

## **3-1 USE OF FORCE AND DEADLY FORCE**

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### **POLICY**

It is the policy of the Cannon Falls Police Department to respect the sanctity of human life when making decisions regarding use of force to provide peace officers with guidelines for the use of force and deadly force in accordance with Federal, State laws and Court rulings.

### **Purpose**

It is the purpose of this policy to establish guidance for Cannon Falls Police Department peace officers on the Use of Force and Use of Deadly Force based on with the following Minnesota State Statutes:

626.8452 – Deadly Force and Firearms Use: Polices and Instruction Required

626.8475 – Duty to Intercede and Report

609.06 – Authorized Use of Force

609.065 – Justifiable Taking of Life

609.066 – Authorized Use of Force by Peace Officers

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.

### **Scope**

This policy applies to all licensed peace officers regardless if full-time or part-time engaged in the discharge of official duties.

### **3-1.01 TRAINING**

The Cannon Falls Police Department shall provide instruction on the use of force, deadly force, and the use of firearms to every peace officer newly appointed by or beginning employment with the Cannon Falls Police Department. This instruction will occur before the issuance of authorization to use force or carry a firearm in the course of the appointee's employment. The instruction will be based on Minnesota Statutes, Cannon Falls Police Department's policy and on the instructional standards of the Minnesota Peace Officer Standards and Training (POST) Board.

Continuing instruction in these areas will be completed on a yearly basis for all police officers employed by the City of Cannon Falls in addition to ongoing legal updates. Training may include simulation or scenario-based situations that enhance officers' decision making and judgement in selecting force options, including the use of de-escalation techniques and/or disengagement when the actions of the subject provide those options.

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 non-deadly force and/or deadly force interactions.

## **3-1.02 DEFINITIONS**

### **3-01.02.01 Bodily Harm**

Minnesota State Statute 609.02 Subdivision 7: "Bodily harm" means physical pain or injury, illness, or any impairment of physical condition.

### **3-01.02.02 Great Bodily Harm**

Minnesota State Statute 609.02 Subdivision 8: "Great bodily harm" means 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.

### **3-01.02.03 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.

### **3-01.02.04 Non-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.

### **3-01.02.05 Chokehold**

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.

### **3-01.02.06 De-Escalation:**

A tactic designed to provide officers a position of advantage to gain compliance when dealing with person that may be irrational, unpredictable, impaired mental capacity or suicidal. Using de-escalation can help officers stay focused and calm

during a crisis situation, to bring chaotic moments to as peaceful a resolution as the subject will afford.

### **3-1.02.07 Authorized Device:**

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

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

### **3-1.03 USE OF NON-DEADLY FORCE**

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

- 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.

### **3-1.04 USE OF DEADLY FORCE**

An officer is authorized to use deadly force if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary.

1. 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 by the law enforcement officer;
    - 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. An officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (1a), items (i) to (iii).
3. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.

### **3-1.05 USE OF CERTAIN TYPES OF FORCE**

1. Except in cases where deadly force is authorized as articulated in Minnesota Statute 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;
  - c. Securing a person in any way that results in transporting the person face down in a vehicle.
2. Non-Deadly Force measures must be considered by the officer prior to applying these measures.

### **3-1.06 GENERAL RULES GOVERNING USE OF FORCE**

1. Officers should use the least amount of force reasonably necessary to accomplish the intended objective without impairing the safety of others. This provision should not be construed, however, to require officers to first attempt using types and degrees of force that reasonably appear to be inadequate to accomplish the intended objective.
2. Protracted hand-to-hand combat may be harmful to the public safety, the safety of law enforcement personnel, and the safety of the person being arrested or captured. Accordingly, it shall be deemed reasonable for officers to use that type and degree of non-deadly force necessary to

bring a subject whom the officer intends to arrest or capture quickly under control.

3. Officers must carry and use only approved device, as that term is defined previously, unless circumstances exist which pose an imminent threat to the safety of the officer or the public requiring the immediate use of a non-approved device to counter such a threat. This provision should not be construed as authorizing officers to use a non-approved device where, under the circumstances, it would be feasible to procure approval for use of the particular device prior to its use.
4. No officer shall modify, alter, or cause to be altered an approved device in his or her possession or control unless prior approval has been granted by the department.
5. Displays of approved devices – approved devices may be readied for use in situations where it is reasonably anticipated that they may be required. Such display shall not constitute a use of force, provided that the use of the approved device's use would be permissible under this policy and/or applicable laws.
6. Threatening the Use of Force- An officer may announce to another his or her intention to use only that type and degree of force which may reasonably be necessary under the circumstances. This provision should not be construed to authorize or endorse the use of discourteous, abusive, or unprofessional language.
7. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
8. 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.
9. 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.

### **3.1-07 DE-ESCLATION**

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 in an effort 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.
3. 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.

### **3-1.08 DUTY TO ACT**

Officers regardless of tenure or rank have a duty to act whenever they encounter another peace officer engaging in a use of force that the officer believes is not allowed by law, regardless if the other officer(s) agency affiliation.

#### **1 Duty to Intercede**

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

#### **2 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.

### **3-1.09 SPECIFIC RULES RELATING TO THE USE OF SPECIFIC DEVICES**

#### **1. IMPACT WEAPONS**

- a. Impact weapons should (be) used only where efforts involving the use of less(er) degree(s) of force have failed, or where it

reasonably appears that such methods would be ineffective if attempted.

- b. Officers striking another person with an impact weapon should avoid striking, if possible, bodily areas likely to result in serious injury or death unless deadly force is authorized under this section. These areas include the head, neck, throat, groin, armpits, and spine.
- c. Officers striking another person with an impact weapon should attempt to strike, if possible, bodily areas likely to result only in incapacity. These areas include center mass target areas, including: the arms, legs, and body.

## 2. CHEMICAL AGENTS

- a. The use of chemical agents is governed by the provisions governing non-deadly force. Only chemical agents which are approved devices, as previously defined, can be used.
- b. Officers must exercise due care to attempt to ensure that only intended persons are sprayed or otherwise subject to the application of chemical agents.
- c. Chemical agents must not be applied to any person for the purpose of effecting punishment.
- d. First aid or medical attention must be provided to all persons sprayed with chemical agents.

## 3. USE OF ELECTRONIC INCAPACITATION DEVICES

The use of electronic incapacitation devices is subject to the provisions governing non-deadly force. Only electronic devices that are approved devices, as previously defined, shall be used.

### **3-1.10 REPORTING REQUIREMENTS**

- 1. An officer using any force above verbal commands or unresisted handcuffing shall complete a detailed report documenting their actions concerning the incident. Each officer that had a use of force will complete a detailed report only addressing their use of force, unless the officer intervened under section 3-01.08. The primary officer for the original call shall be responsible for the general report for the larger incident and should not address specifics of force used by other officers beyond noting



if which officers used force as part of the incident, unless the officer intervened under section 3-01.08. For purposes of the reporting requirement the pointing a firearm at a person shall require a written report. The use of an approved device to dispatch an animal does not require a written report under this provision. Threatened use of force without the force being displayed does not require a written report under this provision.

The report on use of force shall be completed before the end of shift unless approved by a supervisor. The Chief of Police or a supervisory officer may suspend the application of this provision where an otherwise complete formal investigation of the incident will be undertaken. The report will include but is not limited to the following:

- a. A detailed account of the incident from the officer's perspective;
  - b. The reason for the initial police presence;
  - c. A specific description of the acts or factors that led to the use of force;
  - d. The level of resistance encountered;
  - e. A description of every type of force used.
  - f. Any injuries sustained by the officer, suspect or other parties that occurred during the incident, both before and after officer(s) arrived.
2. The Chief of Police or a supervisor shall be notified when a use of force that resulted in the use of hard hand/feet, chemical agents, impact devices, electronic incapacitation device, firearms and/or the officer is involved in an incident resulting in great bodily harm or death. The Chief of Police or a supervisor may respond to the incident to ensure that appropriate medical attention, evidence collection, interviews of witnesses, suspect(s), officer(s), and report of the incident are being addressed.

### **3-1.11 RECORDKEEPING REQUIREMENTS**

The chief law enforcement officer shall maintain records of the agency's compliance with use of force training requirements as required by the Minnesota POST Board.

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## **3-9 PUBLIC ASSEMBLY AND FIRST ADMENTMENT ACTIVITY**

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### **POLICY**

This Department 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. Department personnel must not harass, intimidate, or discriminate against or unreasonably interfere with persons engaged in the lawful exercise of their rights.

Public free speech and assembly is separate from the regulating unauthorized and unwanted persons who gather unwanted within private residences, shopping centers, businesses and other private property establishments within the City of Cannon Falls.

This Department 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, recognizing that because of the Department size, outside agencies that have personnel and equipment to deal with crowds that are out of control.

### **PURPOSE**

To clearly establish for agency personnel:

- \* Recognize the difference between First Amendment right of free speech including peaceful assembly and criminal activity or threats against citizens, businesses, or critical infrastructure.
- \* Procedures for regulating unauthorized or unwanted persons who gather in the common areas and private businesses in the City of Cannon Falls.

### **SCOPE**

This order is applicable to all members of the Cannon Falls Police Department.

## **STANDARDS**

### **3-9.01 DEFINITIONS**

- A. Private business: Any business standing alone or connected to or sharing a common location and common facilities (i.e. restrooms, parking lots, walkways, etc.) that is not a publicly owned property.
- B. Common Areas: Any area, indoors or outdoors, shared and maintained by all businesses in a designated location for the benefit of those businesses, their employees and their customers.
- C. Unauthorized Activities: Any person or activity reasonably deemed detrimental to a business or common area by: an employee or designated agent of the business affected, or a person responsible for maintenance or management of the common area, or their designee.
- D. Unauthorized gathering:
  - 1. Two or more persons who are engaged in illegal or disruptive behavior and who are requested to leave by an employee of a business, common area and do not comply with that request.
  - 2. Three or more stopped, occupied vehicles, or occupants near, gathered in a parking lot or common area, not there for the purpose of doing business with the businesses served by the lot or common area.
- E. Authorized Activities: Any person or activity related to the everyday business of the establishment or common area where the person is, or the activity is taking place. Any person present or activity taking place at a business or common area with permission of a person in control of that area.
- F. 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.
- G. Crowd Control: Techniques used to address unlawful public assemblies.
- H. First\_Amendment Activities: 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.

- I. Legal Observers – Individuals, usually representatives of civilian human rights agencies, who attend public demonstrations, protests and other activities.
- J. Media: Media means any person who is an employee, agent, or independent contractor of any media business that engages in news gathering and disseminating news or information to the public by any means.

### **3-9.02 OFFICER RESPONSE**

Whenever possible, the Cannon Falls Police Department will disperse all unauthorized persons, activities, or gatherings from private businesses and common areas in the City of Cannon Falls if requested to do so by a designated agent of the business affected, or designated agent of the common area, or their designee.

Officers responding should determine if the activities in question are occurring on the private property or adjacent public space, including but not limited to public right of way or public spaces. If the activities occurring are on private property, the designated agent of the property should make a verbal announcement to the person involved to leave the property because they are trespassing. If the activities are occurring on public space, the designated agent should be advised of that fact.

Public space present challenges if the unauthorized gathering is done for the purpose of disruption of a public meeting. In those situations, officers will try to balance the competing needs of business of the government body and the needs of persons engaged in the activities. If the behavior is intended to disrupt, the authorized person in charge of the public meeting may request the removal of the persons engaging in the disruptive activities.

### **3-9.03 RESPONSE**

Officers requested to disperse unauthorized persons or gatherings should first determine if it is a private property issue or public property first amendment issue.

If a private property issues the officer should explain the reason for the dispersal and request, they comply. If they don't, the authorized person in charge of the private property should tell the person they are trespassing and that they need to leave. If the unauthorized persons or gatherings will not disperse, a Department supervisor should be contacted and additional resources requested.

Officers requested to remove person from a public meeting should ask the authorized person in charge of the public meeting to request the disruptive behavior stops. If the disruptive behavior does not stop then the authorized person in charge of the public meeting should be ask to request that the persons engaging in the disruptive behavior leave. If they do not the officer should request that the authorized person in charge of the public meeting should recess the meeting to provide the officer time to access the situation and seek cooperation or provide further options to the authorized person in charge of the public meeting.

### **3-9.04 DISCRETION**

This Department's size dictates that Officers have discretion to determine the appropriate course of action. Effort should be taken to try and obtain cooperation and voluntary disbursement when that would not place the officer or others in an unsafe situation. Officers may use discretion to determine when enforcement action pursuant to this policy should be exercised, except:

- A. When the unauthorized persons or activities pose a threat to persons or property.
- B. When the unauthorized persons or activities are disruptive to area businesses or interfere with the free flow of traffic.
- C. When directed by a supervisor.

### **3-9.05 CROWN DISPERSAL**

If the numbers of person present is more than Department Officers present and the decision that the crown must be dispersed than the assistance of larger agencies with personnel and equipment will be requested. Because of the specialized training that is utilized with crowd dispersal, command and control of that aspect should be given to the assisting agency(s) command.

Care should be exercised to ensure that not involved spectators, media or legal observers are provided a safe area from which to observe if at all possible.

## **5-2 EYEWITNESS IDENTIFICATION PROCEDURES**

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### **POLICY**

Eyewitness identification is a frequently used investigative tool. The Cannon Falls Police Department is committed to procedures designed to maximize the reliability of identifications, minimize unjust identifications of innocent persons and to establish evidence that is reliable and conforms to established legal procedures. This is a mandated policy under MN Statute 626.8433.

### **PURPOSE**

To clearly establish for department personnel a policy that establishes 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.

### **SCOPE**

This section is applicable to all sworn members of the Cannon Falls Police Department.

### **STANDARDS**

#### **5-2.01 DEFINITIONS**

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

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

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

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

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

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

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

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

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

## **5-2.02      SHOW-UPS**

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 reasonably 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. Video record 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.

### **5-2.03 LINE-UP AND PHOTO ARRAY PROCEDURES**

#### General 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 following instructions aloud before the identification procedure.
  - 1. You will be asked to look at a series of individuals.
  - 2. The perpetrator may or may not be present in the identification procedure.
  - 3. It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.

