



Public Safety Model Policies

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2.2700 Professional Conduct of Peace Officers (MN Statute 626.8457)

- A. Policy: It is the policy of the Three Rivers Park District Public Safety to investigate circumstances that suggest an officer has engaged in unbecoming conduct and impose disciplinary action when appropriate.
- B. 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.
 - 1. 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.
 - a. Rationale: Peace officers conduct their duties pursuant to a grant of limited authority from the community. Therefore, officers must understand the laws defining the scope of their enforcement powers. Peace officers may only act in accordance with the powers granted to them.
 - b. Rules:
 - i. Peace officers shall not knowingly exceed their authority in the enforcement of the law.
 - ii. 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.
 - iii. 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.
 - iv. 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.
 - v. 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.
 - 2. 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.

- a. Rationale: Community cooperation with the police is a product of its trust that officers will act honestly and with impartiality. The peace officer, as the public's initial contact with the criminal justice system, must act in a manner that instills such trust.
 - b. Rules
 - i. Peace officers shall carry out their duties with integrity, fairness and impartiality.
 - ii. 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.
 - iii. Peace officers shall truthfully, completely, and impartially report, testify and present evidence, including exculpatory evidence, in all matters of an official nature.
 - iv. Peace officers shall take no action knowing it will violate the constitutional rights of any person.
 - v. 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.
 - vi. 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.
3. Principle Three: Peace officers shall perform their duties and apply the law impartially and without prejudice or discrimination.
 - a. Rationale: Law enforcement effectiveness requires public trust and confidence. Diverse communities must have faith in the fairness and impartiality of their police. Peace officers must refrain from fostering disharmony in their communities based upon diversity and perform their duties without regard to race, color, creed, religion, national origin, gender, marital status, or status with regard to public assistance, disability, sexual orientation or age.
 - b. Rules

- i. Peace officers shall provide every person in our society with professional, effective and efficient law enforcement services.
 - ii. 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.
4. Principle Four: Peace officers shall not, whether on or off duty, exhibit any conduct which discredits themselves or their agency or otherwise impairs their ability or that of other officers or the agency to provide law enforcement services to the community.
 - a. Rationale: A peace officer's ability to perform his or her duties is dependent upon the respect and confidence communities have for the officer and law enforcement officers in general. Peace officers must conduct themselves in a manner consistent with the integrity and trustworthiness expected of them by the public.
 - b. Rules
 - i. 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 3.
 - ii. 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.
 - iii. 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.
 - iv. 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.

- v. 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.
 - vi. 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.
 - vii. 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.
 - viii. 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.
5. Principle Five: Peace officers shall treat all members of the public courteously and with respect.
- a. Rationale: Peace officers are the most visible form of local government. Therefore, peace officers must make a positive impression when interacting with the public and each other.
 - b. Rules
 - i. Peace officers shall exercise reasonable courtesy in their dealings with the public, other officers, superiors and subordinates.
 - ii. 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.
 - iii. Peace officers shall promptly advise any inquiring citizen of the agency's complaint procedure and shall follow the established agency policy for processing complaints.
6. 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.

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

b. Rules:

i. 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.

ii. 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.

iii. Peace officers shall refuse favors or gratuities which could reasonably be interpreted as capable of influencing official acts or judgments.

iv. 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.

v. 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.

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

7. 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.

- a. Rationale: For the public to maintain its faith in the integrity and impartiality of peace officers and their agencies officers must avoid taking or influencing official actions where those actions would or could conflict with the officer's appropriate responsibilities.
 - b. Rules:
 - i. 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.
 - ii. 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.
 - iii. 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.
 - iv. 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.
8. Principle Eight: Peace officers shall observe the confidentiality of information available to them due to their status as peace officers.
- a. Rationale: Peace officers are entrusted with vast amounts of private and personal information or access thereto. Peace officers must maintain the confidentiality of such information to protect the privacy of the subjects of that information and to maintain public faith in the officer's and agency's commitment to preserving such confidences.
 - b. Rules:
 - i. Peace officers shall not knowingly violate any legal restriction for the release or dissemination of information.
 - ii. 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.
 - iii. Peace officers shall not divulge the identity of persons giving confidential information except as required by law or agency policy.

9. 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.

2.2701 Definitions of Terms

Chief: Chief/Director of the Department of Public Safety.

Complaint: A written and signed statement alleging any violation of policy, misconduct, code of ethics, or violation of law.

Concern: Any report alleging a minor breach of policy, procedure, code of ethics or violation of law. A concern can be stated verbally, over the phone, in writing or anonymously.

Exonerated: The investigation established that the member acted appropriately and within policy and statutory guidelines.

Human Resources Director: Director of the Department of Human Resources.

Misconduct: A violation of any Park District or Department policy, regulation, or procedure including, but not limited to:

- A. Any criminal offense.
- B. The use of unnecessary or excessive force.
- C. Abuse of authority.
- D. Conduct which violates a person's civil rights.
- E. Abusive or insulting language or conduct which expresses any prejudice concerning a person's race, color, creed, religion, sex, national origin, marital status, sexual orientation, status with regard to public assistance, age, or disability.
- F. Intimidation of, or recrimination toward, a complainant or witness involved in any complaint proceeding.
- G. Unacceptable performance.
- H. Violation of the Standards of Professional Conduct of Peace Officers.

Members: All employees of the Department, whether full-time, part-time, or seasonal.

Not Substantiated: The investigation failed to disclose sufficient evidence to prove or disprove the allegation(s) made in the complaint.

Substantiated: The investigation established that the accused member's actions constituted misconduct.

Unfounded: The investigation failed to establish misconduct.

2.2702 Procedure for Investigating Complaints

The Chief shall assign a supervisor to be responsible for the investigation, unless the complaint is against the Chief, in which case the appropriate Associate Superintendent or Park Superintendent designee shall conduct the investigation, or cause one to be conducted. Alleged violations of the Park District's Discrimination/Sexual Harassment Policy shall be referred to Human Resources who shall investigate the complaint in accordance with Park District policy.

- A. Any citizen concern, regardless of category, may be lodged with any member and can be in the form of a written statement, verbal statement, or submitted anonymously. Complaints shall only be accepted in writing and must be signed by the accuser making the claim. The member receiving the concern or complaint shall be responsible for reporting it. A complaint shall immediately be referred to the Chief.
- B. The Park District Supplemental Report form (Appendix C) shall be used to record complaints.
 - 1. Complete and accurate information regarding the complaint and the allegation shall be obtained.
 - 2. The original complaint shall be sent to the Chief, as soon as possible, upon receipt.
- C. The Chief, when appropriate, shall notify the Associate Superintendent of the complaint and be responsible for recording, controlling, and reviewing all investigations of complaints against the Department, its members, and its services, except as otherwise stated above.
- D. The Chief shall be responsible for the maintenance of complaint investigation files, and for their review and analysis to determine trends in numbers and types of complaints – both from the individual and a Park District perspective.
- E. The Chief or their designee shall, as soon as possible, inform the complainant by letter of the status of the complaint.
- F. All members shall cooperate with the investigation.
- G. The investigation shall comply with the Police Officer Discipline Act (PODA), MN stats 626.89.
- H. The supervisor conducting the investigation shall complete a report which contains all relevant information organized into the following three parts:
 - 1. Allegation(s) – This part shall include an itemized summary of the acts of misconduct alleged in the complaint. Reference shall be made to those policies, regulations, procedures, orders, statutes, or constitutional provisions which will have been violated if the allegations are substantiated.

2. Investigation – This part shall include a chronological summary of the investigation, including all pertinent facts obtained through interviews with the complainant, accused member(s) and available witnesses. Written statements, a description and analysis of any physical evidence, and all other relevant information shall be included.
3. Conclusion(s) – This part shall include the investigating supervisor’s findings, his/her conclusions as to whether any misconduct occurred, and the underlying reasons for the findings and conclusions.

I. Investigation Review and Disposition

1. In the event that criminal charges are filed against a member, any administrative action shall be deferred until those criminal charges are resolved.
2. Upon the completion of the investigation, the supervisor conducting the investigation shall submit his/her report, the case file, and all investigative notes to the Chief.
3. The Chief may withhold issuing a disposition until any related criminal charges against the complainant are resolved. The complainant shall be informed of this decision.
4. The Chief, or their designee, shall notify the complainant and the accused member of the disposition of the investigation.
5. The Chief may suspend an accused member with pay at any time during the investigation of a complaint.
6. Nothing contained herein shall preclude the Park District from engaging in investigative or disciplinary actions which are not initiated by citizen complaint.

J. Discipline and Appeals

1. If the complaint is substantiated, and it is determined that disciplinary action is the appropriate remedy, discipline shall be administered in accordance with the applicable collective bargaining agreement or Human Resources Policies.
2. Employees disciplined pursuant to this section shall be afforded the rights of appeal as provided in the appropriate collective bargaining agreement or Human Resources Policies.

K. Maintenance and Disclosure of Data

1. Disclosure of data collected, created, received, or maintained in connection with this section shall be governed by the Minnesota Government Data Practices Act.

2. All data collected, created, received by the Department in connection with this procedure shall be maintained in accordance with the Department's retention schedule.
3. The placement of the disposition report or other data in a member's personnel file shall be governed by applicable Human Resources policy.

3.0100 Use of Force

Purpose

It is the policy of the (Three Rivers Park District Police Department) to provide officers with guidelines for the use of force and deadly force in accordance with:

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

MN STAT 626.8475 DUTY TO INTERCEDE AND REPORT;

MN STAT 609.06 AUTHORIZED USE OF FORCE;

MN STAT 609.065 JUSTIFIABLE TAKING OF LIFE; and

MN STAT 609.066 AUTHORIZED USE OF FORCE BY PEACE OFFICERS.

Policy

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

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

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

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

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

This policy applies to all licensed peace officers and part-time peace officers engaged in the discharge of official duties. Section (4) Procedure, paragraphs (g.1-2), are effective March 1, 2021 and thereafter.

3.0101 Definition of Terms

Bodily Harm: Physical pain or injury.

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

Deadly Force: Force used by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.

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

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

Choke Hold: A method by which a person applies sufficient pressure to a person to make breathing difficult or impossible, and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air. Choke hold also means applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.

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

Procedure

A. General Provisions

1. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
2. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to

the individual, the officer, or another person. In these situations, only the amount of force necessary to control the situation shall be used.

3. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.
4. All uses of force shall be documented and investigated pursuant to this agency's policies.

B. Duty to Intercede

1. Regardless of tenure or rank, an officer must intercede when:
 - a. present and observing another officer using force in violation of section 609.066, subdivision 2, or otherwise beyond that which is objectively reasonable under the circumstances; and
 - b. physically or verbally able to do so

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

D. De-escalation:

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

E. Use of Other Than Deadly Force

1. When de-escalation techniques are not effective or appropriate, an officer may consider the use of other than deadly force to control a non-compliant or actively resistant individual. An officer is authorized to use agency-approved other than deadly force techniques and issued equipment in the following circumstances:
 - a. Effecting a lawful arrest; or
 - b. The execution of legal process; or

- c. Enforcing an order of the court; or
- d. Executing any other duty imposed upon the public officer by law; or
- e. Defense of self or another.

F. Use of Certain Types of Force

1. Except in cases where deadly force is authorized as articulated in MN STAT. 609.066 to protect the peace officer or another from death or great bodily harm, officers are prohibited from using:
 - a. Chokeholds
 - b. Tying all of a person's limbs together behind a person's back to render the person immobile, or;
 - c. Securing a person in any way that results in transporting the person face down in a vehicle.
2. Less than lethal measures must be considered by the officer prior to applying these measures.

G. Use of Deadly Force

1. An officer is authorized to use deadly force if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary. Use of deadly force is justified when one or both of the following apply;
 - a. To protect the peace officer or another from death or great bodily harm provided that the threat:
 - i. Can be articulated with specificity
 - ii. Is reasonably likely to occur absent action by the law enforcement officer; and
 - iii. Must be addressed through the use of deadly force without unreasonable delay; or
 - b. To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.

2. To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.
3. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.
4. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.

H. Training

1. All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.
 2. In addition, training shall be provided on a regular and periodic basis and designed to
 - a. Provide techniques for the use of and reinforce the importance of de-escalation
 - b. Simulate actual shooting situations and conditions; and
 - c. Enhance officers' discretion and judgement in using other than deadly force in accordance with this policy.
 3. Before being authorized to carry a firearm all officers shall receive training and instruction with regard to the proper use of deadly force and to the agency's policies and State statutes with regard to such force. Such training and instruction shall continue on an annual basis.
 4. Before carrying an authorized device all officers shall receive training and instruction in the use of the device including training as it relates to its use in deadly force and/or other than deadly force situations. Such training and instruction shall continue on an annual basis.
 5. Officers will carry and use only authorized devices unless circumstances exist which pose an immediate threat to the safety of the public or the officer requiring the use of a device or object that has not been authorized to counter such a threat.
 6. With agency approval officers may modify, alter or cause to be altered an authorized device in their possession or control.
- I. Recordkeeping Requirements: The chief law enforcement officer shall maintain records of the agency's compliance with use of force training requirements.

3.0101 Definitions of Terms

Approved Weapon: A device or instrument that a member has received permission from the Department to carry and use in the discharge of that member's duties, and for which the member has:

- A. Obtained training in the technical, mechanical, and physical aspects of the weapon; and
- B. Received training in the regulations, procedures, and laws, as they pertain to the use of such weapon.

Chemical Agent: A chemical irritant or chemical inflammatory substance manufactured for law enforcement use.

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 in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.

Force: Intentional acts by a person that will cause, or are substantially certain to cause, another to: (1) sustain a harmful or offensive bodily contact; or (2) fear an immediate harmful or offensive bodily contact.

Force Technique: A particular method for applying force to the person of another. Examples of force techniques include shooting, wristlocks, and pressure point control methods.

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.

Intermediate Weapons: All objects and instruments that are used, or are designed to be used, to impact on or physically manipulate the person of another by touching that person.

Non-Deadly Force: All force actually used by a member which does not have the purpose of causing, nor create a substantial risk of causing, death or great bodily harm.

Weapon: Any instrument used, or designed to be used, to apply force to the person of another.

3.0102 Force Continuum

Officers can rapidly move up or down the Use of Force Continuum as needed dependent upon the dynamics of the situation to include skipping steps in the continuum if those levels of force would likely prove to be inadequate or otherwise ineffective. Officers shall be primarily concerned with the safety of all involved parties to include suspects and shall try to de-escalate situations whenever possible/practical.

