. However, any licensed member of this department who becomes aware of an incident or circumstance that the member reasonably believes would justify the use of deadly force or result in significant property damage may take reasonable action to minimize or eliminate the threat. See the Use of Force Policy for additional guidance.

### 385.3 FIREARMS

Officers of this department may carry firearms while off-duty in accordance with federal regulations, state law and department policy. All firearms and ammunition must meet guidelines as described in the Firearms Policy. When carrying firearms while off-duty, officers shall also carry their department-issued badge and identification.

Officers should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the officer's senses or judgment.

### 385.4 DECISION TO INTERVENE

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable and should take into consideration:

- (a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.
- (b) The inability to communicate with responding units.

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## *Off-Duty Law Enforcement Actions*

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- (c) The lack of equipment, such as handcuffs, Oleoresin Capsicum (OC) spray or a baton.
- (d) The lack of cover.
- (e) The potential for increased risk to bystanders if the off-duty officer were to intervene.
- (f) Unfamiliarity with the surroundings.
- (g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive and gather as much accurate intelligence as possible instead of immediately intervening.

### **385.4.1 INTERVENTION PROCEDURE**

If involvement is reasonably necessary, the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The operator should be informed that an off-duty officer is on-scene and should be provided a description of the officer if reasonably possible.

Whenever reasonably practicable, the officer should loudly and repeatedly identify him/herself as an Metro Transit Police Department officer until acknowledged. Official identification should also be displayed.

### **385.4.2 INCIDENTS OF PERSONAL INTEREST**

Officers should refrain from handling incidents of personal interest (e.g., family or neighbor disputes) and should remain neutral. In such circumstances, officers should call the responsible agency to handle the matter.

### **385.4.3 CIVILIAN RESPONSIBILITIES**

Civilian personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and reasonably practicable.

### **385.4.4 OTHER CONSIDERATIONS**

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she needs to maintain an undercover capability.

## **385.5 REPORTING**

Any officer, prior to taking any off-duty law enforcement action, shall notify and receive approval of an Metro Transit Police Department supervisor (or other applicable enforcement authority if acting outside the jurisdiction of the Metro Transit Police Department). The Shift Supervisor shall determine whether a report should be filed by the employee.

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.



## Department Use of Social Media

### 386.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Department is consistent with the department mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by department members (see the Employee Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this department (see the Investigation and Prosecution Policy).

#### 386.1.1 DEFINITIONS

Definitions related to this policy include:

**Social media** - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the department website or social networking services.

### 386.2 POLICY

The Metro Transit Police Department may use social media as a method of effectively informing the public about department services, issues, investigations and other relevant events.

Department members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

### 386.3 AUTHORIZED USERS

Only members authorized by the Chief of Police or the authorized designee may utilize social media on behalf of the Department. Authorized members shall use only department-approved equipment during the normal course of duties to post and monitor department-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief of Police may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a supervisor prior to posting.

Requests to post information over department social media by members who are not authorized to post should be made through the member's chain of command.

### 386.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the department mission and conforms to all department policies regarding the release of information may be posted.

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## *Department Use of Social Media*

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Examples of appropriate content include:

- (a) Announcements.
- (b) Tips and information related to crime prevention.
- (c) Investigative requests for information.
- (d) Requests that ask the community to engage in projects that are relevant to the department mission.
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.
- (f) Traffic information.
- (g) Press releases.
- (h) Recruitment of personnel.

### **386.4.1 INCIDENT-SPECIFIC USE**

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Public Information Officer or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Commander.

### **386.5 PROHIBITED CONTENT**

Content that is prohibited from posting includes, but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
- (c) Any information that could compromise an ongoing investigation.
- (d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Metro Transit Police Department or its members.
- (e) Any information that could compromise the safety and security of department operations, members of the Department, victims, suspects or the public.
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy or a supervisor.

Any member who becomes aware of content on this Department's social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

#### **386.5.1 PUBLIC POSTING PROHIBITED**

Department social media sites shall be designed and maintained to prevent posting of content by the public.