4. I don't know whether the person being investigated is included in this series.
  5. 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.
  6. 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.
  7. The individuals are not configured in any particular order.
  8. If you make an identification, I will continue to show you the remaining individuals or photos in the series.
  9. Regardless of whether you make an identification, we will continue to investigate the incident.
  10. Since this is an ongoing investigation, you should not discuss the identification procedures or results with others.
- 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 and/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, officers shall take and preserve a still photograph of each individual in the line-up.

## **5-2.04 PHOTOGRAPHIC ARRAYS**

### **A. Creating a Photo Array**

1. Use contemporary photos.
2. Do not mix color and black and white photos.
3. Use photos of the same size and basic composition.
4. Never mix mug shots with other photos and ensure consistent appearance of photograph backgrounds and sizing.
5. Do not include more than one photo of the same suspect.
6. 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.
7. 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.
8. Fillers should not be reused in arrays for different suspects shown to the same witness.

### **B. Conducting the Photo Array**

1. 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.
2. If a blind administrator is not available, the administrator shall ensure that a blinded presentation is conducted using the following procedures.
  - a. 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).

- b. 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.
    - c. The administrator should position himself or herself so that he or she cannot see inside the folders as they are viewed by the witness.
  3. 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.
  4. 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.

## **5-2.05 LINE-UPS**

- A. Conducting the Line-up
  1. Live line-ups shall be conducted using a blind administrator.
  2. 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:
  1. 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.
  2. 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.
  3. Making arrangements to have persons act as fillers.

4. 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.
5. 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.

Policy 5-2: Issued: 10/07, revised 02/21, 05/23

## **1-8 ALLEGATIONS OF MISCONDUCT**

### **INDEX**

1-8.01	DEFINITIONS
1-8.02	PROCEDURE FOR INITIATING COMPLAINT
1-8.03	PROCEDURES FOR THE INVESTIGATION OF A COMPLAINT
1-8.04	ADDITIONAL INVESTIGATION, REVIEW, AND DISPOSITION
1-8.05	MAINTENANCE AND DISCLOSURE OF DATA

### **POLICY**

The department recognizes that investigation and resolution of Allegations of Misconduct Complaints against any employee of the Cannon Falls Police Department is an important function. The department recognizes that complaints against any employee is stressful for the complainant and the employee. The department sees having a defined process as key to ensuring an impartial and fair outcome for all. The support of the community is necessary for the department to effectively provide police services and the proper handling of complaints is necessary for that community support.

### **PURPOSE**

To clearly establish for agency personnel the process and procedure to:

- Protection and responsiveness to the public served.
- Protection of the integrity of the department and its employees.
- Protection of employees against false accusations.
- Discipline of personnel when appropriate.

To comply with Minnesota Statute 626.8457 and Minnesota Rules, Chapter 6700.2200-6700.2600

### **STANDARDS**

Any disciplinary actions arising from violations of this policy shall be investigated in accordance with Minnesota Statute 626.89, Peace Officer Discipline Procedures Act if involving a license peace officer.

#### **1-8.01 DEFINITIONS**

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

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

Complainant - means a person who submits a formal complaint with the Chief of Police alleging misconduct by an employee.

Concern – means a, complaint or concern reported to a department supervisor regarding behavior, conduct, actions or inactions in a manner other than a formal complainant.

Discipline - means appropriate disciplinary actions taken up to and including discharge

Employee - means all voluntary and compensated personnel of the Department.

Formal Complaint – means a designated complaint form that is completed by or for the complainant that alleges misconduct, that is signed by the complainant with a notarized signature, then submitted to the Chief of Police in writing.

Unfounded - means that the department has determined the allegations do not constitute any violation of rule, regulation or law (proper and acceptable police conduct and methods are the source of the complaint). This complaint will not be investigated but the disposition must be confirmed by the Chief of Police.

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

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

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

Sustained - means a fair preponderance of the evidence obtained in the investigation established that the accused person's actions constituted misconduct.

Sustained with Qualifications - means that the investigation disclosed that the action complained about did in fact occur, but not in the manner or to the degree stated and/or mitigating circumstance were present.

Formal Statement - means the questioning of an employee in the course of obtaining a recorded, stenographic, or signed statement to be used as evidence in a disciplinary proceeding against the employee.

Misconduct - means:

1. a violation of any Department policy and procedure governing conduct of employees;
2. conduct by a peace officer that would be a violation of POST Standards of Conduct per Minn. Rules 6700.1600

Disposition – means the final disposition of disciplinary action after all remedies for appeal by the employee have been exhausted or waived. This definition will also be utilized in determining any requests for the release of information pursuant to Minnesota State Statute Chapter 13.

POST Board – means the Minnesota Peace Officer Standards and Training Board.

## **1-8.02           PROCEDURE FOR INITIATING COMPLAINT**

Persons who wish to file complaints against employees of this department will be informed of the manner in which this may be done. Complaints against an employee will be made in accordance with policy 1-8.

All employees of the Department will provide directions to any complainant about the process to make a complaint. If the complainant is willing, the employee can take their contact information to provide to a supervisor, or provide them with the Compliment / Complaint Report Form (CCRF).

Persons under the influence of alcohol or narcotics who wish to make a complaint will be informed of the complaint process, however, any interviews, complaints forms or statements will be delayed until the after the person is no longer under the influence of alcohol or narcotics.

Anyone who has personal knowledge of facts or who has reliable hearsay information may make a complaint or concern. Only a person with personal knowledge of facts may file a formal complaint. A complainant who wants to make a formal complaint, but remain anonymous shall be advised that remaining anonymous may affect the ability investigate of the complaint. A complainant may be accompanied by an attorney or other representative at the time a complaint is filed or at any other stage of the process.



If the person wishing to make a formal complaint sets forth specific believable facts supporting an allegation of misconduct, but wishes to remain anonymous, the Chief of Police receiving the complaint may at the Chief of Police's sole discretion permit the complainant to remain anonymous. In this instance the Chief of Police shall sign the formal complaint as the complainant. If the Chief of Police has reason to believe that the complaint is unfounded, the Chief of Police shall have the authority to require an anonymous complainant to identify himself/herself. If that complainant refuses to do so, the Chief of Police may refuse to accept a complaint and shall advise the anonymous person of that fact. The Chief of Police's decision regarding a request to remain an anonymous person will be final.

The Chief of Police may file a formal complaint based on reliable hearsay information.

Complaints shall be made within sixty (60) days of the alleged occurrence. This requirement is to ensure a timely investigation of the allegation. The passing of time can affect the ability to reliably discover evidence, conduct interviews and ensure supported allegations have discipline that is linked to the conduct that occurred. The Chief of Police can consider a complaint of an occurrence greater than sixty (60) days. The Chief of Police may consider factors such as, but not limited to: reason for the delay, likely existence of reliable evidence and witnesses, degree of alleged misconduct. The Chief of Police's decision regarding extension of time to report will be final. The complainant will be informed of the decision and the reason(s) for the decision.

- A. Upon receiving a concern or complaint against an employee within the department, the supervisor shall determine if the complainant wishes to make a formal complaint or not.

If the complaint is a concern or not a formal complaint, the supervisor will determine if additional investigation is needed or if the matter can be resolved by other means.

If the complaint is a formal complaint, the supervisor will determine if a Compliment / Complaint Report Form (CCRF) will be provided to the complainant. The formal complaint will not be considered filed until the complainant signs the CCRF with notary verification of the signature. The CCRF will be forwarded to the Chief of Police.

- B. After a CCRF is filed, the Chief of Police shall ensure that the department use only area is completed, showing date received and whom by, administrative number assigned. After a CCRF is filed, the Chief shall sign the document keeping the original for the agency and providing a copy to the complainant, the Chief of Police will forward a copy of the CCRF to the

complainant only after it is determined that the complaint does not allege a criminal violation and the notification will not impede a criminal investigation.

Any complaint made against the Chief of Police shall follow the same process, however where reference is made to the Chief of Police taking an action, the City Administrator shall be substituted.

- A. Once a formal complaint is received by the City Administrator, the City Administrator shall notify the Police Lieutenant for an administrative number and to ensure the formal complaint is tracked appropriately for POST Board reporting purposes.
- B. The City Administrator shall refer investigations of alleged misconduct against the Chief of Police to an outside law enforcement agency to ensure that all requirements of this policy are followed as required by the POST Board and State Statutes.

### **1-8.03 PROCEDURES FOR THE INVESTIGATION OF A COMPLAINT**

- A. Upon receipt of the CCRF, the Chief of Police shall make an initial determination whether the facts alleged requires an administrative investigation. If the Chief of Police decides that an administrative investigation is not required, the disposition of the investigation is not required. The disposition of the complaint shall be either “unfounded” or “exonerated”. The employee will be notified of this decision and the basis for determination. The complainant will be notified in writing that the investigation has been completed, the finding of “unfounded” or “exonerated” and that no further action will be taken. The complainant is not allowed any additional information pursuant to Minnesota State Statute 13.43, Subd. 2b.

If the complainant supplies significant new information within thirty (30) days of that initial determination, the Chief of Police may reverse this decision and order an administrative investigation.

- B. If the Chief of Police determines that an administrative investigation is required, an appropriate person will be assigned to investigate the complaint. When the Chief of Police believes an external investigation is appropriate; and when the Chief of Police is the subject of the complaint, the investigation shall be assigned to an outside law enforcement agency.
- C. If a determination results in an administrative investigation, the employee shall be notified of the complaint within seven (7) days of the determination date, inclusive of the date the decision is made. If the allegations result in the decision to have an outside law enforcement agency conduct a criminal investigation, notification will not be made to the employee, until either the findings of no criminal actions occurred or criminal charges have been filed, at

which time the employee will be notified within three (3) business days, excluding the day of receiving such notice from the outside law enforcement agency. The Chief of Police if determining it necessary may suspend an officer with pay at any time during the criminal or administrative investigation of a complaint.

- D. The investigator shall, as soon as possible after being assigned the investigation, inform the complainant of his or her name, business phone number, and that the complaint has been assigned to him/her and that no status updates will be provided by the investigator.
- E. The investigator shall thoroughly investigate all allegations contained in the CCFR and any other potential misconduct discovered in the course of the investigation. If the investigation reveals potential misconduct by another employee, the investigator shall report that fact to the Chief of Police.
- F. All employees shall cooperate with the investigation. When the employee is a licensed peace officer, the investigation shall comply with the requirements of Minn. Stat. §626.89 (1991) and acts amendatory thereto.
- G. The investigator shall prepare a report which will contain all relevant information, organized into the following three (3) sections:
  - 1. Allegations. An itemized summary of the acts of misconduct alleged in the complaint. Reference shall be made to those rules, procedures, order, statutes, or constitutional provisions that would be violated if the allegations are taken as true.
  - 2. Investigation. A chronological summary of the investigation, including all pertinent facts obtained through interviews with the complainant, accused employee and all available witnesses. Written statements, descriptions and analysis of any physical evidence, and all other relevant information shall be included.
  - 3. Findings. The investigator's findings of facts as to whether any misconduct occurred or not, and the underlying facts for these findings.
- H. The investigation shall be completed in a timely manner after the filing of the formal complaint. In matters where possible illegal activity is involved the Chief of Police will determine if the administrative investigation will be placed on hold pending any criminal investigation.

- A. Upon completion of the investigation, the investigator shall submit the report and any supporting data to the Chief of Police. The Chief of Police may require additional investigation or make one of the following decisions:
- Unfounded
  - Exonerated
  - Not sustained
  - Sustained
  - Sustained with qualifications
  - Policy review
- B. The Chief of Police may postpone making a decision until any related criminal charges are resolved.
- C. If the decision is “unfounded”, “exonerated”, “not sustained” or “policy review”, the Chief of Police shall immediately notify the employee of the decision and immediately notify the complainant in writing that the investigation has been completed and that no further action will be taken. The complainant is not allowed any additional information pursuant to Minnesota State Statute 13.43, Subd. 2b.
- D. If the complaint is “sustained” or “sustained with qualifications” the Chief of Police will:
1. Issue findings of fact including a summary of the acts constituting misconduct and the specific statutes, policies, regulations and procedures violated.
  2. Take appropriate disciplinary action, up to and including discharge.
- E. Prior to the implementation of disciplinary action, the employee will be provided with a copy of the findings of fact. The Chief of Police and/or appropriate person shall review the findings of fact with the employee and explain the reasons for the disciplinary action.
- F. Once the Chief of Police has made a decision that the complaint is “sustained” or “sustained with qualifications” the complainant will be notified in writing that that the investigation has been completed and that no further information will be available until after final disposition of discipline as per Minnesota State Statute 13.43, Subd. 2b.
- G. When a “sustained” or “sustained with qualifications” disposition is final, the employee may appeal the disposition pursuant to the rules and law governing the accused employee's employment.

- H. Chief of Police may re-open the administrative investigation if substantial new evidence that has the potential to bear on the outcome, if received within thirty (30) days of final disposition.

#### **1-8.05            MAINTENANCE AND DISCLOSURE OF DATA**

- A. Disclosure to the complaint and employee of data collected, created, or received by the Department in connection with this policy and procedures shall be maintained in accordance with the Department's "Record Retention Schedule" and as provided by Minnesota Statutes Chapter 13, the "Minnesota Government Data Practices Act", or valid court order.
- B. All data collected, created, or received by the Department in connection with this policy and procedure shall be maintained in accordance with the Department's "Record Retention Schedule".
- C. The placement of the disposition report or other data in an employee's personnel file shall be governed by the Cities and/or Department's Personnel Policy.
- D. Access to data collected, created, or received in connection with this policy and procedure may only be authorized by the Chief of Police or the Department's Data Practices "Responsible Authority", and as provided by Minnesota Statutes Chapter 13, the "Minnesota Government Data Practices Act", or valid court order.

#### **1-8.06            POST BOARD REPORTING REQUIREMENTS**

- A. Under Minn. Rule 6700.1610, a licensed peace officer must self-report to the MN POST Board any violations of the Standards of Conduct for peace officers listed in Minn. Rule 6700.1600.
- B. Any person with knowledge of peace officer misconduct constituting grounds for action under Minn. Stat. chapter 214, or Minn. Rules 6700.1600, may report the violation to the Board.
- C. Minnesota Stat. 626.8457 Subd. 3 requires CLEOs to submit individual peace officer public and private data related to allegations of misconduct to the POST Board in "real time" via the POST Board Misconduct Reporting System.
- D. A chief law enforcement officer must update data within 30 days of final disposition of a formal complaint or administrative investigation.