Levels of Control:

- A. **Officer Presence/Verbal Direction:** Officer Presence is the identification of a police officer's authority, either by mere presence or the verbal identification of being a police

officer. In either case, an officer's identification of authority brings with it the assumption the public must obey a lawful order. Verbal Direction is defined as "commands of direction or arrest." Most subjects comply with verbal direction and the officer's presence. Officers must remain alert and ready for any sudden change in escalation of resistance. Interpersonal skills can be important factor in gaining control of a subject or situation.

1. De-escalation strategies should be attempted whenever practical/possible.
- B. **Soft Empty Hand Control:** Soft Empty Hand Techniques are designed to control Passive or Defensive Resistance. They are used when verbal direction/commands are not effective and there is noncompliance with lawful orders. They include strength techniques, joint locks, pressure points or a knee strike/distraction technique. While Soft Empty Hand Control techniques may inflict pain to gain control, they generally will not cause any form of bruising or injury to the subject. By definition, Soft Empty Hand Control techniques have little or no potential for injury.
- C. **Chemical Sprays:** Chemical sprays are designed to be used to defend one's self against an aggressive individual; to assist in the apprehension of an individual who has threatened the use of force either by verbal comment, body positioning or demeanor; or who has indicated their unwillingness to follow a legal directive to comply. Chemical sprays require staff to monitor the reactions of the sprayed individual and to provide a means to cool the subject either by water cleansing or the blowing of cool air on the individual.
- D. **Hard Empty Hand Control:** Hard Empty Hand Control techniques are designed to control Active Aggression, but can be used to control Defensive Resistance when lower forms of control have failed or when the officer reasonably believes lower forms of control will fail. Hard Empty Hand Control techniques include knee strikes, angle kicks, palm heel strikes to the torso, and straight punches. Hard Empty Hand Control techniques are defined as techniques that have a probability of injury in the form of bruises, contusions or lacerations. Even though more serious injuries are possible, they are rare due to the specificity of the techniques and targets of application.
- E. **Intermediate Weapons:** Intermediate Weapon control is the application/use of any impact weapon/object that is not part of the human body to control resistance or an assault. Examples include various batons, improvised impact weapons (flashlight), less than lethal devices, etc.
1. The use of an Intermediate Weapon is justified when lesser uses of force have failed or when the officer reasonably believes lesser uses of force will be insufficient, and the use of deadly force is not justified. Intermediate Weapons should be used with the intent to temporary disable a subject and not to cause permanent injury. Officers should attempt to target motor points first; joints and bony areas second; and should avoid striking the head, neck, throat or clavicle unless he/she is justified in using Deadly Force.

2. Any time an Intermediate Weapon has been used, the subject should receive first aid as soon as possible – even if the subject is refusing medical attention. All applications of force involving an Intermediate Weapon requires a detailed report outlining circumstances of the use of force.

F. **Deadly Force:** Deadly Force is any force used by an officer that is likely to result in great bodily harm or the loss of human life. Situations may occur where certain, immediate, and drastic measures must be undertaken by an officer to protect human life. In situations where the life of the officer or another is in immediate danger, events happen that cannot be predicted in a training environment. The use of force in such circumstances may involve the use of techniques or weapons not specifically authorized by Three Rivers Park District Use of Force Policy.

1. Absent a deadly force situation or situation where the physical confrontation is likely to rise to the use of deadly force, officers shall not use full or partial carotid restraints on individuals. Additionally, hobble restraints which require a person to lie on their stomach/prone shall not be used on suspects or arrestees due to the risk of positional asphyxia.

3.0103 General Regulations Governing Use of Force

- A. Sworn Members shall carry and use only approved weapons, as that term is defined above, unless circumstances exist which pose an imminent threat to the safety of the member or the public requiring the immediate use of a non-approved weapon to counter such a threat. This provision shall not be construed as authorizing members to use non-approved weapons where, under the circumstances, it would be feasible to procure approval for use of the particular weapon prior to its use.
- B. Medical attention shall be made available to any person upon whom a sworn member has used force and:
 1. Who reasonably appears to be in need of immediate medical attention; or
 2. Who requests medical attention.
- C. No sworn member shall modify, alter, or cause to be altered, an approved weapon in his/her possession or control without prior approval from the Chief.

3.0104 Use of Deadly Force

- A. It shall be the policy of the Department, unless expressly negated elsewhere, to accord sworn members discretion in the use of deadly force to the extent permitted by Minn. Stat. §609.066, Subd. 2 (Appendix E), which authorizes the use of deadly force by peace officers acting in the line of duty only when necessary to:
 - B. Protect the peace officer or another from apparent death or great bodily harm; or

- C. Effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows, or has reasonable grounds to believe, has committed or attempted to commit a felony involving the use or threatened use of deadly force; or
- D. Effect the arrest or capture, or prevent the escape, of a person whom the peace office knows, or has reasonable grounds to believe, has committed or attempted to commit a felony if the member reasonably believes and can articulate that the person will cause death or great bodily harm if the person's apprehension is delayed.
- E. Warning Requirement: Sworn members should give verbal warning, if it is reasonable to do so, before using or attempting to use deadly force.
- F. Display Firearms: Firearms may be readied for use in situations where it is reasonably anticipated that the use of such weapons may be required. Officers shall not display weapons unless there is a legitimate reason for doing so.
- G. Warning Shots: Warning shots shall not be fired.
- H. A firearm may be discharged when deadly force is not directed at another person to: kill an animal that is sick, injured, dangerous, or to permit the humane removal of the animal when another means is impractical.

3.0105 Use of Non-Deadly Force

- A. Circumstances Authorizing the Use of Non-Deadly Force: Sworn members may use force to defend themselves or others against the apparent threat of bodily harm. Sworn members may also use force in:
 - 1. Effecting a lawful arrest; or
 - 2. Executing a legal process; or
 - 3. Enforcing an order of the court; or
 - 4. Affecting any other duty imposed on the member by law.
- B. Permissible Levels of Force: Sworn members are authorized to use that level of force which is reasonably necessary to accomplish the member's lawful objectives. In determining the degree of force which is reasonable under the circumstances, sworn members shall consider:
 - 1. The severity of the crime at issue; and
 - 2. Whether the subject poses an immediate threat to the safety of the sworn member or others; and
 - 3. Whether the subject is actively resisting arrest or attempting to evade arrest by flight.

- C. As a general rule, the use of non-deadly force shall be deemed reasonably necessary when:
 - 1. The sworn member has tried force techniques with lower propensities for causing pain or injury to the subject, and the techniques have not worked to bring about the intended lawful objective; or
 - 2. It reasonably appears to the sworn member that force techniques when lower propensities for causing pain or injury to the subject would not work to accomplish the intended lawful objective; or
 - 3. It reasonably appears to the sworn member that attempting techniques with the lower propensities for causing pain or injury to the subject would expose the member or others to unreasonable danger.

- D. Engaging in prolonged struggling with a subject being arrested or captured may be harmful to the safety of that person, the safety of the public and the safety of law enforcement personnel. Accordingly, when it has been determined that an arrest situation is required, it is advisable to quickly subdue an individual placed under arrest to minimize injury to themselves, the officer or bystanders.
 - 1. The effort to rapidly take an individual into custody shall not result in an excessive use of force given the circumstances. All force used to effect the arrest must be reasonable given the totality of the circumstances.

3.0106 Intermediate Weapons

Intermediate weapons may be used only in the following manner:

- A. To ward off blows or kicks from another person.
- B. To strike another for the purpose of rendering that person temporarily incapacitated.
- C. To restrain persons.
- D. In appropriate crowd control situations, to direct and control the movements of persons, or as a barricade.
- E. To effect a lawful arrest.
 - 1. Sworn Members striking another person with a contact weapon should, if possible, attempt to avoid striking bodily areas likely to result in serious injury or death. These areas include the head, neck, throat, chest, ribs, and armpits.
 - 2. A baton shall be issued to all sworn officers. Officers shall wear the baton on their person when in uniform.

3.01061 X7 Taser

The X7 Taser may be used in situations where non-deadly or deadly force is justified to control aggressive and/or combative subjects, thereby reducing the likelihood of injury to officers and subjects. The most effective range is between 12 and 18 feet. The maximum range is 21 feet.

3.01062 Safety Considerations for the X7 Taser

1. The deploying officer shall inform other officers of the presence and/or planned use of the X7 Taser as tactically prudent and practical, so the X7 Taser shot is not mistaken for a gunshot.
2. The X7 Taser will cycle for a period of 5 seconds but may be turned off sooner.
3. Officers should move in, restrain, and control the subject as soon as possible.
4. The X7 Taser should not be used when the subject is in danger of falling from a significant height.
5. The X7 Taser should not be used when a subject is in water where drowning is a possibility.
6. Used darts are considered a biohazard and shall be handled appropriately. This includes the use of gloves and designated biohazard evidentiary containers by department personnel.
7. Officers are to make every effort to avoid dart placement in the face and soft tissue areas, which for the purpose of this policy, are determined to be the eyes, neck area, groin, and genital area.
8. Officers shall not overlook the aspect of injury that may result in falling from a standing position after deployment of the X7 Taser.

3.01063 Medical Attention Related to the X7 Taser

When the X7 Taser has been used on a subject, officers shall offer medical treatment to the subject. Medical personnel shall remove darts that may have penetrated soft tissue areas. An officer/individual of the same sex shall remove darts from a subject (when practical).

3.01064 Prohibited Use of the X7 Taser

The X7 Taser shall not be used on individuals exhibiting compliant or passive resistive behavior. The X7 Taser shall not be used on restrained individuals unless the actions of the subject present an immediate threat of bodily harm to themselves or any other person. The X7 Taser shall not be used when the presence of flammable fumes, liquids, or gases are known or likely. The X7 Taser should not be used on women known to be pregnant unless all other means short of lethal force have been used.

3.01065 Documentation of Usage of the X7 Taser

Depending on the penetration and location of the darts and the sex of the subject, officers shall make every reasonable effort of have any dart impact areas on the subject's person

photographed. If the subject is of the opposite sex of the officer taking the photographs, same sex arrangements should be made. Officers are required to fully document the X7 Tasers use and results in a narrative report in accordance with the departments Use of Force Policy.

3.01066 Training of the X7 Taser

All officers shall be trained by a Certified X7 Taser trainer. Trained officers shall qualify once a year with the X7 Taser.

3.0107 Chemical Irritant/Defense Spray

- A. REPULS is a chemical irritant spray. It is biodegradable, non-flammable, non-toxic and water soluble. Ingredients: Ammonium Propriate and Propionic Acid. Nitrogen is the propellant.
- B. REPULS has a blue dye and smells like vinegar after deployment. It is recommended that a peace officer stand-off distance of three feet when deploying.
- C. Maximum distances vary depending on the size canister but is generally 17 to 20 feet. Peace officers shall not directly spray REPULS directly into an individual's eyes from inches away (close range). Primary location to deploy REPULS is at the individual's forehead and eyes. A three second burst should be adequate.
- D. REPULS causes the eyes to involuntarily close almost immediately. REPULS is a lacrimator which irritates the lacrimal gland in the eye.
- E. The peace officer will remove the individual to fresh air. Rinse the individuals face and eyes with clean water mitigating irritation within seconds. REPULS is not known to react negatively with contact lenses. Relief is almost immediate when water is applied to face and eyes. A peace officer should seek medical attention if the individual requests it or if the symptoms persist beyond 30 minutes.
- F. REPULS can also irritate mucus membranes causing sinuses to run and gives a slight burning sensation on the skin. Decontamination is very fast with no lingering effects. When REPULS dries the irritating agent is no longer active.
- G. Any overspray can be washed down a drain or with a wet towel. Fresh air will clear out any spray lingering in an enclosed area.
- H. REPULS allows peace officers a non-lethal defense spray option when dealing with individuals early in an encounter (passive resistance) to quickly deescalate a situation. REPULS may be effective in elimination of an individual's aggressive and/or non-complaint behavior. The peace officer may approach the individual quickly without impact of the chemical irritant and gain control of the situation before it escalates.
- I. A peace officer shall complete a report and notify a supervisor when REPULS has been deployed on an individual or displayed.

3.0108 Threatening the Use of Force

A sworn member may threaten the use of force in an attempt to avoid the use of force, or avoid an escalation in the level of force used. Sworn members should threaten only that type and degree of force that, if actually used, would be reasonably necessary under the circumstances. This provision shall not be construed to authorize or endorse the use of discourteous, abusive, or unprofessional language.

3.0109 Reporting Requirements

- A. A sworn member using deadly or non-deadly force shall in all instances, unless injured or incapacitated, document the details of the incident in a report and submit the report to a supervisor. Low levels of force such as lightly laying on of hands to direct an individual to a certain location or threatening the use of force does not in itself constitute a reportable use of force; however staff are encouraged to document all events in a report to account for their actions as well as the subject's actions.
- B. A supervisor shall review all incidents involving the use of deadly force with all members involved and shall submit a separate report of the incident to the Chief.
- C. Discharge of a firearm in the course of duty, other than training/practice, or animal disposal shall be reported to the Minnesota Commissioner of Public Safety within 30 days of the incident.

3.0110 Tactical Disengagement for Persons in Crisis

There may be incidents involving a person in mental crisis who is not a threat to officers or others that a responding officer or supervisor believes can be handled more safely through the use of tactical disengagement. This policy recognizes that the legal authority to take a person into custody does not override law enforcement discretion to pursue safer courses of action.

If officers determine that tactical disengagement may be appropriate, they should contact the on-duty patrol supervisor or lead worker for the incident. The patrol supervisor for the incident must respond to the scene. If, after attempting contact and de-escalation techniques, the supervisor determines that the person is not a known or reasonably believed threat to others and that further interaction with the individual may result in an increased risk to the person, the public, or officers, the on-scene supervisor should develop a plan for tactical disengagement. Officers shall not make promises or assurances to anyone that creates a special duty or responsibility of care for the person in crisis.

To Tactically Disengage Officers Should:

- Attempt to use all appropriate and available department and county resources to safely resolve the situation focusing on a positive, safe resolution for all involved.
- Ensure that the family members, friends, and the subject are provided information about resources and services available to them, as reasonably possible under the circumstances.

- After reasonable attempts are made to contact the subject without resolution, the supervisor should order officers to withdraw from the area.
- Make no promises or assurances to family or others on scene that things will be ok or otherwise encumber responsibility onto the police department for the safe resolution of situation.

To Tactically Disengage Officers Should Not:

- Escalate or make forced entry into the location or close distance on the person while attempting tactical disengagement, unless a change in circumstances makes a closer intervention appropriate under the department's general orders.
- Force entry to arrest the subject for pending misdemeanor charges or misdemeanor warrants. This does not prevent the subject from being charged out of custody.
- Force entry to enforce civil commitment or emergency examination orders.
- Require family, friends, or others involved to leave the area.