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## *Department Use of Social Media*

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The Department may provide a method for members of the public to contact department members directly.

### **386.6 MONITORING CONTENT**

The Chief of Police will appoint a supervisor to review, at least annually, the use of department social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

### **386.7 RETENTION OF RECORDS**

The Administration Division Commander should work with the Custodian of Records to establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules.

### **386.8 TRAINING**

Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on department sites.

## Community Relations

### 387.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for community relationship-building.

Additional guidance on community relations and outreach is provided in other policies, including the:

- Hate or Prejudice Crimes Policy.
- Limited English Proficiency Services Policy.
- Communications with Persons with Disabilities Policy.
- Patrol Function Policy.
- Suspicious Activity Reporting Policy.

### 387.2 POLICY

It is the policy of the Metro Transit Police Department to promote positive relationships between department members and the community by treating community members with dignity and respect and engaging them in public safety strategy development and relationship-building activities, and by making relevant policy and operations information available to the community in a transparent manner.

### 387.3 MEMBER RESPONSIBILITIES

Officers should, as time and circumstances reasonably permit:

- (a) Make casual and consensual contacts with community members to promote positive community relationships (see the Detentions and Photographing Detainees Policy).
- (b) Become reasonably familiar with the schools, businesses and community groups in their assigned jurisdictional areas.
- (c) Work with community members and the department community relations coordinator to identify issues and solve problems related to community relations and public safety.
- (d) Conduct periodic foot patrols of their assigned areas to facilitate interaction with community members. Officers carrying out foot patrols should notify an appropriate supervisor or Transit Control Center of their status (i.e., on foot patrol) and location before beginning and upon completion of the foot patrol. They should also periodically inform Transit Control Center of their location and status during the foot patrol.

### 387.4 COMMUNITY RELATIONS COORDINATOR

The Chief of Police or the authorized designee should designate a member of the Department to serve as the community relations coordinator. He/she should report directly to the Chief of Police or the authorized designee and is responsible for:

- (a) Obtaining department-approved training related to his/her responsibilities.

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## *Community Relations*

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- (b) Responding to requests from department members and the community for assistance in identifying issues and solving problems related to community relations and public safety.
- (c) Organizing surveys to measure the condition of the department's relationship with the community.
- (d) Working with community groups, department members and other community resources to:
  - 1. Identify and solve public safety problems within the community.
  - 2. Organize programs and activities that help build positive relationships between department members and the community and provide community members with an improved understanding of department operations.
- (e) Working with the Patrol Division Commander to develop patrol deployment plans that allow officers the time to participate in community engagement and problem-solving activities.
- (f) Recognizing department and community members for exceptional work or performance in community relations efforts.
- (g) Attending Metropolitan Area council and other community meetings to obtain information on community relations needs.
- (h) Assisting with the department's response to events that may affect community relations, such as an incident where the conduct of a department member is called into public question.
- (i) Informing the Chief of Police and others of developments and needs related to the furtherance of the department's community relations goals, as appropriate.

### **387.5 SURVEYS**

The community relations coordinator should arrange for a survey of community members and department members to be conducted at least annually to assess the condition of the relationship between the Department and the community. Survey questions should be designed to evaluate perceptions of the following:

- (a) Overall performance of the Department
- (b) Overall competence of department members
- (c) Attitude and behavior of department members
- (d) Level of community trust in the Department
- (e) Safety, security or other concerns

A written summary of the compiled results of the survey should be provided to the Chief of Police.

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#### **387.6 COMMUNITY AND YOUTH ACTIVITIES AND PROGRAMS**

The community relations coordinator should organize or assist with programs and activities that create opportunities for department members and community members, especially youth, to interact in a positive setting. Examples of such programs and events include:

- (a) Department-sponsored athletic programs (e.g., baseball, basketball, soccer, bowling).
- (b) Police-community get-togethers (e.g., cookouts, meals, charity events).
- (c) Youth leadership and life skills mentoring.
- (d) School resource officer/Drug Abuse Resistance Education (D.A.R.E.®) programs.
- (e) Neighborhood Watch and crime prevention programs.