E. Law enforcement agencies and political subdivisions are prohibited from entering into a confidentiality agreement that would prevent disclosure of the data identified in Minn. Stat. 626.8457 Subd. 3 (b) to the Board. Any such confidentiality agreement is void as to the requirements of this section.

Policy 1-8: Issued 10/07, revised 05/08, 03/16, 05/23

## **1-7 PROFESSIONAL CONDUCT OF PEACE OFFICERS**

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### **REGULATION**

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

### **PURPOSE**

To clearly establish for sworn agency personnel the expectation the department has for members.

### **SCOPE**

This section is applicable to all licensed peace officers of the Cannon Falls Police Department.

### **STANDARDS**

The Cannon Falls Police Department believes that peace officers by nature of the position must conduct themselves in a professional manner both while working and while off-duty. Minnesota Statute 626.8457 requires law enforcement agencies to have a policy on professional conduct of police officers and the MN POST Board has outlined seven principles of conduct.

#### **1-7.01 PRINCIPLE ONE**

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. 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. Officers should act in accordance with the authority granted to them as outline below.

- A. Officers shall not knowingly exceed their authority in the enforcement of the law.
- B. Officers shall not knowingly disobey the law or rules of criminal procedure in such areas as interrogation, arrest, detention, searches, seizures, use of informants, and preservation of evidence, except where permitted in the performance of duty under proper authority.
- C. Officers shall not knowingly restrict the freedom of individuals, whether by arrest or detention, in violation of the Constitutions and laws of the United States and the State of Minnesota.
- D. Officers, whether on or off duty, shall not knowingly commit any criminal offense under any laws of the United States or any state or local jurisdiction.
- E. Officers will not, according to MN Statute 626.863, knowingly allow a person who is not a peace officer to make a representation of being a peace officer or perform any act, duty or responsibility reserved by law for a peace officer.

## **1-7.02 PRINCIPLE TWO**

Officers shall refrain from any conduct in an official capacity that detracts from the public's faith in the integrity of the criminal justice system. Community cooperation with the police is a product of its trust that officers will act honestly and with impartiality. The police officer, as the public's initial contact with the criminal justice system, must act in a manner that instills such trust. Officers should act in accordance with the authority granted to them as outline below.

- A. Officers shall carry out their duties with integrity, fairness and impartiality.
- B. Officers shall not knowingly make false accusations of any criminal, ordinance, traffic or other law violation. This provision shall not prohibit the use of deception during criminal investigations or interrogations as permitted under law.
- C. Officers shall truthfully, completely, and impartially report, testify and present evidence, including exculpatory evidence, in all matters of an official nature.



- D. Officers shall take no action knowing it will violate the constitutional rights of any person
- E. Officers must obey lawful orders but a peace officer must refuse to obey any order the officer knows would require the officer to commit an illegal act. If in doubt as to the clarity of an order the officer shall, if feasible, request the issuing officer to clarify the order. An officer refusing to obey an order shall be required to justify his or her actions.
- F. 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.

**1-7.03      PRINCIPLE THREE**

Officers shall perform their duties and apply the law impartially and without prejudice or discrimination. Law enforcement effectiveness requires public trust and confidence. Diverse communities must have faith in the fairness and impartiality of their police. Peace officers must refrain from fostering disharmony in their communities based upon diversity and perform their duties without regard to race, color, creed, religion, national origin, gender, marital status, or status with regard to public assistance, disability, sexual orientation or age. Officers should act in accordance with the authority granted to them as outline below.

- A. Officers shall provide every person in our society with professional, effective and efficient law enforcement services.
- B. 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.

**1-7.04      PRINCIPLE FOUR**

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. Officers should act in accordance with the authority granted to them as outline below.

- A. Officers shall not consume alcoholic beverages or chemical substances while on duty except as permitted in the performance of official duties, and under no circumstances while in uniform, except as provided for in c).

- B. Officers shall not consume alcoholic beverages to the extent the officer would be rendered unfit for the officer's next scheduled shift. A peace officer shall not report for work with the odor of an alcoholic beverage on the officer's breath.
- C. Officers shall not use narcotics, hallucinogens, or other controlled substances except when legally prescribed. When medications are prescribed, the officer shall inquire of the prescribing physician whether the medication will impair the officer in the performance of the officer's duties. The officer shall immediately notify the officer's supervisor if a prescribed medication is likely to impair the officer's performance during the officer's next scheduled shift.
- D. Officers, whether on or off duty, shall not engage in any conduct which the officer knows, or should reasonably know, constitutes sexual harassment as defined under Minnesota law, including but not limited to; making unwelcome sexual advances, requesting sexual favors, engaging in sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature.
- E. Officers shall not commit any acts which constitute sexual assault or indecent exposure as defined under Minnesota law. Sexual assault does not include a frisk or other search done in accordance with proper police procedures.
- F. Officers shall not commit any acts which, as defined under Minnesota law, constitute (1) domestic abuse, or (2) the violation of a court order restraining the officer from committing an act of domestic abuse or harassment, having contact with the petitioner, or excluding the peace officer from the petitioner's home or workplace.
- G. Officers, in the course of performing their duties, shall not engage in any sexual contact or conduct constituting lewd behavior including but not limited to, showering or receiving a massage in the nude, exposing themselves, or making physical contact with the nude or partially nude body of any person, except as pursuant to a written policy of the agency.
- H. 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.

#### **1-7.05 PRINCIPLE FIVE**

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

Officers should act in accordance with the authority granted to them as outline below.

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

#### **1-7.06 PRINCIPLE SIX**

Officers shall not compromise their integrity nor that of their agency or profession by accepting, giving or soliciting any gratuity which could be reasonably interpreted as capable of influencing their official acts or judgments or by using their status as a peace officer for personal, commercial or political gain. For a community to have faith in its peace officers, officers must avoid conduct that does or could cast doubt upon the impartiality of the individual officer or the agency. Officers should act in accordance with the authority granted to them as outline below.

- A. Officers shall not use their official position, identification cards or badges for:  
(1) personal or financial gain for themselves or another person; (2) obtaining privileges not otherwise available to them except in the performance of duty; and (3) avoiding consequences of unlawful or prohibited actions.
- B. Officers shall not lend to another person their identification cards or badges or permit these items to be photographed or reproduced without approval of the chief law enforcement officer.
- C. Officers shall refuse favors or gratuities which could reasonably be interpreted as capable of influencing official acts or judgments.
- D. Unless required for the performance of official duties, officers shall not, while on duty, be present at establishments that have the primary purpose of providing sexually oriented adult entertainment. This rule does not prohibit officers from conducting walk-throughs of such establishments as part of their regularly assigned duties.
- E. officers shall:
  - not authorize the use of their names, photographs or titles in a manner that identifies the officer as an employee of this agency in connection

with advertisements for any product, commodity or commercial enterprise;

- maintain a neutral position with regard to the merits of any labor dispute, political protest, or other public demonstration while acting in an official capacity;
- not make endorsements of political candidates while on duty or while wearing the agency's official uniform.

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

#### **1-7.07 PRINCIPLE SEVEN**

Officers shall not compromise their integrity, nor that of their agency or profession, by taking or attempting to influence actions when a conflict of interest exists. For the public to maintain its faith in the integrity and impartiality of peace officers and their agencies officers must avoid taking or influencing official actions where those actions would or could conflict with the officer's appropriate responsibilities. Officers should act in accordance with the authority granted to them as outline below.

- A. Unless required by law or policy a peace officer shall refrain from becoming involved in official matters or influencing actions of other peace officers in official matters impacting the officer's immediate family, relatives, or persons with whom the officer has or has had a significant personal relationship.
- B. Unless required by law or policy an officer shall refrain from acting or influencing official actions of other peace officers in official matters impacting persons with whom the officer has or has had a business or employment relationship.
- C. A peace officer shall not use the authority of their position as a peace officer or information available to them due to their status as a peace officer for any purpose of personal gain including but not limited to initiating or furthering personal and/or intimate interactions of any kind with persons with whom the officer has had contact while on duty.
- D. A 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.

#### **1-7.08 PRINCIPLE EIGHT**

Officers shall observe the confidentiality of information available to them due to their status as peace officers. Officers are entrusted with vast amounts of private and personal information or access thereto. 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. Officers should act in accordance with the authority granted to them as outline below.

- A. Officers shall not knowingly violate any legal restriction for the release or dissemination of information.
- B. Officers shall not, except in the course of official duties or as required by law, publicly disclose information likely to endanger or embarrass victims, witnesses or complainants.
- C. Officers shall not divulge the identity of persons giving confidential information except as required by law or agency policy.

#### **1-7.09            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.

Policy 1-7: issued 10/07, revised 05/08, 05/23

## **3-3 DOMESTIC ABUSE AND ARREST**

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3-3.05	ORDER FOR PROTECTION
3-3.06	FORMAL CHARGES
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### **POLICY**

The Cannon Falls Police Department recognizes domestic abuse as a serious social problem and is committed to actively investigating and prosecuting these offenses, providing appropriate and timely Social Service referrals, and undertaking early intervention to reduce the possibility of serious injury and break the cycle of violence.

The Cannon Falls Police Department also recognizes that the response to and actions taken reference domestic abuse, including domestic assault, harassment, and stalking, are regulated and specified under state statutes, and that all actions taken by officers of the Cannon Falls Police Department shall be in compliance thereof. Specific statutes to review would include 518B01, 609.224, 609.2242, 626.556, 609.342, 609.343, 609.344, 609.345, 609.3451, 609.713, 609.748, 609.749, 609.78. 629.341, 629.72,

### **PURPOSE**

To clearly establish for agency personnel:

- \* Guidelines and procedures to be followed by peace officers in law enforcement's response to domestic violence.
- \* To prevent future incidents of domestic violence by establishing arrest rather than mediation as the preferred law enforcement response to domestic violence.
- \* To reaffirm peace officers' authority and responsibility to make arrest decisions in accordance with established probable cause standards.
- \* To complement and coordinate efforts with the development of domestic violence prosecution plans, so that law enforcement, prosecution and advocacy will be more efficient and successful.
- \* To document allegations of domestic violence so there can be meaningful prosecution and delivery of victim services.

To comply with the requirements of Minnesota Statute 629.342

## **SCOPE**

This section is applicable to all members of the Cannon Falls Police Department.

## **STANDARDS**

### **3-3.01 INITIAL RESPONSE**

The department regards domestic violence as a serious crime against persons and responds accordingly. Officers will follow appropriate tactical and investigative techniques.

When making contact, entering the location may be denied. When that occurs the officer(s) will need to assess a response based on the following:

- A. Refusal to Answer – The officers should be persistent in trying to get a answer and should request the dispatcher to contact the caller.
- B. Refused Entry/– If refused entry, the officers should be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused the officers should request the dispatcher to contact the caller.
- C. Forced Entry – If access is refused and the officers based on the facts known to the them, have reason to believe that someone is in imminent danger the officers, they would have legal grounds to force entry to prevent harm.
- D. Search Warranty Entry – If the officers are refused entry and have no legal grounds for forced entry and have reasonable grounds to believe a crime has been committed, the officers should obtain a search warrant for entry.

When investigating domestic assault cases officers will secure the scene, assist any victim in obtaining necessary medical treatment, take statements, gather physical evidence and photograph the scene when appropriate.

Victims of domestic violence shall be advised of their rights and resources at the scene. The investigating officer shall provide the victim with a Goodhue County Crime Victim Information card along with the case number and name of the investigating officer.

If the victim wishes to speak to a victim advocate, the investigating officer will arrange for an advocate by phoning the appropriate resource, briefing their personnel on the incident, and requesting that an advocate contact the victim.

Officers shall remain at the scene until the suspect has been arrested, a participant leaves, or the officer is otherwise convinced that further physical violence is not imminent.

Officers shall request that victims obtaining any medical treatment or victims having any visible injuries as a result of a domestic assault sign a medical release of information form. This shall be done before the officer leaves the scene.

### **3-3.02 ARREST DECISIONS**

Upon establishing probable cause that a domestic assault has taken place, officers shall arrest the suspect at the scene, or if the suspect has fled, use reasonable measures to locate and arrest the suspect within seventy-two (72) hours of the incident, exclusive of the day probable cause was established. Or as provided by revisions to Minnesota Statute 629.341

If a suspect is arrested, the suspect shall be jailed pending a formal complaint/initial appearance on a citation. Victim information shall be filled out on the arrest form and sent to the jail with the suspect so that the victim can be contacted prior to the suspect's release.

Officers will make charging decisions based on probable cause, the prevailing facts and evidence, not on the desires of the victim. It shall be the responsibility of the investigating officer to determine if the suspect has any past domestic assault convictions. When applicable, the investigating officer shall document the suspect's history in the narrative report to ensure that the appropriate enhanced charges can be issued under Minnesota Law.

### **3-3.03 OBTAINING EVIDENCE**

Officers shall identify, gather and preserve evidence that will enhance the ability to prosecute, including, but not limited to:

- A. Detailed documentation of physical evidence of a victim's injuries (including photographs, medical records, written descriptions and detailed observations, and self defense injuries).
- B. A detailed documentation of the physical appearance of the crime scene.
- C. Recorded statement of the victim about the pending assault, prior assaults, existing or past orders for protection or other court orders.
- D. Statements from the assailant/defendant.
- E. Recorded statements from all other potential witnesses.



- F. Detailed description of the victim's statements and the victim's emotional state immediately upon arrival at the scene (excited utterances).
- G. Collection of other prior offense evidence.
- H. Attempt follow-up documentation of injuries 1-2 days post incident.

### **3-3.04        REPORTS AND FORMS**

An incident report shall be completed on all calls involving an allegation of domestic violence.

An incident report shall be completed in all situations which have resulted in an arrest or are likely to result in criminal charges.

- A. Domestic arrests (male or female) involving significant relationships (male/female or female/female).
- B. Order for protection violation arrests.
- C. Harassment order violation arrests.

In the case of an officer issuing a violations summons/citation for fifth degree (domestic) assault or a violation of an order for protection, all incident reports and other related documentation shall be forwarded to the prosecuting attorney for review prior to the scheduled date of the arraignment hearing as set forth in the violations summons/citation.

The incident report shall contain a detailed description of any injuries to either the victim or the suspect. The incident report shall also contain any statements made by the victim soon after the officer's arrival and the officer's observations of the victim's state of emotion. This statement information will assist prosecutors in getting the victim's statements into evidence as an "excited utterance" exception to the hearsay rule.