Thorough documentation of incident and all officer actions shall be submitted outlining the details of the situation and rationale for planned resolution.

3.0111 Bola Wrap 150 / Remote Restraint Device

PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of BolaWrap 150 devices in order to minimize injury to suspects, subjects, and officers.

POLICY

The BolaWrap 150 device is intended to immobilize and control resistive/non-compliant persons. The BolaWrap 150 is a hand-held remote restraint device that discharges an eight-foot bola style Kevlar tether to entangle an individual at a range of 10-25 feet.

ISSUANCE AND CARRYING BOLAWRAP 150 DEVICES

The following guidelines shall be adhered to:

- a) Only a department-approved BolaWrap 150 device that has been issued by the Department shall be utilized by personnel.
- b) Only members who have successfully completed department-approved training may be issued and carry the BolaWrap 150 device.
- c) All BolaWrap 150 devices shall be clearly and distinctly marked to differentiate them from the duty weapon.
- d) Uniformed officers who have been issued the BolaWrap 150 device may wear the device in an approved holster on their person, or the device can be stored in their pocket or the

driver's compartment of their patrol vehicle while on duty. The device shall not be stored in the officer's patrol vehicle when not on duty.

- e) Officers should not hold both a firearm and the BolaWrap 150 device at the same time.

VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the "less lethal" device 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 BolaWrap 150 device may be deployed.
- c) The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.
- d) The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the BolaWrap 150 device in the related report.

USE OF THE BOLAWRAP 150 DEVICE

Nothing in this policy mandates that a peace officer use the BolaWrap 150 device.

The BolaWrap 150 device should only be used when it's operator can safely approach the subject within the operational range of the device. Although the BolaWrap 150 device is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options. Assisting officers should move in to control the subject as soon as possible and safe to do so.

APPLICATION OF THE BOLAWRAP 150 DEVICE

The BolaWrap 150 device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- a) The subject is non-compliant and passively or actively resisting.
- b) The subject is violent, or is assaultive, or armed.
- c) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the BolaWrap 150 device to apprehend an individual.

SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the BolaWrap 150 device 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 risk of using the device. This includes:

- a) Women who are known to be pregnant or claim to be pregnant unless all other means short of lethal force are exhausted.
- b) Elderly individuals, obviously frail or infirm subjects, and young children.
- c) Individuals who are handcuffed or otherwise restrained unless the actions of the subject may cause harm to themselves or any other person.
- d) Individuals detained in a police vehicle.
- e) Individuals detained in a motor vehicle.
- f) Individuals detained in a booking or holding cell.
- g) Individuals near flammable or combustible liquid or fumes.
- h) Individuals in danger of falling or becoming entangled in machinery or heavy equipment, which could result in death or serious bodily injury.
- i) Individuals near any body of water that may present a drowning risk.
- j) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

The BolaWrap 150 device shall not be used to psychologically torment, elicit statements or to punish any individual.

TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower extremities or lower arms. The head, neck, chest and groin shall be avoided. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the BolaWrap 150 device to a precise target area, officers should monitor the condition of the subject if it strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

MULTIPLE APPLICATIONS OF THE BOLAWRAP 150 DEVICE

Because of the low-level of force being used, the device may be deployed multiple times on the same individual. If the first application of the BolaWrap 150 device appears to be ineffective in gaining control of an individual, the peace officer should consider certain factors before additional applications of the device, include:

- a) Whether the Kevlar cord or pellets/barbs are making proper contact.

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

ACTIONS FOLLOWING DEPLOYMENT

Following the use of the BolaWrap 150 device:

- a) The officer shall notify a supervisor prior to end of his/her shift.
- b) If the officer determines that removal of the Kevlar cord is appropriate at the scene, the officer shall remove the Kevlar cord using the department issued cutting tool.
- c) The expended cartridge, pellets/barbs and Kevlar cord should be collected and submitted into evidence.
- d) Reasonable efforts should be made to photograph and/or video record the impact area on the subject's body.

OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department BolaWrap 150 devices while off-duty.

Officers shall ensure that BolaWrap 150 devices are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

DOCUMENTATION

Officers shall document all BolaWrap 150 device discharges in the related report, and body camera video. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person and laser activation will also be documented on the report form.

- a) The BolaWrap 150 device & cartridge serial numbers when device is discharged.
- b) Date, time and location of the incident.
- c) Whether any display or laser deterred a subject and gained compliance.
- d) The number of BolaWrap 150 device activations and the duration between activations, and (as best as can be determined).
- e) The range at which the BolaWrap 150 device was used.
- f) Location of any deployments impact.
- g) Description of where missed deployments went.
- h) Whether medical care was provided to the subject.

- i) Whether the subject sustained any injuries.
- j) Whether any officers sustained any injuries.
- k) Observations of the subject's physical and physiological actions.
- l) Any known or suspected drug use, intoxication or other medical problems.

MEDICAL TREATMENT

All persons who have been struck by BolaWrap 150 device pellets/barbs 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 a controlled substance and/or alcohol.
- b) The person may be pregnant.
- c) The person reasonably appears to be in need of medical attention.
- d) The BolaWrap 150 device pellets/barbs are lodged in sensitive areas (e.g., groin, female breast, head, face, neck).
- e) The person requests medical treatment.

TRAINING

Officers shall not carry, use or deploy the BolaWrap 150 device until they have received proficiency training and certification on the device. After initial certification the officer shall participate in annual proficiency training with the BolaWrap 150 device.

3.0850 Possession of Property Seized for Administrative Forfeiture

It shall be the policy of the Three Rivers Park District that all employees of the agency, all employees assigned to another law enforcement agency's task force and all employees assigned from an outside law enforcement agency to a task in which this agency serves as the fiscal agent, shall follow all state and federal laws pertaining to the processing of property seized for forfeiture.

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

3.0851 Definition of Terms

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

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

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

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

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

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

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

3.0852 Seized Property Subject to Administrative Forfeiture

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

1. All money, precious metals and precious stones found in proximity to:
 - a. Controlled Substances
 - b. Forfeitable drug manufacturing or distributing equipment or devices; or
 - c. Forfeitable records of manufacture or distribution of controlled substances.

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

1. All firearms, ammunition and firearm accessories found:

- a. In a conveyance device used or intended for use to commit or facilitate the commission of a felony offense involving a controlled substance;
 - b. On or in proximity to a person from whom a felony amount of controlled substance is seized; or
 - c. On the premises where a controlled substance is seized and in proximity to the controlled substance, if possession or sale of the controlled substance would be a felony under MN STAT Chapter 152.
- C. Situations in which forfeiture should not be pursued:
- 1. Seizure of property not listed above must be processed, reviewed and approved by the unit supervisor.

3.0853 Processing Seized Property for Forfeiture Proceedings

- A. When any property as described in the above section is seized, the peace officer making the seizure must prepare the following:
 - 1. The proper Notice of Seizure and Intent to Forfeit Property form. This form must be completed to include the following:
 - a. A list describing each item seized,
 - b. The name of the individual served with the Notice,
 - c. Location, and
 - d. The date of the seizure.
 - 2. A receipt for the item(s) seized.
- B. Administrative forfeiture notices are NOT to be given for assets seized under MN STAT 609.5314 if the retail value of the asset exceeds \$50,000.00.
- C. The Notice form also contains information in English, Hmong, Somali and Spanish concerning the right to obtain judicial review and the procedure under MN STAT 609.5314 to follow to obtain it. The form must be dated and signed by the peace officer conducting the seizure. An agency case number must be included on the form. The individual from whom property is seized must be given an opportunity to sign the seizure notice form. If the person refuses, the peace officer conducting the seizure must check the appropriate box indicating the refusal to sign. If property is seized from multiple individuals, a separate seizure form will be completed for each individual. A copy of the seizure form must be given to the individual served.
- D. All property subject to and being processed for forfeiture through the agency must be held in the custody of the agency.

- E. The peace officer conducting the seizure shall forward the original and pink copy of the seizure notices, seized property processing worksheets, property receipts and reports to the Forfeiture/Seized Property Reviewer within 10 days of seizure.
- F. The peace officer conducting the seizure shall inform the Forfeiture/Seized Property Reviewer of the estimated retail value of drugs found in proximity to the asset seized.

3.0854 Cash found in close proximity to contraband:

Peace officers shall not seize cash having an aggregate value less than \$50, unless pre-recorded buy funds are included in the cash seized or unless the cash is found in the immediate proximity of the contraband. Cash shall be recounted and the amount verified by another employee of the Agency. The property bag and/or inventory receipt shall then be co-signed when cash is involved. The Evidence Custodian must be made aware that cash has been forfeited prior to the confiscating officer's end of duty that day. Direct contact is preferred, however after-hours contact can be made via voice or email. In the event that the Evidence Custodian is unavailable due to days off, the confiscating officer shall notify the Lieutenant of seized cash via voice or email.

All forfeitable cash seized will be turned over to the Forfeiture/Seized Property Reviewer or evidence lockers prior to the end of the officer's shift that day. Photocopies of confiscated cash shall be made so that the serial number as well as indicia/dollar value is shown. Photocopies shall accompany the original offense report. The Evidence Custodian or Lieutenant shall place the forfeited cash into the main locked evidence room at Baker PSC as soon as possible after receiving notice cash has been forfeited, typically within 24 hours of notification.

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

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

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

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

3.0855 Jewelry/Precious Metals/Precious Stones

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

Conveyance Device

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

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

Firearms/Ammunition/Firearm Accessories

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

CASE FILE STATUS

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

REPORT WRITING

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

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

3.1000 Domestic Abuse

3.1001 Policy

It is the policy of the Three Rivers Park District Department of Public Safety to recognize domestic abuse as a serious problem in today's society. This department's policy is to protect victims of domestic abuse by making an arrest whenever it is authorized and by ensuring its peace officers understand the laws governing this area. Sworn members shall make an arrest for domestic violence if it can be reasonably determined that a crime has occurred. Sworn members shall consider the totality of the circumstances to include history of past abuse or violence when determining who should be arrested.

Sworn members are discouraged from making a dual arrest when possible. Members shall consider who is the predominant physical aggressor in the relationship and base the arrest decision accordingly in light of the specifics of the call in question balanced by the history of abuse in the relationship.

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

If a sworn member is aware of a domestic violence incident that involves a law enforcement officer from Three Rivers Park Police or another agency or other high profile member of the community, the investigating officer is required to contact their immediate Park District supervisor to make them aware of the situation. At no time will any deference or “professional courtesy” be afforded to the arrested individual. If a Sergeant is unavailable, the investigating officer shall contact the Director of Public Safety to inform them of the situation. The Director of Public Safety may then inform the appropriate supervisor from the affected agency where the offender lives or works.

3.1002 Definition of Terms

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

Domestic Abuse: (i) physical harm, bodily injury, assault, or the affliction of fear of imminent physical harm, bodily injury or assault, between family or household members; or (ii) terroristic threats (MN Statutes, Section 609.713, subd. 1) or criminal sexual conduct in the first through fourth degree, committed against a family or household member by a family or household member. (MN Statutes, Section 518B.01, subd 2(a)).

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

Child: a person under the age of 18.

Family or Household Member: spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they have been married or have lived together at any time, and persons involved in a significant romantic or sexual relationship. It also includes a man and a woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.

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

Primary Physical Aggressor: that person who, based on the evidence available at the time of incident and the officer’s perception of the incident, was the primary aggressor as based on the following criteria:

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

- the existence or previous existence of an order for protection.

Predominant Physical Aggressor: that person who is predominantly and historically responsible for creating an atmosphere of fear, intimidation or violence with another within the context of a family or household arrangement.

Qualified domestic violence-related offense (QDVRO): prior convictions for violation of an OFP (Order for Protection) or HRO (Harassment Restraining Order), assault in the first through fifth degree, domestic assault, criminal sexual conduct in the first through fourth degree, malicious punishment, terroristic threats or harassment/stalking. If a person arrested for a domestic crime has a prior QDVRO, the new offense may be chargeable as a higher-level crime. (See Domestic Abuse Enhancement chart appended hereto.) The QDVRO includes violations of similar laws in other states or under federal or tribal law.

Order for Protection: a court order that protects a victim of domestic abuse. Any family or household member may ask the court for an order for protection. A protection order may include: stop domestic abuse, no direct or indirect contact with petitioner, no stalking, evicting the respondent, housing for the petitioner when the respondent is the sole owner or lessee, temporary custody of minor children, financial support, and counseling.

Restraining Order: a temporary order of a court to preserve current conditions as they are until a hearing is held at which both parties are present. A restraining order may be issued in a divorce matter to prevent taking a child out of the county or to prohibit one of the parties from selling marital property. Also, a person who is a victim or harassment may seek a restraining order.

No Contact Order or Harassment/Stalking Restraining Order: an order issued when a petitioner requests a court order preventing another person from having contact with them or when a criminal charge has been filed with the court for the protection of someone. These orders generally prohibit all contact of any kind (including, but not limited to, phone calls, letters, e-mail and contact through a third party) and may limit the respondents ability to come within a certain distance of someone's home, work or school. A no contact order can be issued by the court even if the people involved want to have contact and object to the order. This type of order can be issued no matter what the relationship between the individuals involved. Violating these orders is a crime.

Harassing: to engage in intentional 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.

Stalking: a crime of harassment. Generally a person commits the offense of stalking if he or she makes a credible threat to another person and, in connection with the threat, repeatedly follows that person or repeatedly makes any form of communication with that person or a member of that person's immediate family, whether or not a conversation occurs.

3.1003 Responding to the Calls

- A. Driving to the Scene: Sworn members should respond directly and without unreasonable delay to the scene of a domestic call.

- B. Initial Contact with Occupants: Upon arriving at the scene of a domestic call, the responding officers should identify themselves as police officers; explain their presence, and request entry into the home. The officers should ask to see the person who is the alleged victim of the call. If the person who called the law enforcement agency is someone other than the subject of the call, the officer should not reveal the caller's name. The officer should ensure all of the occupants are safe.
- C. Entry
 - 1. Refused – If refused entry, the officers should be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused, the officers should request the dispatcher to contact the caller.
 - 2. Forced Entry – If access is still refused and the officers have reason to believe that someone is in imminent danger, the officers are permitted to force entry.
 - 3. Search Warrant Entry – If the officers are refused entry and have no legal grounds for forced entry and they have reasonable grounds to believe a crime has been committed, they should contact the appropriate authority to obtain a search warrant.
- D. First Aid: After securing the scene, responding members shall provide necessary first aid.
- E. Flight: If the suspect has left the scene and may enter other jurisdictions, members shall inform those agencies of the situation.