#### **387.7 INFORMATION SHARING**

The community relations coordinator should work with the Public Information Officer to develop methods and procedures for the convenient sharing of information (e.g., major incident notifications, significant changes in department operations, comments, feedback, positive events) between the Department and community members. Examples of information-sharing methods include:

- (a) Community meetings.
- (b) Social media (see the Department Use of Social Media Policy).
- (c) Department website postings.

Information should be regularly refreshed, to inform and engage community members continuously.

#### **387.8 LAW ENFORCEMENT OPERATIONS EDUCATION**

The community relations coordinator should develop methods to educate community members on general law enforcement operations so they may understand the work that officers do to keep the community safe. Examples of educational methods include:

- (a) Development and distribution of informational cards/flyers.
- (b) Department website postings.
- (c) Presentations to driver education classes.
- (d) Instruction in schools.
- (e) Department ride-alongs (see the Ride-Along Policy).
- (f) Scenario/Simulation exercises with community member participation.
- (g) Youth internships at the Department.
- (h) Citizen academies.

Instructional information should include direction on how community members should interact with the police during enforcement or investigative contacts and how community members can make

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a complaint to the Department regarding alleged misconduct or inappropriate job performance by department members.

### **387.9 SAFETY AND OTHER CONSIDERATIONS**

Department members responsible for community relations activities should consider the safety of the community participants and, as much as reasonably practicable, not allow them to be present in any location or situation that would jeopardize their safety.

Department members in charge of community relations events should ensure that participating community members have completed waiver forms before participation, if appropriate. A parent or guardian must complete the waiver form if the participating community member has not reached 18 years of age.

Community members are subject to a criminal history check before approval for participation in certain activities, such as citizen academies.

### **387.10 COMMUNITY ADVISORY COMMITTEE**

The Chief of Police should establish a committee of volunteers consisting of community members, community leaders and other community stakeholders (e.g., representatives from schools, churches, businesses, social service organizations). The makeup of the committee should reflect the demographics of the community as much as practicable.

The committee should convene regularly to:

- (a) Provide a public forum for gathering information about public safety concerns in the community.
- (b) Work with the Department to develop strategies to solve public safety problems.
- (c) Generate plans for improving the relationship between the Department and the community.
- (d) Participate in community outreach to solicit input from community members, including youth from the community.

The Training Manager should arrange for initial and ongoing training for committee members on topics relevant to their responsibilities.

The Chief of Police may include the committee in the evaluation and development of department policies and procedures and may ask them to review certain personnel complaints for the purpose of providing recommendations regarding supervisory, training or other issues as appropriate.

#### **387.10.1 LEGAL CONSIDERATIONS**

The Chief of Police and the community relations coordinator should work with the Prosecuting Attorney as appropriate to ensure the committee complies with any legal requirements such as public notices, records maintenance and any other associated obligations or procedures.

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### **387.11 TRANSPARENCY**

The Department should periodically publish statistical data and analysis regarding the department's operations. The reports should not contain the names of officers, suspects or case numbers. The community relations coordinator should work with the community advisory committee to identify information that may increase transparency regarding department operations.

### **387.12 TRAINING**

Subject to available resources, members should receive training related to this policy, including training on topics such as:

- (a) Effective social interaction and communication skills.
- (b) Cultural, racial and ethnic diversity and relations.
- (c) Building community partnerships.
- (d) Community policing and problem-solving principles.
- (e) Enforcement actions and their effects on community relations.

Where practicable and appropriate, community members, especially those with relevant expertise, should be involved in the training to provide input from a community perspective.

#### **387.12.1 STATE-MANDATED TRAINING**

The Training Manager is responsible for ensuring that members receive community policing as required by Minn. Stat. § 626.8455.