### **3-3.05        ORDER FOR PROTECTION**

Officers investigating a violation of an Order for Protection shall arrest upon probable cause when the suspect is present and in other instances make a reasonable effort to locate and arrest the offender. In the course of investigating violations of a protection order, the officer shall document any previous violations in the narrative report for purposes of applying appropriate enhanced penalties.

Pursuant to 518.b.01, Subd. 14-B, persons arrested for violations of an Order for Protection shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless released earlier by a judge.

### **3-3.06 FORMAL CHARGES**

If the suspect is not taken into custody after a domestic assault violation, or is not located following a violation of an Order for Protection, the investigating officer shall forward a copy of the report to the Prosecuting Attorney to request a formal complaint. The suspect should be charged via complaint/warrant for either violation.

### **3-3.07 DUAL ARRESTS**

It normally should be possible to assess which party has committed an assault. Officers shall be careful to determine which actions have been taken in self-defense. Dual arrests are appropriate when two clearly separate assaults have been committed (i.e. the first assault/fight has ended and a second occurs, defense of the first assault goes beyond defense, or the second party commits a later assault in the presence of the officers, etc.).

### **3-3.08 SPECIAL CIRCUMSTANCES**

Assistance to Non-English Speaking Victims or Victims with Communication Disabilities: Officers shall use the interpretive resources utilized by the Department 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. Officers should avoid the use of friends, family or neighbors serving as the primary interpreter for the investigation.

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

Conflict of Interest Occurrences: Officers may be faced with incidences of domestic abuse that involves a peace officer, prosecutor, elected officials or celebrity of some type. If the officer believed that a conflict of interest may be present the officer should request another officer handle the incident or an outside agency if warranted. Officers should not let any potential conflict of interested prevent them from taking necessary steps to prevent harm or injury to anyone present, including the officer. If no other officers or outside agency is available,

the officer shall handle the incident in the same manner they would any other domestic abuse incident. When safe to do so the officer should notify a supervisor of the conflict of interest occurrence.

Policy 3-2: Issued 10/07, revised 10/12, revised 03/16, 05/23

## **1-9 AVOIDING RACIAL PROFILING**

### **INDEX**

1-9.01	DEFINATION
1-9.02	CONTACT WITH THE PUBLIC / IMPARTIAL POLICING
1-9.03	PERCEPTION
1-9.04	DUTY TO REPORT
1-9.05	SUPERVISION AND ACCOUNTABILITY
1-9.06	VIOLATIONS

### **REGULATION**

Department members by virtue of the role they serve in the community require that their conduct serve as a role model for the community. This section is to reaffirm our commitment to impartial policing and provide specific direction to department members in the performance of their duties and conduct of their behavior both on and off duty and assure the public we are providing service and enforcing laws in a fair and equitable manner to all.

### **PURPOSE**

To clearly establish for agency personnel the rules of employee conduct that is expected by members of the department.

To comply with the requirements of Minnesota Statues 626.8457 and 626.8471, subd. 4.

### **SCOPE**

This section is applicable to all members of the Cannon Falls Police Department.

### **STANDARDS**

#### **1-9.01 DEFINITION**

Racial profiling has the meaning given to it in Minn. Stat. 626.8471, Sub. 2. Which states:

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

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

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

## **1-9.02 CONTACT WITH THE PUBLIC / IMPARTIAL POLICING**

Policing impartially, not racial profiling, is standard procedure for this agency meaning employees will, at all times, be courteous to the public. They will be orderly, attentive, and will exercise patience and discretion in dealing with the public.

Employees shall not express, whether by act, omission, or statement: prejudice concerning race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or age.

Officers shall not allow their law enforcement decisions to be influenced by race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, or age.

- A. Investigative detentions, pedestrian and vehicle stops, arrests, searches and property seizures by peace officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the United States Constitution and peace officers must be able to articulate specific facts, circumstances and conclusions that support reasonable suspicion or probable cause for investigative detentions, pedestrian and vehicle stops, arrests, nonconsensual searches and property seizures;
- B. Except as provided in 1-9.02 C., Peace officers shall not consider race, ethnicity, national origin, gender, sexual orientation and religion in establishing either reasonable suspicion or probable cause; and
- C. Peace officers may take into account the descriptors in 1-9.02 B., based on information that links specific, suspected, unlawful or suspicious activity to a particular individual or group of individuals and this information may be used in the same manner officers use specific information regarding age, height, weight, or other physical characteristics about specific suspects.

## **1-9.03 PERCEPTION**

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

- A. Be respectful and professional;
  - B. Introduce or identify themselves to the citizen and state the reason for the contact as soon as practical unless providing this information will compromise officer or public safety;
  - C. Ensure the detention is no longer than necessary to take appropriate action for the known or suspected offense;
  - D. Attempt to answer any relevant questions the citizen may have regarding the citizen/officer contact including relevant referrals to other agencies when appropriate;
  - E. Provide their last name or badge number when requested.
  - F. Explain and/or apologize if it is determined the reasonable suspicion was unfounded (e.g. after an investigatory stop).
- C. Supervisors shall ensure all personnel in their command are familiar with the content of this policy and are in compliance.

#### **1-9.04 DUTY TO REPORT**

Every member of this department shall perform their duties in a fair and objective manner and are responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

#### **1-9.04 SUPERVISION AND ACCOUNTABILITY**

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

#### **1-9.05 VIOLATIONS**

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

Policy 1-9: issued 05/23

## **3-11 SEXUAL ASSAULT**

### **INDEX**

3-11.1	DEFINITIONS
3-11.2	INITIAL RESPONSE
3-11.3	VICTIM INTERVIEW
3-11.4	PROTECTING VICTIM RIGHTS
3-11.5	EVIDENCE COLLECTION
3-11.6	SPECIAL CONSIDERATIONS—MINORS AND VULNERABLE ADULTS/DOMESTIC ABUSE VICTIMS
3-11.7	CONTACTING AND INTERVIEWING SUSPECTS
3-11.8	FORENSIC EXAMINATION AND/OR THE COLLECTION OF EVIDENCE FROM THE SUSPECT
3-11.9	ROLE OF THE SUPERVISOR

### **POLICY**

The Cannon Falls Police Department strives to serve victims of sexual assault or abuse using a victim centered and science based approach.

### **PURPOSE**

All employees should take a professional, victim-centered approach to sexual assaults, protectively investigate, 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.

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.

To comply with the requirements of Minnesota Statute 626.8442

### **SCOPE**

This section is applicable to all members of the Cannon Falls Police Department.

## **STANDARDS**

### **3-11.01 DEFINITIONS**

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

- A. 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.
- B. Child or Minor: a person under the age of 18.
- C. Medical Forensic Examiner: The health care provider conducting a sexual assault medical forensic examination.
- D. Science Based Methodology: Using investigation methods that include the science based effects that experiencing trauma or high stress can have on a person's ability to recall the experience.
- E. Assault or Sexual Assault: The act of engaging in sexual contact or penetration with another person in a criminal manner as identified in MN Statute 609.342 to 609.3451.
- F. 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



- G. 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.
- H. 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.
- I. 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.
- J. 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:
    - a. 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
    - b. Because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

**3-11.02 INITIAL RESPONSE**

**A. Initial Officer Response**

When responding to a scene involving a sexual assault, officers follow standard incident response procedures. In addition, when interacting with victims:

1. Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.
2. The officer will attempt to determine the location/jurisdiction where the assault occurred.
3. Inquire of any signs and symptoms of injury, to include strangulation. If so document them in an appropriate manner. Collect any clothing worn during or after the assault, bedding or other items connected with the assault and place in a paper bag. If all items are not present, instruct the victim not to wash the items and place in a paper bag, providing paper bags if needed.
4. Encourage the victim to go to a medical facility for a forensic medical exam. Offer to arrange for transportation for the victim. Officers should attempt to obtain a signed medical release from the victim for the medical facility.

If a recent assault:

- a. Suggest that the victim not bathe, or clean him or herself if the assault took place recently. Reassure the victim that other evidence may still be identified and recovered even if they have bathed or made other physical changes.
  - 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.
5. Inform the victim that there are confidential victim advocates available and ask if it would be ok to attempt to contact one, if unable to reach one, provide the victim with contact information for the victim advocate program.
  6. Explain the investigation process including the roles of the officers, supervisors, and anyone else with whom the victim will likely interact during the course of the investigation. Request preferred contact information for the victim for follow-up

7. Identify and attempt to interview potential witnesses to the sexual assault and/or anyone the victim told about the sexual assault.

### **3-11.03 VICTIM INTERVIEW**

#### **A. Initial Response Interview**

Officers should recognize that victims of sexual assaults may be best served using trauma informed interviewing techniques and strategies. If the officer is not trained in such interview techniques, the interview should be limited to what is needed to ensure the immediate safety of the victim and general public, to limit the duplication of interviews and use a question and answer interviewing format as nondirective as possible to elicit spontaneous responses in the following areas:

1. Is the suspect(s) known to the victim, if so, what is the relationship
2. Was any force or weapons used or threatened.
3. Was anyone else present or did anyone witness the assault.

#### **B. Forensic Interview**

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

- Offer to have a confidential victim advocate present (if possible) if the victim would benefit from additional support during the process
- Whenever possible, conduct victim interviews in person
- Make an effort to conduct the interview in a welcoming environment
- Let the victim share the details at their own pace
- Recognize victims of trauma may have difficulty remembering incidents in a linear fashion and may remember details in days and weeks following the assault
- After the initial interview, consider reaching out to the victim within a few days, after at least one sleep cycle to ask if they remember any additional details.
- Depending on the victim, additional interviews might be needed to gather additional information. Offer support from a victim advocate to the victim to help facilitate engagement with the investigative process and healing.
- Some victims do remember details vividly and might want to be interviewed immediately.
- During initial and subsequent victim interviews, officers should note the following information as victims share it, recognizing that as a result of the traumatic event a victim may not be able to recall all the details of the assault during a particular interview. Including but not limited to:
  1. Whether the suspect was known to the victim

2. How long the victim knew the suspect
3. The circumstances of their meeting and if there is any indication of the use of drugs or alcohol to facilitate the sexual assault
4. The extent of their previous or current relationship
5. Any behavioral changes that led the situation from one based on consent to one of submission, coercion, fear, or force
6. Specific actions, statements, and/or thoughts of both victim and suspect immediately prior, during, and after assault
7. Relevant communication through social media, email, text messages, or any other forms of communication

### **3-11.04 PROTECTING VICTIM RIGHTS**

- A. 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)
- B. Crime Victim Rights: Officers should provide victims with the applicable information:
  1. Crime victim rights and resource information required to be provided to all victims as specified by Minn. Stat. section 611A.02, subd. 2(b)
  2. 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.
  3. The victim's right to be informed of the status of a sexual assault examination kit upon request as provided for under Minn. Stat. section 611A.27, subd. 1.
  4. 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.
- C. Other information: Officers should provide to the victim the ICR number, and contact information for the reporting officer and/or officer/investigator handling the follow up.

### **3-11.05 EVIDENCE COLLECTION**

Officers shall follow this agency's policy on crime scene response. Considerations for Evidence Collection officers may do the following:

- A. Collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing. This should be in accordance with Policies 8-1, 8-2, 8-4.
- B. Document any evidence of threats or any communications made by the suspect, or made on behalf of the suspect, to include those made to individuals other than the victim.
- C. In situations where it is suspected that drugs or alcohol may have facilitated the assault, officers should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, or other related items.
- D. If the victim has declined or a medical forensic exam will not be conducted, the officer should obtain victim consent and attempt to take photographs of visible physical injuries, including any healing or old injuries. Victim should be given directions about how to document any bruising or injury that becomes evidence later after these photographs are taken.
- E. Sexual Assault Medical Forensic Examinations  
Prior to the sexual assault medical forensic examination occurring after the assault has been report to the agency, officer should try to do the following:
  - 1. 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. Inform the victim that they will not incur any out-of-pocket expenses for forensic medical exams and if they receive a bill to contact the officer.
  - 2. Explain to the victim the investigative value of a sexual assault medical forensic exam. Advise the victim that a forensic examiner, health care professional, or a victim advocate would be the best resource for questions or guidance about the exam process.
  - 3. 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. When possible, transport the victim using an unmarked, uncaged squad and allow the victim to seat where they are comfortable.
  - 4. Ask the victim for a signed release for access to medical records from the exam.

- F. Officers should not be present during any part of the exam, including during the medical history.
- G. Following the exam, evidence collected during the exam shall be handled according to the requirements of Policy 8-4 and Minnesota Statute 299C.106.

### **3-11.06 SPECIAL CONSIDERATIONS – MINORS AND VULNERABLE ADULTS/DOMESTIC ABUSE VICTIMS**

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. Any victim or witness interviews conducted with individuals having special considerations must be audio and video 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.

- A. **Minors and Vulnerable Adults**

Officers should recognize that certain victims, due to their age or a physical, mental, or emotional distress, may be best served using trauma informed interviewing techniques and strategies. Officer 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.
- 1. **Initial Response Interview**

If the officer is not trained in such interview techniques, the interview should be limited to what is needed to ensure the immediate safety of the victim and general public, to limit the duplication of interviews and use a question and answer interviewing format as nondirective as possible to elicit spontaneous responses in the following areas:

  - a. Ensuring the safety of the victim.
  - b. Ensuring the scene is safe.
  - c. Identify the location the assault occurred.
  - d. Safeguarding evidence where appropriate.
  - e. Addressing the immediate medical needs of individuals at the scene.

- f. Obtain contact information for the victim and caregiver, guardian or parents and where the victim may be located at a later time.
- g. Collecting any information necessary to identify the suspect.
- h. Officers may need to seek the above information from parents, caregivers, the reporting party, or other adult witnesses in certain circumstances, unless those individuals are believed to be the perpetrators.

2. Forensic Interview

In recognizing the need for non-traditional interviewing techniques for sexual assault victims, a forensic interview should only be conducted by officers with specialized training. When the victims are Minors or Vulnerable Adults efforts should be taken to conduct a team investigation with the appropriate local human services agency. If the initial report did not come from appropriate local human services agency Officers need to follow the mandated reporting requirements of Minnesota Statute 260E.06 and 626.557, as applicable.

- a. 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 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 should assess for the impact on the victim and the investigation if parents/guardians were notified before making a decision to involve them.
- b. 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.