3.1004 Arrest Decisions

- A. Making Arrests
 - 1. After securing the scene and providing any first aid, the peace officers will conduct an assessment of the lethality of the situation based on the totality of the circumstances and begin a criminal investigation to determine if there is probable cause to believe that a crime has been committed based on the evidence and not solely upon the victim's desire to make an arrest. The officers should collect relevant physical evidence, including weapons which may have been used, take photographs of the scene or any injuries and statements from the involved parties and witnesses. Some of the evidence and statements include:
 - a. Condition of clothing,
 - b. Property damage,
 - c. Evidence of physical injury including strangulation,
 - d. Excited utterances of the victim and the suspect,
 - e. Demeanor of the victim and the suspect,

- f. Medical records including the victim's statements to paramedics, nurses and doctors,
 - g. Interviews of witnesses including the children who may have been present,
 - h. Evidence of any prior domestic abuse – related convictions including dates, and
 - i. Any existing orders for protection, harassment restraining order or no contact orders.
2. NOTE: When determining probable cause, the peace officers should consider their observations and any statements by parties involved and any witnesses. Prior convictions may provide the basis for enhancement to a gross misdemeanor or even felony charges (see 3.1005 below).

B. Factors not to be considered in making the Arrest

- 1. Ownership, tenancy rights of either party, or the fact the incident occurred in a private place,
- 2. Belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction,
- 3. Verbal assurances that the abuse will stop,
- 4. Disposition of previous police calls involving the same victim or suspect,
- 5. Denial by either party that the abuse occurred, when there is evidence of domestic abuse.
- 6. Lack of court order restraining or restricting the suspect,
- 7. Concern about reprisals against the victim,
- 8. Adverse financial consequences that might result from the arrest, or
- 9. Chemical dependency or intoxication of the parties.

C. Primary/Predominant Aggressor and Dual Arrests

- 1. The agency shall discourage dual arrest. Where there are allegations that each party assaulted the other, the peace officer shall determine whether there is sufficient evidence to conclude that one of the parties is the primary/predominant aggressor based on the following criteria and the officer's judgment:
 - a. Comparative extent of any injuries inflicted,
 - b. Fear of physical injury because of past or present threats,

- c. Actions taken in self-defense or to protect oneself,
 - d. The history of domestic abuse perpetrated by one party against the other, or
 - e. Existence or previous existence of order for protection
- D. Victim Request not to Prosecute: If the officer finds probable cause to believe a domestic abuse offense has been committed and intends to arrest but the victim requests no arrest or prosecution, the officer should inform the victim that the decision to arrest is the officer's and the decision to prosecute lies with the prosecutor.

3.1005 Authority and Types of Arrest

- A. Warrantless Probable Cause Arrest for Fifth Degree Assault or Domestic Assault
- 1. A peace officer is strongly encouraged and should arrest a person for an act of domestic violence or assault without a warrant, including at the person's residence, if the peace officer has probable cause to believe that the person within the preceding 72 hours committed an act of domestic assault. Officers should consider whether self-defense was used by a combatant, however self-defense in and of itself does not preclude the necessity of an arrest if a primary/predominant aggressor can be determined. Officers shall remain on scene with victim until reasonably assured that the likelihood of an immediate future assault is eliminated.
 - 2. NOTE: An arresting officer may not issue a citation in lieu of arrest and detention to an individual charged with assaulting the individual's spouse or other individual with whom the charged person resides (MN Statutes, Section 629.72/629.341).
- B. Level of Arrest for Assault 5 and Domestic Assault: Misdemeanor, Gross Misdemeanor, and Felony.
- 1. Assault in the Fifth Degree and Domestic Assault are deemed misdemeanor offenses. However, recent changes in the statutes have greatly increased the potential for arrests for these crimes at the gross misdemeanors and even felony level.
 - a. Gross Misdemeanors
 - i. MN Statutes, Section 609.224, subd. 2(a), Assault in the Fifth Degree, provides for an enhancement to a gross misdemeanor violation when the offense is against the same victim within five years of discharge from sentence for a previous conviction for assault, criminal sexual conduct in the first through fourth degree, or terroristic threats in Minnesota, or any similar law of another state.
 - ii. If the charge is Domestic Assault (MN Statutes, Section 609.2242) and the current victim is a family or household member and the crime occurs within ten years of discharge from sentence for conviction of any of the above

offenses against any family or household member, the same gross misdemeanor enhancement applies. The prior conviction need not be against a member of the same family or household.

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

b. Felonies

- i. As of August 1, 1993, if a person commits Assault in the Fifth Degree within ten years of discharge from sentence for the first of two or more convictions of assault, criminal sexual conduct in the first through fourth degree or terroristic threats against the same victim, Assault 5 becomes a felony. The same enhancement applies to Assault 5 against any victim occurring within three years of the first of two or more of these convictions.
- ii. Domestic Assault (against a family or household member) is also enhanceable under the same circumstances except that the prior convictions may be against any family or household member.
- iii. The new language "within five years of discharge from sentence", in effect extends the reach back for previous convictions to seven and a half years.
- iv. Example: Defendant arrested for Assault 5 on 1/1/98, sentenced on 6/1/98 and placed on two years' probation. This offense remains good for enhancement purposes until 6/1/2005.

C. Harassment/Stalking

1. Effective July 1, 1993, Minnesota enacted a stalking statute, which created new crimes at both the felony and gross misdemeanors levels. The statute also supersedes and repeals certain previously misdemeanor offenses. The acts covered by MN Statutes, Section 609.749 include several which are frequently applicable to domestic abuse situations even when no actual assault occurred.
2. The 1997 Legislature amended the stalking statute to clarify language the Minnesota Supreme Court found ambiguous in the 1993 law while still maintaining the basic structure of the 1993 law.

a. Gross Misdemeanors

- i. Current law (effective 5/7/97) makes it a gross misdemeanor to harass another person by committing any of the following acts. A person who:
 - Directly or indirectly manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;
 - Stalks, follows or pursues another;

- Returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;
 - Repeatedly makes telephone calls, or induces a victim to make telephone calls to the actor, whether or not conversations ensue;
 - Makes or causes the telephone of another repeatedly or continuously to ring;
 - Repeatedly mails or delivers or causes the delivery of letters, telegrams, messages, packages, or other objects; or
 - Engages in any other harassing conduct that interferes with another person or intrudes on the person's privacy or liberty.
3. MN Statutes, Section 609.749, subd. 1 (as amended by the 1997 Legislature) defines "harass" as meaning "to engage in intentional conduct which (1) the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted or intimidated, and (2) causes this reaction on the part of the victim.
 4. The 1997 Legislature also specifically declared that in stalking/harassment prosecutions, the State does not have to prove the actor intended to cause the victim to feel frightened, threatened, oppressed, persecuted or intimidated (MN Statutes, Section 609.749, subd 1a.).
 5. What the defendant claims his/her intent is therefore immaterial as long as objectively he should have known (i.e., a reasonable person would know) his/her acts would harass the victim and, in fact, the victim did feel the best position to make this objective assessment. Obtaining a complete domestic abuse history is usually the key to making the determination that the current act, under the circumstances, constitutes the crime of harassment.
 - a. Felony Enhancement
 - i. Any of the above gross misdemeanors is enhanceable to a felony if committed within 10 years of discharge from sentence for a prior conviction for harassment, assault (any degree), violation of an OFP or harassment order or terroristic threats OR if committed against a juvenile OR if committed while possessing a dangerous weapon.
 - b. Pattern of Harassing Conduct
 - i. In addition, it is a felony to engage "in a pattern of harassing conduct with respect to a single victim or one or more members of a single household which the actor knows or has reason to know would cause a reasonable person under the circumstances to feel terrorized or to fear bodily harm and

which does cause this reaction” in the victim. MN Statutes, Section 609.749, subd. 5 (as amended by the 1997 Legislature). A “pattern of harassing conduct” means 2 or more acts (convictions are not necessary) within a five year period that constitute any of the following offenses: Harassment, terroristic threats, assault, violation of an order for protection or harassment order, trespass, harassing phone calls, or mail, or criminal defamation.

- ii. NOTE: the harassment statute makes it more important than ever to document not just the facts of the current police call but also the history of abuse or harassment.

D. Probable Cause Warrantless Arrest

1. The domestic abuse arrest statute (MN Statutes, Section 629.72) has been amended to provide that the officer may not issue a citation in lieu of arrest in harassment/stalking cases. An officer may also make a warrantless probable cause arrest for harassment even if the offense did not occur in the officer’s presence. MN Statutes, Section 629.34, subd. 1 (c)(5).

E. Probable Cause Felony Arrests for Other Crimes

1. At a domestic call, peace officers shall consider whether other felonies have been committed including but not limited to burglary, felony assault, terroristic threats, kidnapping, false imprisonment, and witness tampering.
2. NOTE: An Assault 5 may be chargeable as burglary in the first degree even if the home is also the offender’s, if the entry is made without consent of the victim and in violation of an OFP barring the offender from the premises.

F. Violation of Court Orders

1. Members shall verify whether any of the following orders exist before or during an arrest. The peace officer or someone acting at the officer’s discretion may make this verification. Methods of verification include personally seeing a copy of the order or obtaining verification from the court or law enforcement agency that has the actual order. The police report shall include identifying information of the specific court order violated, including county of origin, the file number, and the provision allegedly violated.
 - a. Order for Protection
 - i. A peace officer shall arrest and take into custody without a warrant a person who the peace officer has probable cause to believe has violated the restraint or exclusion section of an order for protection granted pursuant to MN Statutes, Section 518B.01, subds. 6, 7, and 9. Such an arrest shall be made even if the violation of the order did not take place in the presence of the peace officer, if the officer can verify the existence of the order.

- ii. NOTE: There are three key points related to the Order for Protection: (1) The law requires an arrest regardless of whether or not the excluded party was invited back to the residence. (2) There is no hour limitation for a warrantless arrest for a violation of an Order for Protection. (3) If there is evidence that an individual has violated another provision of an Order for Protection, other than the restraint or exclusion clauses, a police report should be submitted to the prosecutor indicated specifically how the order was violated.
 - iii. A violation of an Order for Protection is a misdemeanor but is enhanceable to a gross misdemeanor if the offense occurs within 5 years of discharge from sentence for conviction of violation of an OFP or (effective for crimes occurring on and after 8/1/94) for any conviction of assault, terroristic threats, violation of a harassment order or harassment/stalking. As of 8/1/97, it is enhanceable as a felony if it occurs within 5 years of discharge of the first of two or more such convictions.
 - iv. As of January 5, 1998, a statewide law enforcement computer verification system for domestic abuse orders for protection will be on line including the phone number of the controlling agency (the law enforcement agency with a copy of the actual OFP). The system will also make it possible to identify respondents against whom an OFP has been issued but not served.
- b. Harassment Restraining Order
- i. A peace officer shall arrest and take into custody a person who the peace officer has probable cause to believe has violated a harassment restraining order pursuant to MN Statutes, Section 609.748, subd. 4 and 5, if the officer can verify the existence of the order.
 - ii. NOTE: A person who violates a harassment restraining order is guilty of a misdemeanor if the violator knows of the order. This offense is enhanceable to a gross misdemeanor if it occurs within 5 years of discharge from sentence for a previous conviction for violation of a harassment order or an OFP or any assault, harassment/stalking or terroristic threats conviction. As of 8/1/97, it is enhanceable to a felony if it occurs within five years of discharge of the first of two or more such convictions.
- c. No Contact Order
- i. As of August 1, 1993, an officer may arrest without a warrant any person who she/he has probable cause to believe has violated the provision of a no contact or restraining order issued by a court. MN Statutes, Section 629.34, subd. 1(6).
 - ii. In many jurisdictions, pretrial no contact orders are routinely issued in crimes against persons cases, including domestics, and are valid until final disposition of the case (sentencing or dismissal).

- iii. The pretrial order is frequently replaced at the time of sentencing with a new no contact order issued as a condition of probation. This no contact order may be valid for the full probationary period indicated in the order.
 - iv. The court may rescind a no contact order at any time. However, the production of the victim of a copy of an apparently valid court order, absent contrary evidence, provides prima facie basis for arrest whenever there is probable cause to believe a violation of the order has occurred.
- d. Other Misdemeanors
- i. At a domestic call, the member shall consider whether other crimes have been committed including but not limited to trespassing, criminal damage to property, disorderly conduct, witness tampering, or assault.

3.1006 Assistance, Staying at the Scene, Crime Victim Rights, and Services

A. Staying at the Scene

1. If an arrest does not occur, peace officers should remain at the scene of the disturbance until they believe that the likelihood of further imminent abuse has been eliminated. If a domestic abuse intervention program is available, the peace officer should make contact for immediate intervention.
2. NOTE: MN Statutes, Section 629.342 provides that when a peace officer does not make an arrest, the peace officer must provide immediate assistance to the victim including obtaining necessary medical treatment and providing the victim with the notice of rights pursuant to MN Statutes, Section 629.341, subd. 3.

B. Assistance to Non-English Speaking Victims or Victims with Communication Disabilities

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

C. Notice of Crime Victim Rights

1. The sworn member shall give the victim of a domestic call a copy of the agency's Crime Victim Rights Brochure (Appendix H).
2. NOTE: It is important to routinely review these forms to ensure that they are current, in compliance with the law, and contain the name of the local domestic abuse program. The Department of Public Safety, Crime Victim and Advisory Council, produces the crime victim's rights notice and serves as the contact for the victim's rights information.

D. Services

1. The sworn member should contact the local domestic abuse program by phone as soon as possible on all arrest situations and provide the name and address of the victim and a brief factual account of events associated with the action. This section shall not apply if prohibited by the Minnesota Government Data Practices Act (MN Statutes, Section 13.82, subd. 10).

3.1007 Children

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

If the child has been injured, the officer should escort the child to the nearest hospital for treatment.

3.1008 Reports and Forms

A. Written Report

1. Members shall make a report after responding to a domestic call. If the officer did not arrest or seek an arrest warrant even though arrest was authorized, a detailed explanation of the reasons for the officer's decision not to arrest must be documented. The report should include the following:
 - a. detailed statements of the victim, suspect, and witnesses;
 - b. a description of any injuries;
 - c. information about past abuse;
 - d. a description of the scene;
 - e. primary aggressor;
 - f. the existence of any language barriers;
 - g. the presence of elderly victims or those with disabilities; and
 - h. the documentation of any evidence obtained.

3.1009 Further Investigation

Officers are expected to follow up on their own calls as much as possible. With supervisory approval, in rare cases, follow up can be assigned to another officer if the investigating officer is on extended days off or the nature of the call requires a speedy law enforcement response. Regardless of whether an arrest was made, members shall thoroughly document all relevant

information in their reports. The reports shall be referred to the appropriate prosecutor for his/her review and consideration of criminal charges.

3.1800 Missing and Endangered Children

This policy addresses only those investigations where the missing child has been determined to be both missing and endangered.

3.1801 Purpose

The purpose of this section is to establish guidelines and responsibilities for the consistent response to, and investigation of, all reports of missing and endangered children as defined in Minnesota Statutes, Chapter 299C.52, subd. 1, ("Minnesota Missing Children Program"). The mandatory procedures are highlighted in bold print.

3.1802 Response

Three Rivers Park District Public Safety Department recognizes that there is a critical need for immediate and consistent response to reports of missing and endangered children. The decisions made and actions taken during the preliminary stages have a profound effect on the outcome of the case. The Department has established the following responsibilities and guidelines for the investigation of missing and endangered children. All Members will be informed of, and comply with, the following required procedures:

1. Initial Response
2. Initial Investigation
3. Investigation
4. Prolonged Investigation
5. Recovery/Case Closure

The facts surrounding each missing and endangered child report will dictate when the procedures are warranted and what the order and priority should be within each of the five categories. However, each of the procedures must be carried out immediately as circumstances warrant and many of the steps will need to be done simultaneously.

3.1803 Definition of Terms

Missing: According to the Minnesota Statutes, Chapter 299C.52, subd. 1 (c), missing means "the status of a child after a law enforcement agency that has received a report of a missing child has conducted a preliminary investigation and determined that the child cannot be located."

Endangered: According to the Minnesota Statutes, Chapter 299C.52, subd. 1 (e), endangered means that "a law enforcement official has received sufficient evidence that the child is with a person who presents a threat of immediate physical injury to the child or physical or sexual abuse of the child."

Child: According to Minnesota Statutes, Chapter 299C.52, subd. 1 (a), child means “any person under the age of 18 years or any person certified or known to be mentally incompetent.

Sufficient Evidence: Sufficient evidence means articulable facts and circumstances which would induce a reasonable prudent police or peace officer to believe that a crime has been or is about to be committed.

NCIC: NCIC means the National Crime Information Center.

CJIS: CJIS means the Criminal Justice Information System.

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

3.1804 Procedures

A. Initial Response Procedures

1. Dispatch a sworn member to the scene to conduct a preliminary investigation.
2. Obtain interpretive services if necessary.
3. Interview parent(s)/person who made the initial report
4. Determine when, where and by whom the missing child was last seen.
5. Interview the individuals who last had contact with the child.
6. Obtain a detailed description of the missing child/abductor/vehicles/etc.
7. Load the NCIC Missing Person File (involuntary category) with complete descriptive and critical information regarding the missing and endangered child as soon as the minimum entry requirements are met but not longer than 2 hours in any case.
8. Load the NCIC system with complete descriptive information regarding suspect(s) within two hours.
9. Request investigative and supervisory assistance.
10. Update additional responding personnel.
11. Broadcast known details, on all police communication channels, to other patrol units, other local law enforcement agencies, and surrounding law enforcement agencies and, if necessary, use the National Law Enforcement Telecommunications System (NLETS) and the Minnesota Crime Alert Network to alert state, regional, and federal law enforcement agencies.
12. Notify family of crime victim of the services available and give the family the Crime Victim Services card.

13. Seal the crime scene, do not allow individuals to leave the area until interviewed and note anyone who may have left just prior to the arrival of law enforcement.
14. Activate protocols for working with the media.
15. As required by Minnesota Statute, Chapter 299C.53, subd. 1, contact the Bureau of Criminal Apprehension regarding the incident. Request assistance as necessary.
16. Implement multi-jurisdictional coordination/mutual aid plan as necessary, for example:
 - a. When the primary agency has limited resources,
 - b. When the investigation crosses jurisdictional lines, and
 - c. When jurisdictions have pre-established task forces or investigative teams.

B. Initial Investigation

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

C. Investigation

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

5. Obtain child protective records for reports of abuse on child.
6. Review records for previous incidents related to the missing child and prior police activity in the area including prowlers, indecent exposure, attempted abductions, etc...
7. Obtain the child's medical and dental records.
8. Update the NCIC missing person file with any additional information regarding the child or suspect as necessary.
9. Interview delivery personnel, employees of gas, water, electric, and cable companies, taxi drivers, post office personnel, sanitation workers, etc...
10. Contact the National Center for Missing and Exploited Children (NCMEC) for photo dissemination and other case assistance.
11. Determine if outside help is necessary and utilize local and state resources related to specialized investigative needs including:
 - a. Crime Victim Advocates.
 - b. Minnesota Bureau of Investigation.
 - c. Federal Bureau of Investigation.
 - d. County Attorney.
 - e. Customs Investigative Services.
 - f. Minnesota State Patrol.
 - g. Minnesota Crime Alert Network.
 - h. Investigative experts in the areas of sexual assault, child maltreatment, and/or homicide.
 - i. Searches:
 - i. Ground Searches – Manpower, Vehicles, and/or Mounted Patrol.
 - ii. Canine Assisted.
 - iii. Water and Underwater Searches.
 - iv. Air Searches.
 - j. Investigative Resources:

- i. Child Interviewing.
- ii. Polygraph.
- iii. Profiling/Behavioral Analysis.
- iv. MN Sex and Violent Crime Analysis Programs.
- v. Crime Analysis/Computer Assistance.
- vi. Forensic Artistry/Crime Scene and Evidence Processing.
- vii. Memory Retrieval.

- k. Interpretive Services.

- l. The Department of Natural Resources.

- m. Telephone Services (traps, traces, etc...).

- n. Media Assistance (Local and National)

D. Prolonged Investigation

1. Develop a profile on the possible abductor.
2. Consider the use of polygraph for the parents and other key individuals.
3. Re-read all reports and transcripts of interviews, revisit the crime scene, review all photographs and videotapes, re-interview key individuals, and re-examine all physical evidence collected.
4. Review all potential witness/suspect information obtained in the initial investigation and consider background checks on anyone identified in the investigation.
5. Develop timeline and other visual exhibits.
6. Critique results of the ongoing investigation with appropriate investigative resources.
7. Arrange for periodic media coverage.
8. Utilize rewards and crime-stoppers programs.
9. Update NCIC Missing Person File Information as necessary.
10. Re-contact the National Center for Missing and Exploited Children (NCMEC) for age progression assistance.

E. Recovery/Case Closure

1. Arrange for a comprehensive physical examination of the victim.
2. Conduct a careful interview of the child, document the results of the interview, and involve all appropriate agencies.
3. Refer family for effective reunification assistance.
4. Cancel alarms and remove case from NCIC and other information systems and remove posters and other publications from circulation.
5. Perform constructive post-case critique. Re-assess the procedures used and update the Department's police procedures as appropriate.

THREE RIVERS PARK DISTRICT PUBLIC SAFETY INITIAL REPORT OF A MISSING OR ENDANGERED CHILD DISCRETIONARY DECISION-MAKING CHART

Runaway	Missing	Family Abduction	Endangered
<p>Procedures</p> <ol style="list-style-type: none"> 1. Identify whether the missing child is believed to be endangered as defined in MN Stat. 1993, Chap. 299C.52, subd. 1(e). If so, respond accordingly to the Department's missing and endangered child policy. 2. If child is not believed to meet the definition of endangered: <ol style="list-style-type: none"> a. Enter identifying information into NCIC computer (MN Missing Children). 3. If at any point sufficient 	<p>Procedures</p> <ol style="list-style-type: none"> 1. Identify whether the missing child is also believed to be endangered according to the MN Stat. 1993, Chapter 299C.52, subd. 1(e). If so, respond accordingly to the Department's missing and endangered child policy. 2. If child is not believed to meet the definition of endangered: <ol style="list-style-type: none"> a. Enter identifying information into NCIC computer (MN Missing Children). 3. If at any point sufficient 	<p>Procedures</p> <ol style="list-style-type: none"> 1. Identify whether the child, who is the suspect victim of an abduction by a family member is also believed to be the endangered according to MN Stat. 1993, Chapter 299C.52, subd. 1(e). If so, respond to accordingly to the Department's missing and endangered child policy. 2. If child is not believed to meet the definition of endangered: <ol style="list-style-type: none"> a. Enter identifying information 	<p>Procedures</p> <ol style="list-style-type: none"> 1. See proceeding procedures.

Runaway	Missing	Family Abduction	Endangered
evidence is found to indicate the missing child also meets the definition of endangered respond according to the Department's missing and endangered child policy.	evidence is found to indicate the missing child also meets the definition of endangered respond according to the Department's missing and endangered child policy.	thru CJIS into NCIC computer. 3. If at any point sufficient evidence is found to indicate the missing child also meets the definition of endangered, respond accordingly to the Department's missing and endangered child policy.	

3.1805 Miscellaneous Requirements

Susan's Law

When an officer reliably believes that a person under the age of 21 is correctly identified as missing, they are not required to have signed supporting documentation from the complainant prior to the entry of the missing person into NCIC. **Missing persons under the age of 21 shall be entered into the NCIC system immediately.**

Missing adults over age 21 should have signed documentation supporting the stated conditions under which they are declared missing before system entry. **All missing person entries should have signed documentation within 24 hours of the initial report.**

While awaiting signed documentation and prior to entry into NCIC, Officers are encouraged to put out teletypes and regional messages to area law enforcement to be on the lookout for said missing person if conditions warrant.

When entering records, into NCIC missing person file, the entry person shall:

- Check appropriate CCH/license files/local files, etc... to gather pertinent descriptors
- Enter subject and include scars/marks/tattoos/aliases/DOBs/dental records, etc...
- Once verified, query NCIC to obtain a hard copy for second party verification.

This information shall be verified by a second entry person check. All entries older than 30 days require additional medical and dental information.

3.1900 Predatory Offender Registration and Community Notification

It is the policy of Three Rivers Park District Public Safety to protect the public by disclosing information on predatory offenders residing in an agency's community. The extent of the information disclosed and to whom is at the discretion of the agency unless otherwise noted. However, it must relate to the level of danger posed by the offender, to the offender's pattern of offending behavior, and to the need of community members to enhance their individual and collective safety.

3.1901 Definition of Terms

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

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

NOTE: Some offenders are not assigned a risk level due to their offense being adjudicated prior to predatory offender legislation enactment or due to the offender's conviction not leading to supervision by the Department of Corrections. These offenders are still subject to the predatory offender registration statutes, though they are not subject to community notification.

3.1902 Procedure

A. Community Notification

1. For questions regarding community notification or risk level assigned to an Offender, please contact the Predatory Offender Unit of the Department of Corrections (DOC) at 651-361-7340 or at doc@state.mn.us The DOC will answer questions about the process and responsibilities, and assist agencies in conducting public notification meetings when an offender subject to notification moves into a law enforcement jurisdiction.

B. Notification Process

1. Level 1 – The purpose is to disclose information to raise awareness.
 - a. **Mandatory** – Victims who have requested disclosure.
 - b. **Discretionary** – Witnesses or victims, other law enforcement agencies.
2. Level 2 – The objective is to disclose information to safeguard facilities and protect the individuals within those facilities.
 - a. **Mandatory** – All persons and entities included in Level 1 disclosure.
 - i. **NOTE:** If the offender is placed or resides in a residential facility, do NOT disclose any information until the law enforcement agency is notified that the offender has been relocated.

- b. **Discretionary** – Groups and agencies that the offender is likely to encounter including staff members of both public and private schools, day care facilities and organizations that would provide services to the individuals likely to be victimized by the offender.
 - i. Consider using the following to assist with discretionary disclosure: the offender's prior history; offense characteristics; employment; recreational, social and religious interests; and characteristics of likely victim.
- 3. Level 3 – The goal is to disclose information not only to safeguard facilities and protect the individuals they serve, but also to protect the community as a whole.
 - a. **Mandatory** – All persons and entities included in Level 1 and Level 2 disclosure. A good faith effort must be made to notify within 14 days of receiving documents from DOC.
 - i. **NOTE:** If the offender is placed or resides in a residential facility, do NOT disclose any information until the law enforcement agency is notified that the offender has relocated.
 - b. **Discretionary** – Other members of the community who the offender is likely to encounter, unless public safety would be compromised by the disclosure or a more limited disclosure is necessary to protect the identity of the victim.
 - i. However an agency decides to inform the public is their discretion. The current standard for Level 3 offender is to invite the community to a public meeting and disclose the necessary information.

C. Registration

- 1. For questions concerning registration, please contact the Bureau of Criminal Apprehension Predatory Offender Unit (BCA POR) at 651-793-7070 / 1-888-234-1248 or at www.dps.state.mn.us/bca or refer to the Predatory Offender Registration Manual (POR Manual) for detailed information.
- 2. When an offender arrives at your agency to register, determine if he/she is required to register (review list of registerable offenses in the POR Manual) and in what state the offense was committed.
- 3. If the offender is required to register, contact the BCA POR to clarify if the offender is registered and if a DNA sample has been submitted.
 - a. If the offender is already registered, complete a Change of Information Form included in the POR Manual.
 - b. If the offender is not registered, complete a Predatory Offender Registration Form included in the POR Manual.

- c. If the offender is from another state, contact the state (information for each state is listed in the POR Manual) and request a copy of his/her original registration form, criminal complaint and sentencing documents.
 4. It is recommended the agency verify the address of offenders living in their community.
 - a. If the offender is not living at the residence, contact the BCA POR to determine if a Change of Information Form was submitted. If it was not, the offender may be charged with failure to notify authorities of a change in residence.
 - b. Contact the BCA POR to request a Prosecution Packet. Submit the packet to the county attorney's office to file a formal charge.
 - c. It must be verified that the offender is no longer residing at his/her last address prior to submitting the Prosecution Packet for charging. Depending on the county attorney, formal statements may be needed from friends, co-workers, neighbors, caretakers, etc...

D. Access to Predatory Offender Web site

1. The State of Minnesota Bureau of Criminal Apprehension has created unit to assist law enforcement in the monitoring of predatory offenders in the state of Minnesota. This unit is called the Predatory Offender Unit (POR Unit).
2. The POR Unit has created a website wherein confidential information about registered offenders is shared with law enforcement officials who have been given authorization to access the site via a signed Joint Powers Agreement and only under specific conditions. These conditions include:
 - a. All information obtained from the website must be used only for legitimate investigative purposes and not shared with non-law enforcement entities.
 - b. Only authorized staff may access the POR website.
 - c. All authorized staff must be familiar with the Predatory Offender Registration Policy and terms for use of the website.
 - d. Violations of the rules for site access may cause a suspension of rights to use the site.
 - e. Any information printed from the website can only be exported to a printer within the law enforcement agency.
 - f. DPS staff will log all transactions to the website and maintain these logs for one year.