B. Victims of Domestic Abuse

Officers responding to a report of sexual assault committed against a family and household member should refer to Policy 3-03 Domestic Abuse for applicable guidelines as well as this policy.

### **3-11.07 CONTACTING AND INTERVIEWING SUSPECTS**

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

- 1. Conduct a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.

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

### **3-11.08 FORENSIC EXAMINATION AND/OR THE COLLECTION OF EVIDENCE FROM THE SUSPECT**

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

1. Prior to or immediately after the preliminary suspect interview, photograph any injuries.
2. Determine whether a sexual assault medical forensic examination should be conducted.
3. Ask for the suspect's consent to collect evidence from their body and clothing. However, officers/investigators should consider obtaining a search warrant, with specific details about what evidence will be collected, and should be prepared in advance to eliminate the opportunity for the suspect to destroy or alter evidence if consent is denied.



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

### **3-11.09      ROLE OF THE SUPERVISOR**

Supervisors may do the following:

1. Provide investigation oversight, guidance and direction as needed.
2. Assist officers investigating incidents of sexual assault if requested by an officer.
3. Review sexual assault reports and evidence collected to ensure that necessary steps were taken during initial response and investigations.
4. Ensure submissions of evidence for lab testing.

Issued 8/19, revised 3/21, 05/23

## **7-3 MISSING AND ENDANGERED PERSON**

### **INDEX**

7-3.01	DEFINITIONS
7-3.02	INITIAL RESPONSE PROCEDURES
7-3.03	INITIAL INVESTIGATION
7-3.04	INVESTIGATION
7-3.05	PROLONGED INVESTIGATION
7-3.06	RECOVERY/CASE CLOSURE

### **POLICY**

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

After this agency has received a report of a missing person, obtained the basic facts of the case, descriptions of the missing person and abductor (if known), and determined that there is sufficient evidence to believe that the person is endangered, the agency will respond according to the following five types of general procedures:

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

The facts surrounding each missing and endangered person report will dictate when the procedures are warranted, and what the order and priority should be within each of the five categories.

### **PURPOSE**

To clearly establish for agency personnel:

- Guidelines and responsibilities for the consistent response to and investigation of all reports of missing and endangered persons including children as defined in Minnesota Statutes, Chapter 299C.52, Subd. 1, (c), and (e) ("Minnesota Missing Children Program").
- To comply with requirements of Minnesota Statutes 626.8454, subd 3.

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

## **SCOPE**

This section is applicable to all members of the Cannon Falls Police Department.

## **STANDARDS**

### **7-3.01 DEFINITIONS**

- A. **MISSING** - According to Minnesota Statutes, Chapter 299C.52, Subd. 1, (c), missing means “the status of a person, including child after a law enforcement agency that has received a report of a missing person has conducted a preliminary investigation and determined that the person cannot be located.”
- A. B. **ENDANGERED** - has the meaning given it in MN STAT 299C,52, subd. 1, (c), “A law enforcement official has recorded sufficient evidence that the missing person is at risk of physical injury or death. The following circumstances indicate that a missing person is at risk of physical injury or death:
- 1) the person is missing as a result of a confirmed abduction or under circumstances that indicate that the person’s disappearance was not voluntary;
  - 2) the person is missing under known dangerous circumstances;
  - 3) the person is missing more than 30 days;
  - 4) the person is under the age of 21 and at least one other factor in this paragraph is applicable;
  - 5) there is evidence the person is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person’s health if the person does not receive the needed care or medication;
  - 6) the person does not have a pattern of running away or disappearing;
  - 7) the person is mentally impaired;
  - 8) there is evidence that the person may have been abducted by a noncustodial parent;
  - 9) the person has been the subject of past threats or acts of violence;
  - 10) there is evidence the person is lost in the wilderness, backcountry, or outdoors where survival is precarious and immediate and effective investigation and search and rescue efforts are critical; or
  - 11) any other factor that the law enforcement agency deems to indicate that the person may be at risk of physical injury or death, including a

determination by another law enforcement agency that the person is missing and endangered.

- C. **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.”
- D. **SUFFICIENT EVIDENCE** - Means articulable facts and circumstance which would induce a reasonably prudent police or peace officer to believe that a crime has been or is about to be committed.
- E. **NCIC** - Means the National Crime Information Center.
- F. **CJIS** - Means the Criminal Justice Information System.
- G. **NCMEC** - Means the National Center for Missing and Exploited Children.
- H. **NLETS** - Means the National Law Enforcement Telecommunication System.

### 7-3.02 INITIAL RESPONSE PROCEDURES

- A. Dispatch an officer to the scene to conduct a preliminary investigation.
- B. Obtain interpretive services if necessary.
- C. Interview parent(s)/person who made the initial report.
- D. Determine when, where, and by whom the missing person was last seen.
- E. Interview the individuals who last had contact with the person.
- F. Obtain a detailed description of the missing person, abductor, vehicles, etc.
- G. Conduct a neighborhood/vehicle canvass.
- H. Load the NCIC Missing Person File (involuntary category) with complete descriptive and critical information regarding the missing and endangered person.
- I. Load the NCIC system with complete descriptive information regarding the suspect(s).
- J. Notify Chief of Police.
- K. Update additional responding personnel.
- L. Broadcast known details on 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.
- M. Notify the family of crime victim services available, and give the family the Crime Victim Services card.
- N. When appropriate, 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.

- O. Activate protocols for working with the media.
- P. As required by Minnesota Statute, Chapter 299C53, Subd. 1, contact the Bureau of Criminal Apprehension regarding the incident as soon as possible. Request assistance as necessary.
- Q. Implement multi-jurisdictional coordination/mutual aid plan (MAIT) as necessary. For example:
  - 1. When the initial investigation exceeds our resources, and/or;
  - 2. When the investigation crosses jurisdictional lines.

### **7-3.03 INITIAL INVESTIGATION**

- A. The Chief or designee may arrange for use of helpful media coverage when appropriate.
- B. Maintain records of telephone communications/messages (e.g., phones, recordings, leads).
- C. Ensure that everyone at the scene is identified and interviewed separately.
- D. Search the home or building where the incident took place and conduct a search, including surrounding areas.
- E. Assign an officer/investigator whose duties will include coordination of the investigation.

### **7-3.04 INVESTIGATION**

- A. Begin setting up the Command Post/Operation Base away from the person's residence. Assign specific responsibilities to include any or all of the following:
  - 1. Command Post Supervisor
  - 2. Media Specialist
  - 3. Search Coordinator
  - 4. Investigative Coordinator
  - 5. Communication Officer
  - 6. Support Unit Coordinator, and
  - 7. Two Liaison Officers (one at Command Post, and one at victim's residence).
- B. Consider using "trap and trace" on all incoming calls to Command Post and victim's residence. Consider setting up a separate telephone line or cellular telephone for agency use.
- C. Compile a list of known sex offenders living in the area when appropriate.
- D. When appropriate in cases of infant abduction, investigate claims of home births made in that area.
- E. Obtain child protective agency records (if a child) for reports of abuse on child.
- F. Review records for previous incidents related to the missing person and prior activity in the area, including prowlers, indecent exposure, attempted abductions, etc.

- G. When appropriate, obtain the person's medical and dental records, and enter information into NCIC.
- H. Update the NCIC missing person file with any additional information regarding the person or suspect as necessary.
- I. Consider interviewing delivery personnel; employees of gas, water, electric, and cable companies; taxi drivers; post office personnel, sanitation workers; etc.
- J. Contact the National Center for Missing and Exploited Children (NCMEC) for photo dissemination and other case assistance (if a child). The phone number is 1-800-THE-LOST, and the Missing Children's Quarterly Bulletin (MSS 299C.54).
- K. Determine if outside help is necessary and utilize local, state and federal resources related to specialized investigative needs, including:
  - 1. Crime Victim Advocates
  - 2. Minnesota Bureau of Criminal Apprehension
  - 3. Federal Bureau of Investigation
  - 4. County Attorney
  - 5. Customs Investigative Services
  - 6. Minnesota State Patrol
  - 7. Minnesota Crime Alert Network
  - 8. Investigative experts in the areas of sexual assault, child maltreatment, and/or homicide
  - 9. Searches:
    - a. Ground Searches - manpower, vehicles, and/or mounted patrols
    - b. Canine assisted
    - c. Water and underwater searches, and
    - d. Air searches, Civil Air Patrol
  - 10. Investigative Resources:
    - a. Child interviewing
    - b. Polygraph
    - c. Profiling/Behavior Analysis
    - d. MN Sex and Violent Crime Analysis programs
    - e. Crime analysis/computer assistance
    - f. Forensic artistry/crime scene and evidence processing
    - g. Memory retrieval
  - 11. Interpretive Services
  - 12. Telephone Services (traps, traces, etc.)
  - 13. Media Assistance (local and national)
  - 14. Consider the use of polygraph for the parents and other key individuals.
  - 15. Utilize rewards and Crimestoppers programs as appropriate.

### **7-3.05 PROLONGED INVESTIGATION**

- A. Develop a profile on the possible abductor if not already done.

- B. 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.
- C. Review all potential witness/suspect information obtained in the initial investigation and consider background checks on anyone identified in the investigation.
- D. Develop timeline and other visual exhibits.
- E. Critique results of the ongoing investigation with appropriate investigative resources.
- F. Arrange for periodic media coverage as appropriate.
- G. Update NCIC Missing Person File information as necessary.
- H. Re-contact the National Center for Missing and Endangered Children (NCMEC) for age progression assistance.

**7-3.06 RECOVERY/CASE CLOSURE**

- A. Consider a comprehensive physical examination of the victim.
- B. Conduct an interview of the person. Document the results of the interview.
- C. Refer family for effective reunification assistance.
- D. Cancel alarms and remove case from NCIC and other information systems, re-contact NCMEC for assistance, and remove posters and other publications from circulation.
- E. Perform constructive post-case critique. Reassess the procedures used and update the Department's policy and procedures as appropriate.

Issued 10/07, Revised 10/21, 05/23

## **2-3 PREDATORY OFFENDER REGISTRATION / COMMUNITY NOTIFICATION**

### **INDEX**

2-3.01	REGISTRATION PROCEDURES
2-3.02	COMMUNITY NOTIFICATION
2-3.03	EXCHANGE OF INFORMATION
2-3.04	RE-NOTIFICATION
2-3.05	COMMUNITY NOTIFICATION: DISPOSITIONAL DEPARTURES
2-3.06	COMMUNITY NOTIFICATION-ALL OTHER REGISTERED OFFENDERS

### **POLICY**

The Cannon Falls Police Department shall facilitate the registration of sexual and other predatory offenders. Furthermore, this department will provide the community as much information as required by statute, while preserving the rights of offenders.

### **PURPOSE**

This Cannon Falls Police Department complies with MN State Statute 243.166; 244.052; and 244.053. Compliance with this policy will provide for appropriate notification of community members relative to the release of certain sexual offenders, while maintaining the legally required privacy and other rights of those convicted offenders.

### **SCOPE**

This policy applies to all members of the Cannon Falls Police Department.

### **STATUTORY AUTHORITY**

Minnesota State Statute 243.166 - Sex Offender Registration

Minnesota State Statute 243.167 - Registrations Under Predatory Offender Registration Law for Other Offenses

Minnesota State Statute 244.10 – Sentencing Hearing; Deviation From Guidelines

Minnesota State Statute 244.052 - Community Notification (Prison)

Minnesota State Statute 244.053 - Community Notification (Non-prison)

Minnesota Statute Chapter 13 - Minnesota Government Data Practices Act

### **STANDARD**

#### **2-3.01 DEFINITIONS**



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

Offender Risk Levels - means the level of notification is governed by the level of risk assigned by the DOC. Three possible risk levels can be assigned to an offender. They are:

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

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

MN State Statute 243.166 requires that convicted sex offenders who have reached the end of their parole/probation period must register with local law enforcement for 10 years beyond the expiration of their probationary period. In that the Department of Corrections will no longer have jurisdiction over offenders for whom the term has expired, the offender must notify law enforcement in the community of residence of the impending change in address of the offender.

## **2-3.02           REGISTRATION PROCEDURES**

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

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

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

- If the offender is already registered, complete a *Change of Information Form* included on the BCA's website at [www.dps.state.mn.us/bca](http://www.dps.state.mn.us/bca).
- If the offender is not registered, complete a *Predatory Offender Registration Form* included on the BCA's website at [www.dps.state.mn.us/bca](http://www.dps.state.mn.us/bca).
- If the offender is from another state, contact the state (information for each state is listed on the BCA's website at [www.dps.state.mn.us/bca](http://www.dps.state.mn.us/bca)) and request a copy of the offender's original registration form, criminal complaint and sentencing documents.
- If the offender is not living at the registered address, contact the BCA-POR to determine if a *Change of Information Form* was submitted. If it was not, the offender may be charged with failure to notify authorities of a change in residence. To make this charge, contact the BCA-POR to request a prosecution packet. Submit the packet to the county attorney's office to file a formal charge.

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

### **2-3.03 COMMUNITY NOTIFICATION**

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

The DOC or POR unit of the MN BCA provides law enforcement agencies:

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

#### **2-3.03.01 Notification Process**

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

**Level 1** – Information maintained by law enforcement and may be subject to limited disclosure.

- Mandatory disclosure
  - Victims who have requested disclosure
- Discretionary disclosure
  - Other witnesses or victims
  - Other law enforcement agencies.

**Level 2** – Information subject to limited disclosure for the purpose of securing institutions and protecting individuals in their care while they are on or near the premises of the institution.

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

**Level 3** – Information subject to disclosure, not only to safeguard facilities and protect the individuals they serve, but also to protect the community as a whole.

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

Upon notice that a registered predatory offender without a supervising agent has been admitted to a health care facility in its jurisdiction, law enforcement shall provide a fact sheet to the facility administrator with the following information: name and physical description of the offender; the offender's conviction history, including the dates of conviction; the risk level assigned to the offender, if any; and the profile of likely victims.

### 2-3.03.03 Specialized Notifications

#### **Offenders from Other States and Offenders Released from Federal Facilities Subject to Notification**

- If a local law enforcement agency learns that a person under its jurisdiction is subject to registration and desires consultation on whether or not the person is eligible for notification, the agency must contact the DOC. The DOC will review the governing law of the other state and, if comparable to Minnesota requirements, inform law enforcement that it may proceed with community notification in accordance with the level assigned by the other state.
- If DOC determines that the governing law in the other state is not comparable, community notification by law enforcement may be made consistent with that authorized for risk level 2.
- In the alternative, if a local law enforcement agency believes that a risk level assessment is needed, the agency may request an end-of-confinement review. The local law enforcement agency shall provide to the DOC necessary documents required to assess a person for a risk level.