- g. Only authorized law enforcement staff who have passed a criminal history check may be permitted to access the site.
- h. Computers which are used to access the website must be housed in a lockable and controlled location not open to the general public or non-law enforcement personnel.
- i. The recipient agency (Three Rivers Park District) agrees to discipline staff members who violate rules set by the POR Unit in the use of the website.
- j. The recipient agency has the responsibility of verifying POR site information prior to acting upon the information obtained.
- k. The recipient agency must adhere to the Data Privacy Act and all Federal statutes relevant to using personal and confidential information.
- l. Any additional restrictions as outlined in the Joint Powers Agreement which is signed and kept in the control of the Three Rivers Park District Public Safety Director's possession.

3.2000 Criminal Conduct on School Buses

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

3.2001 Procedure

This agency shall:

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

- F. Provide information to the school regarding the incident as required or authorized by law.

3.2100 Impartial Policing

The Public Safety Department is committed to impartial/unbiased policing and the reinforcement of procedures which serve to assure the public that we are providing service and enforcing laws in a fair, consistent and equitable manner. Officers shall focus patrol on time and place crime descriptors over person or suspect based descriptors except when the person-based descriptors are particularly timely, location or otherwise unique with respect to the suspected offense.

Officers shall not give preferential treatment to other known law enforcement officers or high-profile community members based on the fact of their status in the community or as a member of the law enforcement profession.

At all times Public Safety staff will conduct their daily interactions with others consistent with the principles of maintaining the public trust, providing fair access to law enforcement services to all, remaining objective in their work, fulfilling role as a team member in the greater criminal justice system and actions will be conducted that enhance the safety, security and trust of those who frequent the Park District.

3.2101 Policing Impartially

- A. Investigating detentions, pedestrian and vehicle stops (including motor vehicles, ATV's, snowmobiles, and bicycles), arrests, issuance of citations for violations of Park District Ordinance, searches and property seizures by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the United States Constitution. Officers must be able to articulate specific facts, circumstances and conclusions that support reasonable suspicion or probable cause for investigative detentions, pedestrian and vehicle stops, arrests, nonconsensual searches and property seizures.
- B. Except as provided in section (C) officers shall not consider race, ethnicity, national origin, gender, dress, sexual orientation or religion in establishing either reasonable suspicion or probable cause.
- C. Officers may take into account the descriptors in section (B) of a specific suspect(s) based on very recent and timely information that links specific, suspected, unlawful or suspicious activity to a particular individual or group of individuals. This information may be used in the same manner officers use specific information regarding age, height, weight, gender, race, vehicle(s) or dress in describing suspects.

3.2102 Preventing Perceptions of Biased or Racial Profiling Policing

- A. Suspect data when used to temporarily detain individuals thought to be involved in criminal behavior, shall be specific and timely so that mis-identification is unlikely. Detailed clothing descriptions and physical attributes must be timely in any attempt to locate call. Absent very unique physical personal descriptions or detailed vehicle

information, suspect information to be acted upon should be less than 2 hours old and in reasonable proximity to location of incident.

1. Anonymous suspicious activity calls, with no complainant identity, or vague in description of actions merit additional scrutiny by the responding officer and do not automatically justify or warrant contact with said individual.
 2. In an effort to prevent the perception of biased law enforcement, officers shall utilize the following guidelines:
 - a. Be respectful and professional in all citizen contacts.
 - b. Introduce or identify yourself to the citizen and state the reason for the contact as soon as practical, unless providing this information will compromise officer or public safety.
 - c. Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense.
 - d. Attempt to answer any relevant questions citizens may have regarding the citizen/officer contact, including referrals to other agencies or appropriate court jurisdiction when appropriate.
 - e. Officers will provide name and badge number when requested, preferably on a business card or in writing.
 - f. Explain and/or apologize if it is determined that the person(s) contacted are not involved in the incident.
- B. Consistent with Minnesota Statute 626.8471 and mandates of the Minnesota Board of Peace Officer Standards and Training, the Department, as feasible will offer in-service training relative to impartial policing.

3.2103 Supervision and Accountability

- A. Supervisors shall ensure that all personnel in their command are familiar with the elements of this policy and are operating in compliance with it.
- B. Proven violations of this policy will result in discipline being imposed on the involved member(s).

3.3000 Sexual Assault Investigations

3.3001 Purpose

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

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

3.3002 Policy

It is the policy of the Three Rivers Park District Public Safety Department to recognize sexual assault as a serious problem in society and to protect victims of sexual assault by ensuring its peace officers understand the laws governing this area. Sexual assault crimes are under-reported to law enforcement and the goal of this policy is in part to improve victim experience in reporting so that more people are encouraged to report.

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

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

3.3002 Definition of Terms

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

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

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

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

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

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

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

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

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

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

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

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

- (1) is a resident inpatient of a facility as defined in Minn. Stat. 626.5572. Subd. 6;
- (2) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a

sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

- (3) receives services from a home care provider required to be licensed under sections 144A.43 to 144A.482; or from a person or organization that exclusively offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654, and 256B.0659; or
- (4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:
 - (i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and
 - (ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

3.3004 Procedures

A. Communications Personnel Response/Additional Actions by Responding Officers

1. Communications personnel and/or law enforcement officers should inform the victim of ways to ensure critical evidence is not lost, to include the following:
 - a. Suggest that the victim not bathe, or clean him or herself if the assault took place recently.
 - b. Recommend that if a victim needs to relieve themselves, they should collect urine in a clean jar for testing, and should avoid wiping after urination.
 - c. Asking the victim to collect any clothing worn during or after the assault and if possible, place in a paper bag, instructing the victim not to wash the clothing (per department policy).
 - d. Reassure the victim that other evidence may still be identified and recovered even if they have bathed or made other physical changes.

B. Initial Officer Response

1. When responding to a scene involving a sexual assault, officers shall follow standard incident response procedures. In addition, when interacting with victims, officers shall do the following:
 - a. Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.

- b. The officer shall attempt to determine the location/jurisdiction where the assault took place.
- c. Explain the reporting process including the roles of the first responder, investigator, and anyone else with whom the victim will likely interact during the course of the investigation.
- d. Officers are encouraged to connect the victim with local victim advocates as soon as possible. Inform the victim that there are confidential victim advocates available to address any needs they might have and to support them through the criminal justice system process. Provide the victim with contact information for the local victim advocate. Upon victim request the officer can offer to contact local victim advocate on behalf of the victim.
- e. Ask about and document signs and symptoms of injury, to include strangulation. Officers shall attempt to obtain a signed medical release from the victim.
- f. Ensure that the victim knows they can go to a designated facility for a forensic medical exam. Offer to arrange for transportation for the victim.
- g. Identify and attempt to interview potential witnesses to the sexual assault and/or anyone the victim told about the sexual assault.
- h. Request preferred contact information for the victim for follow-up.

C. Victim Interviews

1. This agency recognizes that victims of sexual assault due to their age or physical, mental or emotional distress, are better served by utilizing trauma informed interviewing techniques and strategies. Such interview techniques and strategies eliminate the duplication of interviews and use a question and answer interviewing format with questioning nondirective as possible to elicit spontaneous responses.
2. In recognizing the need for non-traditional interviewing techniques for sexual assault victims, officers should consider the following:
 - a. Offer to have a confidential victim advocate present (if possible) if the victim would benefit from additional support during the process
 - b. Whenever possible, conduct victim interviews in person
 - c. Make an effort to conduct the interview in a welcoming environment
 - d. Let the victim share the details at their own pace
 - e. Recognize victims of trauma may have difficulty remembering incidents in a linear fashion and may remember details in days and weeks following the assault

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

D. Special Considerations—Minors and Vulnerable Adults/Domestic Abuse Victims

1. Minors and Vulnerable Adults

- a. This agency recognizes that certain victims, due to their age or a physical, mental, or emotional distress, are better served by utilizing interview techniques and strategies that eliminate the duplication of interviews and use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. Members of this agency will be alert for victims who would be best served by the use of these specialized interview techniques. Officers, in making this determination, should consider the victim's age, level of maturity, communication skills, intellectual capacity, emotional state, and any other observable factors that would indicate specialized interview techniques would be appropriate for a particular victim. When an officer determines that a victim requires the use of these specialized interview techniques, the officer should follow the guidance below.

- i. Officers responding to reports of sexual assaults involving these sensitive population groups shall limit their actions to the following:
 - Ensuring the safety of the victim;
 - Ensuring the scene is safe;
 - Safeguarding evidence where appropriate;
 - Collecting any information necessary to identify the suspect; and
 - Addressing the immediate medical needs of individuals at the scene
- ii. Initial responding officers should not attempt to interview the victim in these situations, but should instead attempt to obtain basic information and facts about the situation, including the jurisdiction where the incident occurred and that a crime most likely occurred. Officers should seek to obtain this information from parents, caregivers, the reporting party, or other adult witnesses, unless those individuals are believed to be the perpetrators.
- iii. Officers responding to victims with special considerations must comply with the mandated reporting requirements of Minnesota Statute Section 260E.06 and 626.557, as applicable. Officers investigating cases involving victims with special considerations should coordinate these investigations with the appropriate local human services agency where required. Any victim or witness interviews conducted with individuals having special considerations must be audio and video recorded whenever possible. All other interviews must be audio recorded whenever possible.
 - Not all sexual assaults of minor victims require a mandatory report to social services. This policy recognizes that in certain cases, notifying and/or the involvement of a parent/guardian pursuant to 260E.22 can cause harm to the minor and/or impede the investigation. Officers responding to the sexual assault of a minor victim that does not trigger a mandated report under Minnesota Statute Section 260E.06 should assess for the impact on the victim and the investigation if parents/guardians were notified before making a decision to involve them.
- iv. Officers should obtain necessary contact information for the victim's caregiver, guardian or parents and where the victim may be located at a later time. Officers should advise the victim and/or any accompanying adult(s), guardians or caregivers that an investigating officer will follow up with information on a forensic interview.
- v. The officer should advise the victim's caregiver, guardian or parent that if the victim starts to talk about the incident they should listen to them but not question them as this may influence any future statements.

2. Victims of Domestic Abuse

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

E. Protecting Victim Rights

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

F. Evidence Collection

1. Considerations for Evidence Collection
 - a. Officers shall follow this agency's policy on crime scene response. In addition, officers may do the following:
 - i. Collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing. The agency should consider utilizing their agency or county crime lab in obtaining or processing

the scene where the assault took place. This should be in accordance to any/all other policies and procedures relating to evidence collections.

- ii. Document any evidence of threats or any communications made by the suspect, or made on behalf of the suspect, to include those made to individuals other than the victim.
- iii. In situations where it is suspected that drugs or alcohol may have facilitated the assault, officers should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, or other related items.
- iv. If the victim has declined or a medical forensic exam will not be conducted, the officer should obtain victim consent and attempt to take photographs of visible physical injuries, including any healing or old injuries. Victim should be given directions about how to document any bruising or injury that becomes evidence later after these photographs are taken.

G. Sexual Assault Medical Forensic Examinations

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

H. Contacting and Interviewing Suspects

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

I. Forensic Examination and/or the Collection of Evidence from the Suspect

1. Note: A suspect's forensic examination and/or the collection of evidence from a suspect may be done by either an investigating officer/investigator, Forensic Medical Examiner, or the agency/county crime lab personnel.
 - a. Prior to or immediately after the preliminary suspect interview, photograph any injuries.
 - b. Determine whether a sexual assault medical forensic examination should be conducted.
 - c. Ask for the suspect's consent to collect evidence from their body and clothing. However, officers/investigators should consider obtaining a search warrant, with specific details about what evidence will be collected, and should be prepared in advance to eliminate the opportunity for the suspect to destroy or alter evidence if consent is denied.

- d. During the suspect's sexual assault medical forensic examination, the investigator, evidence technician, or forensic examiner should do the following:
 - i. Strongly consider penile swabbing, pubic hair combings, and collection of other potential DNA evidence;
 - ii. Collect biological and trace evidence from the suspect's body;
 - iii. Document information about the suspect's clothing, appearance, scars, tattoos, piercings, and other identifiable marks;
 - iv. Seize all clothing worn by the suspect during the assault, particularly any clothing touching the genital area;
 - v. Document the suspect's relevant medical condition and injuries.

J. Role of the Supervisor

1. Supervisors may do the following:
 - a. Assist officers investigating incidents of sexual assault when possible or if requested by an officer.
 - b. Provide guidance and direction as needed.
 - c. Review sexual assault reports to ensure that necessary steps were taken during initial response and investigations.

K. Case Review/Case Summary

1. A supervisor should ensure cases are reviewed on an on-going basis. The review process should include an analysis of:
 - a. Case dispositions
 - b. Decisions to collect evidence
 - c. Submissions of evidence for lab testing
 - d. Interviewing decisions

3.4000 Eyewitness Identification Procedure

3.4001 Policy

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

3.4002 Purpose

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

3.4003 Definition of Terms

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

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

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

Administrator: The law enforcement official conducting the identification procedure.

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

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

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

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

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

3.4004 Procedure

A. Show-ups

1. The use of show-ups should be avoided whenever possible in preference to the use of a lineup or photo array procedure. However, when circumstances require the prompt presentation of a suspect to a witness, the following guidelines shall be followed to minimize potential suggestiveness and increase reliability.
 - a. Document the witness's description of the perpetrator prior to conducting the show up.
 - b. Conduct a show-up only when the suspect is detained within a reasonable time frame after the commission of the offense and within a close physical proximity to the location of the crime.