#### **Victim Notification**

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

DOC will provide victim contact information to the law enforcement agency when there is a victim who has requested notification.

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

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

### **Homeless Notification Process**

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

## **2-3.04 PREDATORY OFFENDER REGISTRATION VERIFICATION**

The Cannon Falls Police Department recognizes the role it plays in assisting and ensuring compliance with the Predatory Offender Registration laws. With this role in mind offender’s information on file with the Cannon Falls Police Department will be verified a short time after receiving notice and thereafter on a case by case basis. Factor to be considered are history, last update, photos not current or information received that raises questions regarding the POR. Offenders will be contacted in person to accomplish this task.

Policy 2-3: Issued 10/07; Revised: 05/23

## **3-13 PURSUIT DRIVING**

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3-13.11	PURSUIT SUMMARY REPORT
3-13.12	EVALUATION AND CRITIQUE

### **POLICY**

It is the policy of the Cannon Falls Police Department to control and regulate the manner in which emergency vehicle operations are undertaken and performed, to guide its officers in the safe and reasonable performance of their duties. When engaged in emergency vehicle operations in the performance of official duties, drivers of authorized emergency vehicles are granted exemptions by statute, from certain traffic laws. These exemptions are provided to help protect lives, not to place them at undue risk.

### **PURPOSE**

To clearly establish for agency personnel the department expectations while operating a department vehicle in a pursuit.

To comply with the requirements of Minnesota Statute 626.8458, subd 2.

### **SCOPE**

This section shall be applicable to all sworn personnel of the Cannon Falls Police Department

### **STANDARDS**

### **3-13.01 DEFINITIONS**

- A. Pursuit: A multi-stage process by which a police officer initiates a vehicle stop and a driver resists the signal or order to stop, increases speed, extinguishes the vehicle's headlights or taillights, takes evasive action, and/or refuses to stop the vehicle. Once the driver refuses to obey the police officer's signal or order, this pursuit policy and procedure will determine the officer's and the department's actions.
- B. Termination of a Pursuit: A pursuit will be considered terminated when the primary officer turns off the emergency equipment, resumes routine vehicle operations and informs the communications center, or when the suspect vehicle stops.
- C. Divided Highway: Any highway which has been separated into two or more roadways by;
  - 1. a physical barrier; or
  - 2. a clearly indicated dividing section so constructed as to impede vehicular traffic.

### **3-13.02 PURSUIT CONSIDERATIONS**

- A. Pursuit is justified:
  - 1. when a vehicle operator refuses to stop after being given a visual and audible signal to stop by a police officer; and
  - 2. when there is reasonable expectation of a successful apprehension of the suspect.
- B. Other factors to be considered:
  - 1. The initial decision to engage in a pursuit shall lie with the officer who has initiated the vehicle stop, after considering the elements of this policy.
  - 2. These elements should include, but are not limited to, the crime for which the suspect is wanted (the need to apprehend immediately) and the risk to the community created by the pursuit (traffic, area of pursuit, time of day, speeds involved, environmental factors, and weather conditions).
  - 3. The primary officer must continually consider the risks created by the pursuit, as those risks may change during a pursuit.

4. Terminating a pursuit should be considered a decision made in the interest of public safety.
  5. The primary officer's decision to continue a pursuit may be overridden by a supervisor at any time.
- C. Standards applied to the evaluation of a pursuit, as well as the decision to continue a pursuit should include the following:
1. Is the need to immediately apprehend the suspect more important than the risk created by the pursuit?
  2. Do the dangers created by the pursuit exceed the danger posed by allowing the perpetrator to escape?

### **3-13.03 PROCEDURES AND TACTICS FOR AN OFFICER ENGAGING IN A PURSUIT**

- A. Emergency vehicles should be driven in a safe manner and with due regard for public safety.
- B. Emergency vehicles operating in emergency mode are permitted to violate certain traffic regulations when necessary, as long as the officer continues to exercise due care in vehicle operation.
- C. The pursuing squad will be known as the primary unit, which will be the officer closest to the fleeing vehicle and the secondary unit, which should remain a safe distance behind the primary unit but close enough to provide support and communication with the communications center. Back-up officers as needed should operate at a safe distance to provide support.
- D. Officers operating unmarked vehicles, equipped with and using red lights and siren, may engage in pursuit as a primary unit only until a marked vehicle becomes available to take over the pursuit as the primary unit. The unmarked vehicle will then withdraw from the position of primary unit and may serve in a support function for the primary unit.
- E. Officers should not pursue suspect(s) the wrong way on interstate or other controlled access highways. Officers may drive on the wrong side of any other divided roadway when necessary and, in doing so, should exercise caution.
- F. Officers who have not received the mandatory training shall not be permitted to directly engage in a pursuit.



- G. Officers operating vehicles with video units should immediately record all activities while involved in pursuit or acting as a back-up or support officer.

### **3-13.04 RESPONSIBILITIES OF THE PRIMARY UNIT**

- A. The primary unit will notify the communications center of the pursuit and should provide at least the following critical information to the communications center:
  - 1. Officer identification.
  - 2. Offense for which the suspect is being pursued.
  - 3. Suspect vehicle description, including license number if reasonably possible.
  - 4. Location, direction, and speed of both vehicles.
  - 5. Description of occupant(s) and if suspect is known to officer.
  - 6. Any other important information about the suspect vehicle or environment (for example: suspect is traveling without lights, officer loses sight of vehicle).
- B. Based on the known information, the officer will make the decision to either take further action or terminate the pursuit.
- C. Vehicle-to-vehicle contact should not be intentionally administered unless the officer has received specific training in Pursuit Immobilization Technique (PIT) or the circumstances would justify the use of deadly force.
- D. Roadblocks may be established only with specific authorization from a supervisor.

### **3-13.05 SUPERVISION OF PURSUIT ACTIVITIES**

- A. A supervisor should be notified as soon as practical that an officer is engaged in a pursuit.
- B. The supervisor should request critical information necessary to evaluate the continuation of the pursuit.
- C. The supervisor has the authority to terminate any pursuit. Prior to notification of a supervisor, the primary unit has the authority to terminate the pursuit.

- D. Options for the primary unit and the supervisor, once notified of the pursuit, to keep in mind include, but are not limited to the following:
  - 1. In cases involving wrong-way drivers, parallel pursuits may be used.
  - 2. Notification of the next jurisdiction is encouraged.
  - 3. Deployment of tire deflation equipment.
  - 4. Coordination with assisting agencies.
- E. The primary officer will have responsibility for supervision of the pursuit until relieved of that responsibility by the supervisor.

### **3-13.06 COMMUNICATIONS CENTER ROLE**

The Communications Center should coordinate critical information, both as timely and accurately as possible.

### **3-13.07 FACTORS INFLUENCING THE TERMINATION OF A PURSUIT**

- A. The officer of the primary unit, and the supervisor once notified, should continually evaluate the risks and likelihood of a successful apprehension of the suspect.
- B. The conditions of the pursuit become too risky for the safe continuation of the pursuit.
- C. A supervisor orders the pursuit terminated.
- D. If information is communicated that indicates it is out of compliance with policy.
- E. When normal communication is broken.
- F. When visual contact is lost for a reasonable period of time or the direction of travel cannot be determined.
- G. When the suspect is known and could be apprehended later, and to delay apprehension does not create a substantial known risk of injury or death to another.

### **3-13.08 INTER-JURISDICTIONAL PURSUIT**

- A. When a pursuit leaves the City of Cannon Falls
  - 1. The primary unit, before leaving the City of Cannon Falls, should update critical information to the communications center.
  - 2. The primary unit should remain the primary unit in other jurisdictions unless the officer transfers the controlling pursuit authority to another jurisdiction. The primary unit, upon transferring the controlling pursuit authority to another jurisdiction, would assume the role of a secondary or back-up unit.
  - 3. Upon receiving notification that the pursuit is entering another agency's jurisdiction, the communication center should forward all critical information in its possession to that agency.
  
- B. When a pursuit enters the City of Cannon Falls:
  - 1. The communication center should update the critical information to the officer(s).
  - 2. The officer(s) or supervisor should determine if the pursuit is in conformance with the policy of the Cannon Falls Police Department.
  - 3. Officer(s) will provide necessary assistance to other agencies engaged in a pursuit provided it is in conformance with the policy of the Cannon Falls Police Department.
  
- C. Officers involved in a pursuit and switching to an alternate police radio frequency during the pursuit will attempt to monitor the main frequency also.

### **3-13.09 AIR SUPPORT**

Once air support is involved in the pursuit and has the fleeing vehicle in sight, the primary unit should reduce the level of pursuit to that of support or other backup unit. The primary unit will coordinate with air support while continuing as the primary with air support assistance.

### **3-13.10 CARE AND CONSIDERATION OF VICTIMS**

- A. If during a pursuit an officer observes or is made aware of an injury to an individual, the officer should immediately notify the communication center to have the appropriate emergency medical units respond.

- B. The primary unit will be responsible for ensuring that assistance is provided to people who may have been injured during the course of a pursuit. The primary unit may delegate the responsibility to render assistance to a specific support unit when they are immediately available to render assistance.

### **3-13.11 PURSUIT SUMMARY REPORT**

- A. The primary officer will provide Department Records with the details below needed file a pursuit summary report.
- B. To ensure compliance with MN Statute 626.5532 subdivision 1, the Chief of Police or designee shall insure the completion of the state pursuit report form and forward it to the Commissioner of Public Safety within thirty (30) days following the pursuit.
- C. The report must contain the following elements:
  - 1. The reason(s) for, and the circumstances surrounding the pursuit;
  - 2. the alleged offense;
  - 3. the length of the pursuit including time and distance;
  - 4. the outcome of the pursuit;
  - 5. any injuries or property damage resulting from the pursuit; and
  - 6. any pending criminal charges against the driver.

### **3-13.12 EVALUATION AND CRITIQUE**

After each pursuit, the supervisor and the pursuing officer(s), will evaluate the pursuit and when necessary, make recommendations to the Chief of Police.

Issued 10/07, Revised: 03/16, 05/23

## **7-5 SCHOOL BUS INCIDENT REPORTING**

### **INDEX**

7-5.01	DEFINITION
7-5.02	INITIAL RESPONSE
7-5.03	INVESTIGATION
7-5.04	REPORTS AND FORMS
7-5.05	ENFORCEMENT ACTION

### **POLICY**

It is the responsibility of the Cannon Falls Police Department to respond to all reports of criminal incidents on school busses occurring within its jurisdiction. This agency will work with school officials, transportation personnel, parents, and students to protect student safety and deal appropriately with those who violate the law. This policy is not intended to interfere with or replace school disciplinary policies which relate to student misconduct on school busses.

### **PURPOSE**

To clearly establish for agency personnel:

- \* Guidelines to be followed by peace officers in law enforcement's response to criminal incidents on school busses or in school bus loading and unloading areas.
- \* To comply with the requirements of Minnesota Statute 169.4581.

### **SCOPE**

This section is applicable to all members of the Cannon Falls Police Department.

### **STANDARDS**

#### **7-5.01 DEFINITION**

"Reportable Offense" means misbehavior causing an immediate and substantial danger to oneself or surrounding persons or property.

#### **7-5.02 INITIAL RESPONSE**

Department personnel will respond to calls for assistance from any citizen, school official, or bus transportation company personnel as it may pertain to criminal

conduct or reportable offenses on school busses or in a school bus loading or unloading area.

### **7-5.03 INVESTIGATION**

An incident report shall be completed on all calls involving an allegation of a reportable offense or criminal incident. The investigating officer will investigate the reported incident using the same procedure as followed in other criminal investigations involving juveniles.

### **7-5.04 REPORTS AND FORMS**

Reports regarding the incidents will be submitted as required by Departmental policy and to the appropriate prosecuting attorney.

Investigating officers will follow through with any other investigation necessary to prepare a case pertaining to criminal conduct on school busses or in a school bus loading or unloading area as requested by the prosecuting attorney.

School officials or transportation company personnel may provide police department employees with Minnesota School Bus Incident Forms concerning a reportable offense or criminal incident.

### **7-5.05 ENFORCEMENT ACTION**

Investigating officers may issue citations, release pending further investigation, or apprehend and transport, to the extent authorized by law, individuals committing crimes on school busses or in school bus loading and unloading areas.

The police department will provide information to the school regarding the incidents as allowed by law.

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## 3-12.08 OPERATING WITHOUT LIGHTS

### 3-12.08.01 Purpose

To establish guidelines in accordance with applicable statutes to govern the conduct of officers of by the Cannon Falls Police Department as licensed peace officers for the purpose of operating a motor vehicle or watercraft without lights, Minnesota Statute 169.541.

When operating a motor vehicle or watercraft without lights, an officer's conduct must be reasonable and consistent with the guidelines established by current Minnesota Statutes and this regulation.

### 3-12.08.02 Definitions

Department - The Cannon Falls Police Department.

Operating Without Lights - Operating without lights means a peace officer operating a vehicle or watercraft without lights as an exception to Minnesota Statutes Sections 84.87, 84.928, 169.48 to 169.65, and 86B.511. This definition does not include a parked vehicle.

Peace Officer - Peace officer has the meaning given it in Minnesota Statutes 626.64, Subd. 1(C).

Vehicle - Motor Vehicle, Watercraft, ATV, or Snowmobiles

### 3-12.08.03 General Provisions

- A. Only sworn officers may operate, without lights, motor vehicles or watercraft which are owned, leased or otherwise the property of Department.
- B. Operating of motor vehicles or watercraft without lights must be in the performance of the officer's law enforcement duties.
- C. The officer must reasonably believe that operating a motor vehicle or watercraft without lights is necessary under the circumstances to investigate a criminal violation or suspected criminal violation of State Laws, Rules, or Orders or Local Laws, Ordinances, or Regulations.

- D. The vehicle must be operated in a manner which gives due regard to the safety of other persons and vehicles which might be in the area.

3-12.08.04 Allowable Operation Without Lights.

- A. To enter an area undetected.
- B. For investigative purposes.
- C. When following a suspected criminal violator at a safe distance.