- c. Do not use a show-up procedure if probable cause to arrest the suspect has already been established.
 - d. If possible, avoid conducting a show-up when the suspect is in a patrol car, handcuffed, or physically restrained by officers, unless safety concerns make this impractical.
 - e. Caution the witness that the person he or she is about to see may or may not be the perpetrator—and it is equally important to clear an innocent person. The witness should also be advised that the investigation will continue regardless of the outcome of the show-up.
 - f. Do not conduct the show-up with more than one witness present at a time.
 - g. Separate witnesses and do not allow communication between them before or after conducting a show-up.
 - h. If one witness identifies the suspect, use a line-up or photo array for remaining witnesses.
 - i. Do not present the same suspect to the same witness more than once.
 - j. Do not require show-up suspects to put on clothing worn by, speak words uttered by, or perform other actions of the perpetrator.
 - k. Officers should scrupulously avoid words or conduct of any type that may suggest to the witness that the individual is or may be the perpetrator.
 - l. Ask the witness to provide a confidence statement.
 - m. Remind the witness not to talk about the show-up to other witnesses until police or prosecutors deem it permissible.
 - n. Videotape the identification process using an in-car camera or other recording device when feasible.
 - o. Document the time and location of the show-up, the officers present, the result of the procedure, and any other relevant information.
2. Basic Procedures for Conducting a Line-up or Photo Array
- a. Line-ups will not typically be utilized for investigations, unless conducting a photo array is not possible.
 - b. Whenever possible, a blind presentation shall be utilized. In cases where a blind presentation is not feasible for a photo array, a blinded presentation should be used. Live line-ups must be conducted using a blind presentation.

- c. The line-up or photo array should consist of a minimum of six individuals or photographs. Use a minimum of five fillers and only one suspect.
- d. Fillers should be reasonably similar in age, height, weight, and general appearance and be of the same sex and race, in accordance with the witness's description of the offender.
- e. Avoid the use of fillers who so closely resemble the suspect that a person familiar with the suspect might find it difficult to distinguish the suspect from the fillers.
- f. Create a consistent appearance between the suspect and the fillers with respect to any unique or unusual feature (e.g., scars, tattoos, facial hair) used to describe the perpetrator by artificially adding or concealing that feature on the fillers.
- g. If there is more than one suspect, include only one in each line-up or photo array.
- h. During a blind presentation, no one who is aware of the suspect's identity should be present during the administration of the photo array. However, during a line-up, the suspect's attorney should be present.
- i. Place suspects in different positions in each line-up or photo array, both across cases and with multiple witnesses in the same case.
- j. Witnesses should not be permitted to see or be shown any photos of the suspect prior to the line-up or photo array.
- k. The witness shall be given a copy of the following instructions prior to viewing the line-up or photo array and the administrator shall read the instructions aloud before the identification procedure.
 - i. You will be asked to look at a series of individuals.
The perpetrator may or may not be present in the identification procedure.
 - ii. It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.
 - iii. I don't know whether the person being investigated is included in this series.
 - iv. Sometimes a person may look different in a photograph than in real life because of different hair styles, facial hair, glasses, a hat or other changes in appearance. Keep in mind that how a photograph was taken or developed may make a person's complexion look lighter or darker than in real life.
 - v. You should not feel that you have to make an identification. If you do identify someone, I will ask you to describe in your own words how certain you are.
 - vi. The individuals are not configured in any particular order.

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

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

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

l. The line-up or photo array should be shown to only one witness at a time; officers should separate witnesses so they will not be aware of the responses of other witnesses.

m. Multiple identification procedures should not be conducted in which the same witness views the same suspect more than once.

n. Officers should scrupulously avoid the use of statements, cues, casual comments, or providing unnecessary or irrelevant information that in any manner may influence the witnesses' decision-making process or perception.

o. Following an identification, the administrator shall ask the witness to provide a confidence statement and document the witness's response.

p. The administrator shall ask the witness to complete and sign an Eyewitness Identification Procedure Form.

q. Line-up and photo array procedures should be video or audio recorded whenever possible. If a procedure is not recorded, a written record shall be created and the reason for not recording shall be documented. In the case of line-ups that are not recorded, agents shall take and preserve a still photograph of each individual in the line-up.

3. Photographic Arrays

a. Creating a Photo Array

i. Use contemporary photos.

ii. Do not mix color and black and white photos.

iii. Use photos of the same size and basic composition.

iv. Never mix mug shots with other photos and ensure consistent appearance of photograph backgrounds and sizing.

v. Do not include more than one photo of the same suspect.

- vi. Cover any portions of mug shots or other photos that provide identifying information on the subject – and similarly cover other photos used in the array.
- vii. Where the suspect has a unique feature, such as a scar, tattoo, or mole or distinctive clothing that would make him or her stand out in the photo array, filler photographs should include that unique feature either by selecting fillers who have the same features themselves or by altering the photographs of fillers to the extent necessary to achieve a consistent appearance.
- viii. Fillers should not be reused in arrays for different suspects shown to the same witness.

b. Conducting the Photo Array

- i. The photo array should be preserved, together with full information about the identification process as part of the case file and documented in a report.
- ii. If a blind administrator is not available, the administrator shall ensure that a blinded presentation is conducted using the following procedures.
 - Place the suspect and at least five filler photos in separate folders for a total of six (or more depending on the number of fillers used).
 - The administrator will take one folder containing a known filler and place it to the side. This will be the first photo in the series. The administrator should then shuffle the remaining folders (containing one suspect and the remainder of fillers) such that he or she cannot see how the line-up members are ordered. These shuffled folders will follow the first filler photo. The stack of photos is now ready to be shown to the witness.
 - The administrator should position himself or herself so that he or she cannot see inside the folders as they are viewed by the witness.
- iii. The witness should be asked if he or she recognizes the person in the photo before moving onto the next photo. If an identification is made before all of the photos are shown, the administrator should tell the witness that he or she must show the witness all of the photos and finish showing the sequence to the witness, still asking after each photo if the witness recognizes the person in the photo.
- iv. If possible, the array should be shown to the witness only once. If, upon viewing the entire array the witness asks to see a particular photo or the entire array again, the witness should be instructed that he or she may view the entire array only one additional time. If a second viewing is permitted, it must be documented.

4. Line-ups

a. Conducting the Line-up

- i. Live line-ups shall be conducted using a blind administrator.
- ii. Ensure that all persons in the line-up are numbered consecutively and are referred to only by number.

b. The primary investigating officer is responsible for the following:

- i. Scheduling the line-up on a date and at a time that is convenient for all concerned parties, to include the prosecuting attorney, defense counsel, and any witnesses.
- ii. Ensuring compliance with any legal requirements for transfer of the subject to the line-up location if he or she is incarcerated at a detention center.
- iii. Making arrangements to have persons act as fillers.
- iv. Ensuring that the suspect's right to counsel is scrupulously honored and that he or she is provided with counsel if requested. Obtaining proper documentation of any waiver of the suspect's right to counsel.
- v. Allowing counsel representing the suspect sufficient time to confer with his or her client prior to the line-up and to observe the manner in which the line-up is conducted.

3.5000 Confidential Informants

3.5001 Policy

It is the policy of the law enforcement agency to establish procedures and protocols that take necessary precautions concerning the recruitment, control and use of confidential informants.

3.5002 Definition of Terms

Confidential Informant (CI): A person who cooperates with a law enforcement agency confidentially in order to protect the person or the agency's intelligence gathering or investigative efforts and;

1. seeks to avoid arrest or prosecution for a crime, mitigate punishment for a crime in which a sentence will be or has been imposed, or receive a monetary or other benefit; and
2. is able, by reason of the person's familiarity or close association with suspected criminals, to:
 - i. make a controlled buy or controlled sale of contraband, controlled substance, or other items that are material to a criminal investigation;

- ii. supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or
- iii. otherwise provide information important to ongoing criminal intelligence gathering or criminal investigative efforts.

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

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

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

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

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

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

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

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

3.5003 Procedures

A. Initial Suitability Determination

1. An initial suitability determination must be conducted on any individual being considered for a role as a CI. The initial suitability determination includes the following:
 - a. An officer requesting use of an individual as a CI must complete an Initial Suitability Report. The report must be submitted to the appropriate individual or entity, as determined by the agency chief executive, to review for potential selection as a CI. The report must include sufficient detail regarding the risks and

benefits of using the individual so that a sound determination can be made. The following information must be addressed in the report, where applicable:

- i. Age, sex, and residence
 - ii. Employment status or occupation
 - iii. Affiliation with legitimate businesses and illegal or suspicious enterprises
 - iv. Extent to which potential information, associations, or other assistance could benefit a present or future investigation
 - v. Relationship with the target of an investigation
 - vi. Motivation in providing information or assistance
 - vii. Risk of adversely affecting an existing or future investigation
 - viii. Extent to which provided information can be corroborated
 - ix. Prior record as a witness
 - x. Criminal history, to include whether he or she is the subject of a pending investigation, is under arrest, or has been charged with a crime
 - xi. Risk to the public or as a flight risk
 - xii. Consultation with the individual's probation, parole, or supervised release agent, if any
 - xiii. Consideration and documentation of the individual's diagnosis of mental illness, substance use disorder, traumatic brain injury, or disability; and consideration and documentation of the individual's history of mental illness, substance use disorder, traumatic brain injury or disability
 - xiv. Relationship to anyone in law enforcement
 - xv. Risk of physical harm to the potential CI or their immediate family or relatives for cooperating with law enforcement
 - xvi. Prior or current service as a CI with this or another law enforcement organization
- b. Prior to an individual's use as a CI, a supervisor or other designated authority must review the Initial Suitability Report and determine if the individual is authorized to serve as a CI.

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

B. Exigent Confidential Informants

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

C. Special CI Approval Requirements

1. Certain individuals who are being considered for use as a CI require special review and approval. In all instances, the agency's chief executive or their designee and the office of the prosecutor or county attorney should be consulted prior to the use of these individuals as CIs. These individuals include the following:
 - a. Juveniles
 - i. Use of a juvenile under the age of 18 for participating in a controlled buy or sale of a controlled substance or contraband may be undertaken only with the written authorization of the individual's parent(s) or guardian(s), except that the juvenile informant may provide confidential information.
 - ii. Authorization for such use should be granted only when a compelling public interest can be demonstrated, except that
 - iii. Juveniles under the guardianship of the State may not be used as a CI.
 - b. Individuals obligated by legal privilege of confidentiality.
 - c. Government officials.

D. General Guidelines for Overseeing CIs

1. General guidelines for overseeing CIs are as follows:

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

- vii. CIs may be directed to wear a listening and recording device.
- viii. CIs must be required to submit to a search before and after a controlled purchase.
- ix. CIs who participate in unplanned or unanticipated activities or meet with a subject(s) under investigation in a location outside of the jurisdictional boundary of the handling agency must promptly report that activity or meeting to their overseeing agents.
- i. CI activity outside jurisdictional boundaries:
 - i. Investigators handling CIs who engage in operational activity in locations outside the jurisdictional boundaries of the agency must coordinate with counterparts in law enforcement agencies that have jurisdiction in that location where the CI will operate before any activity occurs, or in a timely manner after unanticipated activity occurs and is brought to the attention of the overseeing agent.
 - ii. Any decision to defer or delay notice to or coordinate with an outside agency having jurisdiction in the area where a CI has or may operate must be documented, reviewed, and approved by the agency's chief executive or their designee.
- j. Officers must take the utmost care to avoid conveying any confidential investigative information to a CI, such as the identity of other CIs, surveillance activities, or search warrants, other than what is necessary and appropriate for operational purposes.
- k. No member of this agency must knowingly maintain a social relationship with a CI, or otherwise become personally involved with a CI beyond actions required in the performance of duty.
- l. Members of this agency must not solicit, accept gratuities from, or engage in any private business transaction with a CI.
- m. Meetings with a CI must be conducted in private with another officer or agent present and with at least one officer or agent of the same sex, except when not practical. The meeting location should minimize the potential for discovery of the informant's cooperation and provide sufficient space to complete necessary administrative duties. The meetings must be documented and subsequently entered into the individual's CI file.
- n. Overseeing agents must develop and follow a communications strategy and plan with the CI that minimizes, to the greatest extent possible, the risk of discovery or compromise of the relationship between the agency and the CI. This plan should

also aim to prevent the detection, compromise, or interception of communications between the overseeing agent and the CI.

- o. Procedures must be instituted to assist CIs with concealing their identity and maintaining their safety. Care should be given not to expose CIs to unnecessary safety risks.
- p. Preceding or following every buy or sale of controlled substances, overseeing agents must screen the CI for any personal safety or mental health concerns, risk of substance abuse, and/or potential relapse in any substance abuse recovery.
 - i. At the request of the CI, or if the overseeing agent deems it necessary, reasonable efforts should be taken to provide the CI with referral to substance abuse and/or mental health services.
 - ii. Overseeing agents must document:
 - the screening,
 - any referral to services provided to, or requested by, the CI, and
 - any refusal by the CI to participate in the screening and/or any refusal by the CI to accept referral to services. Reasons for the CI's refusal must be documented, where applicable.
 - iii. No part of this subsection supersedes MN Stat. 253B.05, sub.2.
- q. Reasonable protective measures must be provided for a CI when any member of this agency knows or should have known of a risk or threat of harm to a person serving as a CI and the risk or threat of harm is a result of the informant's service to this agency.
- r. Overseeing agents must:
 - i. evaluate and document the criminal history and propensity for violence of target offenders; and
 - ii. to the extent allowed, provide this information to the CI if there is a reasonable risk or threat of harm to the CI as a result of the CI's interaction with the target offender.
- s. Reasonable efforts and precautions must be made to help protect the identity of a CI during the time the person is acting as an informant.
- t. Whenever possible, officers must corroborate information provided by a CI and document efforts to do so.

- u. The name of a CI must not be included in an affidavit for a warrant unless judicial authority is obtained to seal the document from the public record or the CI is a subject of the investigation upon which the affidavit is based.
- v. Overseeing agents are responsible for ensuring that information of potential value to other elements of the agency is provided promptly to authorized supervisory personnel and/or other law enforcement agencies as appropriate.
- w. Individuals leaving employment with the agency have a continuing obligation to maintain as confidential the identity of any CI and the information he or she provided unless obligated to reveal such identity or information by law or court order.