3-12.08.05 Operation Without Lights is Not Permitted:

- A. On interstate highways.
- B. At speeds greater than what is reasonable and prudent under existing weather, road and traffic conditions.
- C. In situations where the officer is an active participant in pursuing a motor vehicle being operated in violation of Minnesota Statutes 609.487 (Fleeing Peace Officer in a Motor Vehicle).
- D. Contrary to the elements listed in Minnesota Statute 169.541. (see Appendix A)
- E. Contrary to any written policies or procedures established by the Chief of Police.
- F. When a police vehicle is in motion and attempting to clock, overtake or stop a suspected petty misdemeanor traffic violator.

3-12.08.06 Property Damage/Personal Injury Report

If there is property damage or personal injury resulting from operating a motor vehicle or watercraft without lights, the officer involved shall immediately notify a supervisor of the circumstances. An incident report shall be completed by the officer as soon as possible following the incident. In no case shall the report be delayed more than 24 hours unless the officer is unable to complete it due to injury. In that case, the immediate supervisor shall complete the report.

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## **6-3 SEIZURE OF PROPERTY FOR FORFEITURE**

### **INDEX**

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6-3.02	ELIGIBLE OFFENSES
6-3.03	SEIZURE OF PROPERTY FOR FORFEITURE
6-3.04	DETERMINING WHETHER TO TAKE FORFEITURE ACTION
6-3.05	PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS UNDER 609.5314
6-3.06	HANDLING AND STORAGE OF SEIZED PROPERTY
6-3.07	REPORT WRITING
6-3.08	REPORT TO STATE AUDITOR
6-3.09	DISPOSITION OF FORFEITED PROPERTY
	APPENDIX A

### **POLICY**

The Cannon Falls Police Department will initiate the forfeiture of property from eligible offenses. Forfeiture actions are conducted in accordance with Minnesota and Federal laws. Training for department personnel will be provided in consultation of the department's prosecutor's office(s). Training may include but not limited to agency policy, directives, electronic or traditional classroom education and will be provided when policy or law changes occur that alter this policy's application.

### **PURPOSE**

To clearly establish for agency personnel:

- Circumstances under which property is subject to administrative seizure and forfeiture.
- Procedures to follow for property seized pending forfeiture outcome.
- Disposition of vehicles/property forfeited.

### **SCOPE**

This policy is applicable to all members of the Cannon Falls Police Department.

### **STANDARDS**

#### **6-3.01 DEFINITIONS**

- A. **Cash:** money in the form of bills or coins, traveler's checks, money orders, checks or other forms of electronic money or stored value cards, including but not limited to gift cards, debit cards, gift cards/certificates or other negotiable financial instruments.
- B. **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.
- C. **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, fire arm optics, suppression devices, cleaning supplies, etc.
- D. **Forfeiture:** the process by which legal ownership of an asset is transferred to a government or other authority.
- E. **Jewelry/Precious Metals/Precious Stones:** The term "precious metals/precious stones" includes items of jewelry such as rings, necklaces and watches that reasonably appear to be made of precious metals or precious stones. Precious metals include but are not limited to gold, silver, platinum, iridium and palladium. Precious stones, often referred to as gemstones, include but are not limited to diamonds, emeralds and rubies.
- F. **Forfeiture/Seized Property Reviewer:** The Chief of Police or designee is responsible for reviewing all forfeiture cases and is the liaison between the department and prosecutor's office.
- G. **Seizure:** the act of law enforcement officials taking property, including cash, vehicles, etc. that has been used in connection with or acquired by illegal activities.
- H. **Eligible Offenses:** Offenses that the department has determined are eligible for property to be forfeited by either an administrative forfeiture process or summons and complaint forfeiture process in compliance with State and Federal Laws.

## **6-3.02 ELIGIBLE OFFENSES**

- A. The eligibility of property to be forfeited is determined by Minnesota Statutes and Federal Laws. The majority of forfeitures initiated by the Cannon Falls Police Department occur under circumstances provided by Minnesota Statutes and this policy addresses that process specifically. Forfeitures intended to occur under Federal Laws will be done in conjunction with a Federal Agency to provide direction and guidance regarding the federal

process. All federal forfeiture actions taken will be in compliance with Federal Laws, procedures and this policy.

- B. Minnesota Statutes provide for forfeiture actions under the following statutes:
1. 169A.63: Forfeiture resulting from alcohol offenses.
  2. 609.531: Forfeitures
  3. 609.5311: Forfeiture of Property Associated with Controlled Substances.
  4. 609.5312: Forfeiture of Property Associated with Designated Offenses.
  5. 609.5313: Forfeiture by Judicial Action
  6. 609.5314: Administrative forfeiture of certain property seized in conjunction with controlled substance seizure.

### **6-3.03 SEIZURE OF PROPERTY FOR FORFEITURE**

Property may be seized with the intent for forfeiture when the seizure and forfeiture are the result of an offense eligible in section 6-3.02 or Statutes as may be updated. Minnesota Statutes specifically address when property can be seized under an administrative forfeiture process and when a summons and complaint process should be used. It will be the policy of the Cannon Falls Police Department that property seized will be done so based in the specific of the type of property as outlined by Statutes without regard to any minimum value beyond those required by Statute.

### **6-3.04 DETERMINING WHETHER TO TAKE FORFEITURE ACTION**

In all cases, a supervisor will review the case involving any property seized for forfeiture. A decision will be made by the respective prosecuting attorney regarding if the seizure and pursuit of forfeiture will continue. Factors considered are not limited to: any outstanding liens or loans against the property; if the property was stolen, or rented; and/or if the owner did not know of its unlawful use.

### **6-3.05 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS**

- A. When any property as described in the above section is seized, the 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 list

describing each item seized, the name of the individual served with the Notice, location, and the date of seizure.

2. A receipt for the item(s) seized to include a description, case number and officers name/badge number
- B. Notice of Seizure shall be in any and all languages as designed by Statute. The form must be dated and signed by the peace officer conducting the seizure. An agency case number must be included on the form. 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.
  - C. All property subject to and being processed for forfeiture through the department must be held in the custody of the Department, unless specifically approved by the Chief of Police due to extenuating circumstances.
  - D. The officer conducting the seizure shall forward the original and pink copy of the seizure notices, seized property processing worksheets, property receipts and reports Records so it can be reviewed by a supervisor as soon as possible.
  - E. The officer conducting the seizure shall include the estimated retail value of drugs found in proximity to the asset seized and note such in the narrative report.

### **6-3.06 HANDLING AND STORAGE OF SEIZED PROPERTY**

All property seized will be handled in a compliance with Chapter 8, Property and Evidence, of this policy manual

- A. Property not a Conveyance Device
  1. Cash, jewelry and valuable items seized should be handled under the "two person rule". Two officers shall be present at the time the property is inventoried. If only one officer is working when the seizure occurs it should be documented and recorded using a Body Worn Camera. Property must be carefully described without making assumptions as to content or value (i.e., gold colored vs. gold). When both officers are satisfied that an accurate inventory has taken place, the property may be placed into the department property system.
  2. Officers shall also prepare a property inventory report for any property seized. If any property is seized from multiple individuals,

the property inventory report will include all individuals. Any property with multiple individuals will be on a separate property inventory report for items that are only connected to a single individual. The agency property inventory shall also contain a detailed description of all checks, money orders and/or travelers checks or other financial instruments. Officers shall also complete applicable report forms and distribute them appropriately

3. Prior to placing any cash seize into the property system, officers shall examine all cash seized to determine whether it contains any buy funds. Officers shall document the recovery of all buy funds and separate those funds before placing into the property system. Those buy funds will be returned to the department's buy fund account by the property system technician.

**B. Conveyance Device**

1. Upon seizure for forfeiture, all conveyance devices shall immediately be taken to the department secure impound facility or secure indoor storage location.
2. Officers shall inventory the conveyance device and its contents in accordance with department policy. Officers shall also complete applicable report forms and distribute them appropriately.

**6-3.07 REPORT WRITING**

Reports will be completed in all cases involving forfeiture in compliance with section 1-16 of this policy manual.

**6-3.08 REPORT TO STATE AUDITOR**

A monthly report of forfeiture actions will be submitted to the Minnesota State Auditor by the department. Forms to be used for that purpose are provided by the Minnesota State Auditor.

**6-3.09 DISPOSITION OF FORFEITED PROPERTY**

Forfeited property will be disposed of in compliance with Minnesota and Federal laws and with City of Cannon Falls Code. Property will be disposed of in one of the following manners:

- A. Retain by law enforcement agency: Forfeited property may be used for law enforcement purposes if approved by the Chief of Police or his designee.

- B. Sell the property: Forfeited property may be sold at public sale, as provided by Statute. The proceeds, minus any storage costs, towing costs, title costs, sale costs, outstanding loan and/or lien balance attached to the title; will be paid out as provided by Statute. The balance will be deposited into the forfeiture account, with the funds being used to provide additional resources for DWI or drug enforcement
  
- C. Cash: Cash and related items will be deposited into the forfeiture account, minus any amount required to be disbursed by Statute, with the funds being used to provide additional resources for DWI or drug enforcement.

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## 5-1.07 USE OF INFORMANTS

Informants may be concerned citizens offering information with no expectation of gain or special consideration. However, this section primarily concerns an informant (or confidential informant or confidential source) defined as a person:

1. Whose identity is known to the police; and
2. Who supplies relevant information to an officer in a particular investigation in return for money or other considerations; and
3. Whose identity the officer wishes to keep secret.

### A. General information:

The use of informants is important to the satisfactory completion of many investigations. While informants can be very beneficial to the gathering of information and investigation of criminal matters, caution must be exercised when dealing with these individuals. An officer must control the situation and not be controlled by the informant.

Very often a potential informant will give information only if criminal charges pending against them are disposed of completely or somehow reduced. When dealing with such a situation, an officer must carefully consider the following:

1. How valuable is the informant's information?
2. How reliable is the informant and can the informant's information be corroborated through independent means?
3. How serious are the crimes about which the informant has information compared to any pending charges against the informant?
4. What is the likelihood of conviction against the informant, and what would the likely sentence be?
5. Will the department be able to effectively use the information provided by the informant?

### B. Officer Discretion:

Officer discretion in dealing with informants will conform with these guidelines:

1. An officer may use discretion to not make an arrest or issue a citation or violation summons in the following cases:
  - a. A misdemeanor or petty misdemeanor traffic violation where there is not a citizen victim.
  - b. A misdemeanor or petty misdemeanor criminal offense where there is not a citizen victim.
2. Gross misdemeanor and felony offenses may be reduced or disposed of only with the prior approval of the respective attorney's office.
3. Misdemeanor or petty misdemeanor cases in which there is a citizen victim may be reduced or disposed of only with the prior approval of the respective attorney's office.
4. Sources will sometimes offer to exchange information for immunity or for other relief. Neither the department, nor its members may grant any person immunity from prosecution or make promises regarding such a possibility without first contacting the City or County Attorney's Office and obtaining approval through the appropriate channels.

C. Supervisor Notice:

Officers wishing to utilize an informant will notify a supervisor in a secure manner, including the reason for informant use, informant identity and if any reduction of charges has been given or requested.

D. Control of Informant:

1. Informant Responsibility: The primary responsibility of the department is to protect and serve the community. Informants participating in investigations must be made aware of their responsibility to obey laws, ordinances, and department guidelines.

The informant will be advised as to what specifically is expected of them as well as what activities are prohibited. Informants are to be advised that they are not to engage in illegal or improper actions which would cause entrapment, loss of evidence, or jeopardize further investigation and prosecution. Furthermore, they will not be permitted to make illicit personal transactions, and any violation of the agreement will result in enforcement action being taken



against them, and that all previous agreements will be terminated.

When utilizing an informant, officers will take reasonable actions to protect the rights of the subjects of an investigation against improper or illegal activities of the informant.

2. **Protecting Officer and Department:** To protect the individual officers as well as the department against potential accusations, more than one officer should be present during conversations with informants. This procedure should be adhered to particularly when dealing with juveniles and opposite sex informants. In cases involving the procurement of illicit drugs or other contraband where money is to be provided to the informant, the denomination and serial numbers of that money will be recorded whenever possible. Additionally, the officer employing the informant must search the informant prior to the informant's contacting the suspect and immediately after the informant's contact with the suspect.
3. **Informant Payments:** Payments may be made to informants following the procedure in Section 5-1.08. Payments will be approved based on the reliability of the informant and the quality of information provided.
4. **Informant Reliability:** In establishing the reliability of a citizen informant, the following information should be considered:
  - a. The informant's reputation with this department or other agencies;
  - b. The number of times the informant has previously provided reliable information to this department or other agencies;
  - c. The number of arrests or search warrants based on the informant's past information; and
  - d. The informant's motivation for supplying the information.

The consideration of these factors may provide a partial basis for establishing the reliability and credibility of an informant. However, the preferred means by which information provided

by the informant is to be shown reliable is by the assignment of departmental personnel to maintain surveillance of the informant during those times in which they are actively participating for police personnel. Since this is not always possible, the informant's information will be compared with information provided by established reliable informants, and supported with as much physical evidence as possible.

5. Supervisory Control of Investigation: The officer using an informant will inform the officer's supervisor of the development of any of the following circumstances:
  - a. The officer does not have sufficient control over the informant.
  - b. The information supplied by the informant is false.
  - c. The informant has intentionally caused entrapment of the suspect.
  - d. The informant has engaged in other activities which are not legal or ethical.
  - e. Other damaging circumstances develop.

The Chief of Police will determine how to proceed.

E. Juveniles:

The use of juveniles as informants is discouraged. Juveniles ordinarily require parental approval to operate as an informant. Parental approval will be documented on the Cooperative Individual Agreement. Exceptions to this requirement must be approved by the Chief of Police.

Juvenile informants will not be used in situations involving risk of injury or harm without specific approval by the Chief of Police.

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## **3-18 POLICE BODY WORN CAMERA**

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3-18.1	DEFINITIONS
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3-18.8	DATA RELEASE REQUESTS
3-18.9	AGENCY USE OF DATA
3-18.10	AUDITS
3-18.11	VIOLATION OF POLICY

### **POLICY**

This agency recognizes that Police Body Worn Cameras (BWC) is an effective law enforcement tool. Therefore, the policy of this agency will be to utilize BWC technology in a manner that enhances accountability and transparency for all involved in a police and citizen interaction. This policy does not apply to other police video recording equipment, which is covered by policy 3-5. BWC is only a slice of what was occurring at a given time and is a two-dimensional representation of a three-dimensional event. The BWC may not record all the information that was seen or heard by those involved in the event and is only one part of the documentation of an event where a full understanding of what occurred is needed.

### **PURPOSE**

The purpose of this policy is to clearly establish for agency personnel the proper use of BWC technology to achieve the following:

- The primary purpose is to provide evidence collection of events, actions, conditions, and statements made during arrests, critical incidents, and other law enforcement activities.
- To enhance the agency's ability to provide accountability and transparency of officer and citizen interactions.
- To evaluate the performance of officers and to assist in training.

### **SCOPE**

This policy applies to all sworn personnel and those civilian personnel assigned the responsibility of handling digital evidence or information releases.

## STANDARDS

### 3-18.1 DEFINITIONS

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

Confidential data – BWC data that is collected or created as part of an active criminal investigation.

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

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

Digital Evidence – Digital data files from PVRE including BV, ICV, BWC or any other agency device capable of capturing audio, video, photographs and stored in a digital format that have an evidentiary value.

Evidentiary Value – Information that may be useful as proof in a criminal prosecution and related civil or administrative proceeding, further investigation of an actual or suspected criminal act, or in considering an allegation against a law enforcement agency or officer.

General Citizen Contact – A formal or informal encounter between an officer and person(s) that does not have an evidentiary value. Examples including, but not limited to: assisting a motorist with directions, answering general questions or receiving generalized concerns from a citizen about crime trends in his or her neighborhood.

Minnesota Government Data Practices Act (MGDPA) – Refers to Minnesota Statute 13.01, et seq.

Next of Kin - The following persons are proper relatives, in descending order: the deceased individual's spouse, parent, adult child, or adult sibling. Reference of definition, Minnesota Statute 253B.03 Subd 6 (b) (3).

Non-general Citizen Contact – Means an officers' encounter with a person(s) that becomes confrontational, during which at least one person expresses anger, resentment, or hostility toward the other, or at least one person directs toward the other verbal conduct consisting of arguing, threatening, challenging, swearing, yelling, or shouting. Encounters in which a citizen demands to be recorded or initiates recording on his or her own are deemed adversarial.

Police Video Recording Equipment (PVRE) – Equipment used to record video with or without audio.

Unintentionally recorded footage – Is a video recording that result from an officer's test activation, inadvertence or neglect in operating the officer's BWC, provided that no portion of the resulting recording has evidentiary or administrative value. Examples include, but are not limited to, recordings made in agency locker rooms, restrooms, and recordings made while officers were engaged in conversations of a non-business or personal nature with the expectation that the conversation was not being recorded.

### **3-18.2 TRAINING**

The agency shall provide all employees responsible for the operation, handling and management of the BWC equipment and data files with training to ensure compliance with this policy.

### **3-18.3 USAGE**

Officers shall only use department approved/issued BWC in the performance of official duties for this agency or when otherwise performing authorized law enforcement services as an employee of this department.

Officers assigned to a patrol shift will utilize a BWC during their work shift by checking out a camera from the BWC dock, unless none are available. If none are available or an officer forgets to remove a BWC before going on a call for service, the officer will advise Dispatch they do not have a BWC. Officers should ensure the BWC is working correctly and sync the BWC to the squad car they will be using during their shift.

If a BWC is found to not be working correctly it shall be placed out of service and notification sent to the department as to which BWC is out of service, as well as placing a note on the BWC.

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

A. Approved BWC wear locations:

1. On the vertical button edge of a uniform shirt or outer jacket.
2. On a dedicated tab of a uniform shirt or outer jacket.
3. On a dedicated tab located on outer body armor carrier.
4. On the pocket of an outer body armor carrier.
5. Other location submitted in writing based on specific circumstances to the Chief of Police or Designee with a written approval.

### **3-18.4 ACTIVATION/DEACTIVATION**

- A. Officers should activate their BWCs when anticipating that they will be involved in or witness other officers of this agency involved in a pursuit, Terry stop of a motorist or pedestrian, search, seizure, arrest, use of force, non-general contact, and during other activities likely to yield information having evidentiary value. However, officers need not activate their BWC when it would be unsafe, impossible, or

impractical to do so, but such instances of not recording must be documented in the ICR and report, if a report is created. If the BWC fails during use, it must be documented in the ICR and report, if a report is created to include the reason for failure.

- B. Officers have discretion to record any police-citizen encounter regardless if the recording would yield information having evidentiary value, unless such recording is otherwise expressly prohibited.
- C. Officers have no affirmative duty to inform people that a BWC is being operated or that they are being recorded.
- D. Once activated, the BWC should continue recording until the conclusion of the event, or until it becomes apparent that additional recording is unlikely to capture information having evidentiary value or if the event would be recorded by another department PVRE system. The officer having charge of a scene shall likewise direct the discontinuance of recording when further recording is unlikely to capture additional information having evidentiary value. If circumstances change, officers will reactivate their cameras as required by this policy to capture information having evidentiary value.
- E. Officers shall not intentionally block the BWC's audio or visual recording functionality to defeat the purposes of this policy. However intentional blocking is acceptable if utilized to comply with section 3-18.5 B, Special Guidelines for Recording, where a temporary blocking would be more appropriate than stopping and starting the BWC.
- F. Officers shall not activate the BWC during events where undercover officers are known to be present without prior approval from the undercover officers or a department supervisor.
- G. Notwithstanding any other provision in this policy, officers shall not use their BWCs to record agency personnel during non-enforcement related activities, such as during pre- and post-shift time in locker rooms, during meal breaks, briefings, meetings or during other private conversations, unless recording is authorized by the Chief or Designee as part of an administrative or criminal investigation.

### **3-18.5 SPECIAL GUIDELINES OF RECORDING**

Officers may, in the exercise of discretion, determine:

- A. To use their BWC to take recorded statements from persons believed to be victims and witnesses of crimes, and persons suspected of committing crimes, considering the needs of the investigation and the circumstances pertaining to the victim, witness, or suspect.

- B. To use their BWC to record persons being provided medical care if the subject is aggressive towards others or force may be necessary to allow for providing medical care.
- C. To use their BWCs when dealing with individuals believed to be experiencing a mental health crisis or event. BWCs shall be activated as necessary to document any use of force, or anticipated need for use of force.
- D. If officers respond to a health care facility, mental health care facility, detox, juvenile detention center, or adult detention center for a call of assistance, they may record the event as covered under 3-18.5 A., but otherwise should not record in these facilities unless the officer anticipates witnessing a criminal event or being involved in or witnessing aggression or a use-of-force incident.
- E. Officers should avoid recording law enforcement restricted data on a BWC that may be in a verbal, written or electronic format. Examples including, but not limited to: computer screen or Driver's Licenses, school or medical information.

### 3-18.6 DOWNLOADING / LABELING RECORDINGS

- A. BWCs will be downloaded in the manner and to location specified during training.
- B. Recordings of known evidentiary value or use of force event or an event the officer believes should be retained longer will be labeled and stored as directed during training. These recordings should be listed in the officer's written report.
- C. All BWC recordings shall be stored as designated by agency configuration. BWC recordings will be labeled as designated during training.

### 3-18.7 DATA STORAGE MEDIA CONTROL AND MANAGEMENT

- A. Data Retention
  - 1. All BWC data shall be retained for a minimum period of 90 days. There are no exceptions for unintentionally recorded or non-evidentiary data. BWC data not listed in provisions below is subject to destruction after 90 days from date of recording.

2. BWC data having evidentiary value shall be retained for the period specified in the Records Retention Schedule. When a particular recording is subject to multiple retention periods, it shall be maintained for the longest applicable period. BWC data will no longer be considered as evidentiary data if the charges are dismissed or 90 days after being sentenced for charges.
3. Data documenting the discharge of a firearm by a peace officer in the course of duty, other than for training or the killing of an animal that is sick, injured, or dangerous, must be maintained for a minimum period of one year.
4. Data that documents the use of deadly force by a peace officer must be maintained indefinitely.
5. Certain kinds of BWC data must be retained for six years:
  - a. Data that documents the use of force of a sufficient type or degree by a peace officer, to require supervisory review.
  - b. Data documenting circumstances that have given rise to a formal complaint against an officer.
6. Upon written request by a BWC data subject, the agency shall retain a recording pertaining to that subject for an additional time period requested by the subject of up to 180 days. The agency will notify the requestor at the time of the request that the data will then be destroyed unless a new written request is received.
7. BWC data that has a value for training purposes; may be reclassified as training data and subject to section 3-18.9. BWC data that are retained for training purposes, which no longer have evidentiary value, may be stored outside of the regularly used server. Such data is considered department data and may not be disseminated outside the department without prior approval.

## B. Digital Data Storage

1. Officers shall only use agency designated digital data storage, as approved by the Chief of Police or designee.
2. The City's Information Technology will determine the best method for backing up the data. If that method is an off-site, cloud-based system, they will ensure the data is encrypted and meets the requirements of the Criminal Justice Information Services, Policy 5.4 or successor version.

## C. Security/Control of Digital Data



1. Officers shall not edit, destroy, erase or in any manner alter BWC data unless otherwise expressly authorized by the Chief or the chief's designee.
2. Upon download from the BWC, data will be subject to the same security restrictions and chain of evidence safeguards as any other piece of evidence/property.
3. A copy of any BWC data will not be released to a person or agency, other than another criminal justice agency, without prior approval of the Chief of Police or his/her designee.
4. Personally owned devices, including but not limited to computers and mobile devices, shall not be programmed or used to access, view or record BWC data, without prior approval from the Chief of Police.
5. Access to BWC data from city approved devices shall be managed in accordance with established agency and/or city policy.
6. Agency personnel may access and view stored BWC data only when there is a business need for doing so, including the need to defend against an allegation of misconduct or substandard performance. Officers may review BWC data of an incident which they recorded, only for the purpose of preparing a report, giving a statement, or providing testimony about the incident.
7. Agency personnel are prohibited from accessing BWC data for non-business reasons and from sharing the data for non-law enforcement related purposes, including but not limited to uploading BWC data recorded or maintained by this agency onto public and social media websites.
8. Officers may display portions of BWC data to witnesses as necessary for purposes of investigation as allowed by Minn. Stat. § 13.82, subd. 15, as may be amended from time to time. Officers should limit these displays, including but not limited to: showing only a portion of the video, showing only screen shots, muting the audio, or playing the audio but not displaying video, to protect against the incidental disclosure of individuals whose identities are not public.
9. Officers shall refer members of the media or public seeking access to BWC data to the responsible authority/data practices designee, who will process the request in accordance with the MGDPA and other governing laws. Employees seeking access to BWC data for non-business reasons may make a request for it in the same manner as any member of the public.
10. BWC digital data shall be made available to prosecutors, courts, and other criminal justice entities as provided by law.

### **3-18.8 DATA RELEASE REQUESTS**

Minnesota State Statutes 13.825 classifies BWC recorded data as private data on individuals or nonpublic data. This agency may redact or withhold access to portions of data that are public under this subdivision if those portions of data are clearly offensive to common sensibilities. BWC data is considered public under the following provisions of 13.825:

- A. Data that document the discharge of a firearm by a peace officer in the course of duty, if a notice is required under section 626.553, subdivision 2, or the use of force by a peace officer that results in substantial bodily harm, as defined in section 609.02, subdivision 7a.
- B. If a subject of the data requests it be made accessible to the public, but subject to redaction if the data contains:
  - 1. Other data subjects that have not consented to the release.
  - 2. Data contains images of a peace officer whose identity is protected under section 13.82, subdivision 17, clause (a).
- C. Notwithstanding any law to the contrary, when an individual dies as a result of a use of force by a Cannon Falls Police Officer, the following individuals, upon their request, to inspect all portable recording system data, redacted no more than what is required by law, documenting the incident within five days of the request, except as otherwise provided for in 3-18.8 D below or by law.
  - 1. The deceased individual's next of kin;
  - 2. The legal representative of the deceased individual's next of kin
  - 3. The other parent of the deceased individual's child.

The Chief of Police may deny a request if the Department or Agency assisting in the investigation determines that there is a compelling reason that inspection would interfere with the active investigation. If denied access, the Chief of Police must provide a prompt, written denial to the individual who requested the data with a short description of the compelling reason access was denied and must provide notice that relief may be sought from the district court pursuant to section 13.82, subdivision 7.

- D. When an individual dies as a result of a use of force by a Cannon Falls Police Officer, the Cannon Falls Police Department shall release all portable recording system data, redacted no more than what is required by law, documenting the incident no later than 14 days after the incident, unless the Chief of Police asserts in writing that the public classification would interfere with an ongoing investigation, in which case the data remain classified by section 13.82, subdivision 7;

- E. Data that are public personnel data under section 13.43, subdivision 2, clause (5).
- F. Data made public by an order of the Court.
- G. BWC data that is part of an active criminal investigation is confidential. This classification takes precedence over the “private” or “public” classifications listed within this policy.

### **3-18.9 AGENCY USE OF DATA**

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

- A. Supervisors or other personnel as assigned by the Chief of Police or designee may access BWC data for the purposes of reviewing or investigating a specific incident that has given rise to a complaint or concern about officer misconduct or performance.
- B. Supervisors may randomly review BWC recordings made by officers to ensure the equipment is operating properly and officers are using the devices appropriately in accordance with this policy, and to identify any performance areas in which additional training or guidance is required.
- C. Officers should contact their supervisor to discuss retaining and using BWC data for training purposes. Officer objections to preserving or using certain BWC data for training will be considered on a case-by-case basis.
- D. Field training officers may review BWC data, recorded by them or their trainee, with trainees for the purpose of training, coaching and feedback on the trainee’s performance.
- E. Nothing in this policy limits or prohibits the use of BWC recorded data as evidence of misconduct or as a basis for discipline.
- F. May display portions of BWC footage to any person, agency, or the public if the agency determines that the access is allowed by Minn. Stat. § 13.82, subd. 15, as may be amended from time to time.

### **3-18.10 AUDITS**

This agency will conduct an independent audit on a biennial basis as required by Minnesota Statute 13.825, subd. 9, results of the independent audit will be reported to the city council.

### **3-18.11 VIOLATION OF POLICY**

If an employee misuses the data covered by this policy or intentionally fails to comply with or violates this policy, it will be considered misconduct as covered by section 1-6.07 and such behavior may be grounds for disciplinary action up to and including discharge.

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