E. Establishment of an Informant File System

1. An informant file system must be established as follows:
 - a. The agency chief executive must designate a file supervisor who must be responsible for developing and maintaining master CI files and an indexing system.
 - b. A file must be maintained on each CI deemed suitable by the agency.
 - c. An additional Unreliable Informant File must be established for CIs deemed unsuitable during initial suitability determinations or at a later time.
 - d. Each file must be coded with an assigned informant control number for identification within the indexing system and must include the following information, where applicable:
 - i. Name, aliases, and date of birth
 - ii. Height, weight, hair color, eye color, race, sex, scars, tattoos, or other distinguishing features
 - iii. Emergency contact information
 - iv. Name of the officer initiating use of the informant and any subsequent overseeing agents
 - v. Photograph and criminal history record
 - vi. Current home address and telephone number(s)
 - vii. Residential addresses in the last five years
 - viii. Current employer, position, address, and telephone number

- ix. Social media accounts
 - x. Marital status and number of children
 - xi. Vehicles owned and their registration numbers
 - xii. Places frequented
 - xiii. Gang affiliations or other organizational affiliations
 - xiv. Briefs of information provided by the CI and the CI's subsequent reliability
 - xv. Special skills and hobbies
 - xvi. Special areas of criminal expertise or knowledge
 - xvii. A copy of the signed informant agreement
- e. CI files must be maintained in a separate and secured area.
 - f. The file supervisor must ensure that information concerning CIs is strictly controlled and distributed only to officers and other authorities who have a need and a right to such information.
 - g. CI File Review
 - i. Sworn personnel may review an individual's CI file only upon the approval of the agency's chief executive or their designee.
 - ii. The requesting officer must submit a written request explaining the need for review. A copy of this request, with the officer's name, must be maintained in the individual's CI file.
 - iii. Officers must not remove, copy, or disseminate information from the CI file.
 - iv. CI files must be reviewed only in designated areas of the law enforcement facility and returned as soon as possible to their secure file location.
 - v. All disclosures or access to CI files must be recorded by the file supervisor, to include information such as the requesting officer or agency, the purpose of access or disclosure, the information conveyed, and the date and time of access or dissemination.
 - vi. No portion of an individual's CI file must be entered into any other electronic or related database without controls sufficient to exclude access to all but authorized personnel with a need and a right to know.

F. Deactivation of Confidential Informants

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

G. Monetary Payments

1. Monetary payments must be managed as follows:
 - a. All monetary compensation paid to CIs must be commensurate with the value of the information or assistance provided to the agency.
 - b. All CI payments must be approved in advance by the officer in charge of confidential funds.
 - c. Officers must provide accounting of monies received and documentation for confidential funds expended. Any documentation of monies paid or received should not contain the true identity of the informant but should use the CI's control number.
 - d. Two officers must be present when making payments or providing funds to CIs.

- e. The appropriate individual, as designated by the agency's chief executive, must ensure that the process for authorization, disbursement, and documentation of CI payments, as well as the accounting and reconciliation of confidential funds, is consistent with agency policy.
- f. If a CI is authorized to work with another law enforcement or prosecutorial agency, financial payments must be coordinated between the agencies in a manner that is proportionate to the assistance rendered to each agency and consistent with provision III.F.1. of this policy.
- g. Written records of receipts are retained, or justification for the exception is documented when a written receipt is not available.

3.6000 Public Assembly and First Amendment Activity

3.6001 Purpose

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

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

The Three Rivers Park District Department of Public Safety supports all people's fundamental right to peaceably assemble and their right to freedom of speech and expression.

The purpose of this policy is to provide guidelines to the Three Rivers Park District Department of Public Safety personnel regarding the application and operation of acceptable law enforcement actions addressing public assemblies and First Amendment Activity.

3.6002 Policy

The Three Rivers Park District Department of Public Safety will uphold the constitutional rights of free speech and assembly while using the minimum use of physical force and authority required to address a crowd management or crowd control issue.

The policy of the Three Rivers Park District Department of Public Safety regarding crowd management and crowd control is to apply the appropriate level of direction and control to protect life, property, and vital facilities while maintaining public peace and order during a public assembly or First Amendment activity. Department personnel must not harass, intimidate, or discriminate against or unreasonably interfere with persons engaged in the lawful exercise of their rights.

This policy concerning crowd management, crowd control, crowd dispersal, and police responses to violence and disorder applies to spontaneous demonstrations, crowd event situations, and planned demonstration or crowd events regardless of the permit status of the event.

This policy is to be reviewed annually.

3.6003 Definitions

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

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

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

Crowd Control: Techniques used to address unlawful public assemblies.

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

(Reference: Three Rivers Park District Department of Public Safety's Use of Force Policy, MN Statutes 609.06 and 609.066)

Direct Fired Munitions: Less-lethal impact munitions that are designed to be directly fired at a specific target.

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

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

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

(Reference: Three Rivers Park District Department of Public Safety's Use of Force Policy, MN Statutes 609.06 and 609.066)

Legal Observers: Individuals, usually representatives of civilian human rights agencies, who attend public demonstrations, protests, and other activities. The following may be indicia of a legal observer: Wearing a green National Lawyers' Guild issued or authorized Legal Observer hat

and/or vest (a green NLG hat and/or black vest with green labels) or wearing a blue ACLU issued or authorized legal observer vest.

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

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

3.6004 Procedure

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

safety of the crowd, the general public, law enforcement personnel, and emergency personnel.

3.6005 Responses to Crowd Situations

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

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

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

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

D. Crowd Dispersal

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

3.6006 Tactics and Weapons to Disperse or Control a Non-Compliant Crowd

Nothing in this policy prohibits officers' abilities to use appropriate force options to defend themselves or others as defined in the Three Rivers Park District Department of Public Safety's Use of Force policy.

A. Use of Batons

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

B. Restrictions on Crowd Control and Crowd Dispersal

1. Canines must not be used for crowd control, crowd containment, or crowd dispersal.
2. Fire hoses must not be used for crowd control, crowd containment, or crowd dispersal.
3. Electronic Control Weapons (ECWs) must not be used for crowd control, crowd containment, or crowd dispersal.
4. Motorcycles and police vehicles must not be used for crowd dispersal, but may be used for purposes of observation, visible deterrence, traffic control, transportation, and area control during a crowd event.
5. Fired Specialty Impact Less-Lethal Munitions (Wooden Dowels and Stinger Grenades) may be used as a last resort if other crowd dispersal techniques have failed or have been deemed ineffective.
6. Direct Fired munitions may never be used indiscriminately against a crowd or group of persons even if some members of the crowd or group are violent or disruptive.
 - a. Except for exigent circumstances, the on-scene supervisor/incident commander must authorize the deployment of Direct Fired munitions. Direct Fired munitions must be used only against a specific individual who is engaging in conduct that

poses an immediate threat of loss of life or serious bodily injury to them self, officers, or the general public; or is creating an imminent risk to the lives or safety of other persons through the substantial destruction of property.

- b. Officers shall not discharge a Direct Fired munitions at a person's head, neck, throat, face, left armpit, spine, kidneys, or groin unless deadly force would be justified.
 - c. When circumstances permit, the on-scene supervisor/incident commander must make an attempt to accomplish the policing goal without the use of Direct Fired munitions as described above, and, if practical, and an audible warning shall be given to the subject before deployment of the weapon.
7. Aerosol Hand-held Chemical Agents must not be used in a demonstration or crowd situation or other civil disorders without the approval of the on-scene supervisor/incident commander.
- a. Aerosol, hand-held, pressurized, containerized chemical agents that emit a stream shall not be used for crowd management, crowd control, or crowd dispersal during demonstrations or crowd events. Aerosol hand-held chemical agents may not be used indiscriminately against a crowd or group of persons, but only against specific individuals who are engaged in specific acts of serious unlawful conduct or who are actively resisting arrest.
 - b. Officers shall use the minimum amount of the chemical agent necessary to overcome the subject's resistance.
 - c. When possible, persons should be removed quickly from any area where handheld chemical agents have been used. Officers must monitor the subject and pay particular attention to the subject's ability to breathe following the application of a chemical agent.
 - d. A subject who has been sprayed with a hand-held chemical agent shall not be left lying on their stomach once handcuffed or restrained with any device.
8. Chemical munitions use in a crowd situation is subject to the following:
- a. Chemical munitions must be used only when:
 - i. a threat of imminent harm or serious property damage is present, or other crowd dispersal techniques have failed or did not accomplish the policing goal as determined by the incident commander
 - ii. sufficient egress to safely allow the crowd to disperse exists
 - iii. the use of chemical munitions is approved by the on-scene supervisor/incident commander

- b. When feasible, additional announcements should be made prior to the use of chemical munitions in a crowd situation warning of the imminent use of chemical munitions.
- c. Deployment of chemical munitions into a crowd must be avoided to prevent unnecessary injuries.
- d. CN chemical munitions are prohibited.
- e. The use of each chemical munition must be recorded (time, location), and the following information must be made available by the department on request:
 - i. the name of each chemical munition used in an incident
 - ii. the location and time of use for each munition deployment
 - iii. access to the safety data sheet (SDS) for chemical munition
- f. Where extensive use of chemical munitions would reasonably be anticipated to impact nearby residents or businesses, agencies should consider proactively notifying impacted individuals of safety information related to the munitions use as soon as possible, even if after the event.
- g. When chemical munitions are used, an emergency responder will be on standby at a safe distance near the target area when feasible.
- h. Chemical munitions are subject to the same procedural requirements as outlined in the Three Rivers Park District Department of Public Safety's Use of Force policy.

C. Arrests

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

5. Juveniles arrested in demonstrations shall be handled consistent with department policy on arrest, transportation, and detention of juveniles.
6. Officers arresting a person with a disability affecting mobility or communication must follow the department policy on arrest, transportation, and detention of persons with disabilities.

D. Handcuffs

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

3.6007 Media

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

3.6008 Legal Observers

- A. Legal observers, including unaffiliated self-identified legal observers and crowd monitors, do not have the same legal status as the media, and are subject to laws and orders similar to any other person or citizen.

- B. Legal observers and monitors must comply with all dispersal orders unless the on-site supervisor/incident commander chooses to allow such an individual legal observer and monitor to remain in an area after a dispersal order.
- C. Legal observers and crowd monitors must not be targeted for dispersal or enforcement action because of their status.

3.6009 Documentation of Public Assembly and First Amendment Activity

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

4.0800 Lighting Exemption of Law Enforcement Vehicles

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

4.0801 Definition of Terms

For the purpose of this policy, the following definitions apply:

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

Lights: Refers to headlights, taillights, and marine navigational lighting as referenced in MN Statutes, Section 84.87, 84.928, 169.48 to 169.65 and 86B.511.

4.0802 Procedure

A peace officer may not operate a vehicle without lights contrary to MN Statute 169.541. Lighting Exemption for Law Enforcement; Standards, under conditions of limited or reduced visibility as defined in MN Statute 84.87, 84.928, 169.48 to 169.65, and 86B.511:

- A. On an interstate highway
- B. At speeds greater than what is reasonable and prudent under existing weather, road, and traffic conditions
- C. Faster than the posted speed limit
- D. In situations where the peace officer is an active participant in the pursuit of a motor vehicle in violation of MN Statutes, Section 609.487.

Officers shall not operate motor vehicles without headlights while utilizing nite vision equipment or optics

4.1600 Unmanned Aerial System (UAS)

4.1601 Purpose

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

4.1602 Policy

Unmanned aerial vehicles may be utilized to enhance Three Rivers Park District Department of Public Safety's mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAV will be in accordance with Minn. Stat. §626.19 Subd. 4, must comply with all Federal Aviation Administration (FAA) requirements and guidelines and this policy.

4.1603 Definition of Terms

Unmanned Aerial System (UAS): An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled, and all of the supporting or attached systems designed for gathering information through imaging, recording, or any other means.

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

4.1604 Privacy

The use of the UAV potentially involves privacy considerations. Absent a warrant or for the reasons listed in 414.4 provided in this policy, operators shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy. Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy.

4.1605 Authorized Use of UAV

Only authorized operators who have completed the required training shall be permitted to operate the UAV.

Three Rivers Park District Department of Public Safety must not use a UAV without a search warrant issued under Minn. Stat. § 626.19, except for below authorized use.

Three Rivers Park District Department of Public Safety may use a UAV:

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

4.1606 Limitations on Use

- A. Three Rivers Park District Department of Public Safety must comply with all FAA requirements and guidelines.

- B. Three Rivers Park District Department of Public Safety must not deploy a UAV with facial recognition or other biometric-matching technology unless expressly authorized by a warrant.
- C. Three Rivers Park District Department of Public Safety must not equip a UAV with weapons.
- D. Three Rivers Park District Department of Public Safety must not use a UAV to collect data on public protests or demonstrations unless expressly authorized by a warrant or an exception applies under 4.1605.
- E. The UAS video surveillance equipment shall not be used:
 - 1. To target a person based solely on individual characteristics, such as, but not limited to race, ethnicity, national origin, religion, disability, gender, or sexual orientation.
 - 2. To harass, intimidate or discriminate against any individual or group.
 - 3. To conduct personal business of any type.

4.1607 Program Coordinator

The Chief Law Enforcement Officer will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations, and best practices, and shall not implement use of the UAS until the following requirements have been satisfied:

- A. Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.
- B. Ensuring that all authorized operators have completed all required FAA and office-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.
- C. Developing a protocol to document all missions according to Minn. Stat. §626.19 Subd. 5.
- D. Maintain a UAV inspection, maintenance, and record-keeping protocol to ensure continuing airworthiness of a UAV.
- E. Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules and statutory requirements.
- F. Recommending program enhancements, particularly regarding safety and information security.

4.1608 Deployment and Usage

- A. Deployment of a UAV shall require authorization from the Chief Law Enforcement Officer, Sergeant, or Lead Worker.

- B. Deployment must comply with Three Rivers Park District Department of Public Safety policy and state statute.
- C. Deployment can only be conducted if there is an authorized pilot conducting the mission.
- D. The operator should take precaution during initial startup and calibration with the distance between the UAV and Body Worn Cameras (BWC). Body Worn Cameras could interfere with the initial set up.

4.1609 Retention of UAS Data

Data collected by the UAS must be destroyed no later than 7 days from collection unless the data is evidence in an active criminal investigation, claim, pending litigation, or in anticipation thereof or explicitly authorized by law. Data not including any identifying, protected, or non-public data may be kept for training purposes only.

Three Rivers Park District Department of Public Safety will ensure that all data intended to be used as evidence are accessed, maintained, stored, and retrieved in a manner that ensures its integrity as evidence, including chain of custody requirements.

4.1610 Reporting

Three Rivers Park District Department of Public Safety must document each use of the UAV, connect each deployment to a unique case number, provide a factual basis for the use of the UAV, and identify the applicable exception for use unless a warrant was obtained.

A flight log of the aircraft must be completed following deployment. Digital logs of aircraft mission profiles will be retained pursuant to FAA guidelines. The report shall contain:

- A. Pilot
- B. Visual observer(s), if applicable
- C. Authorized use, search warrant, or authorized exception
- D. The supervisor that authorized the UAV deployment
- E. A mission synopsis and results
- F. Any performance issues, if applicable

By January 15th of each year, Three Rivers Park District Department of Public Safety shall report to the Commissioner of Public Safety the following information for the preceding calendar year:

- A. The number of times a UAV was deployed without a search warrant issued under this chapter, including the date of deployment and the authorized use of the UAV.
- B. The total cost of the agency's UAV program.